

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 9

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

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

| | | |
|---------------------------------------|---|-----------------------------|
| In the matter of the proposed |) | NOTICE OF PUBLIC HEARING ON |
| amendment of ARM 6.6.504, |) | PROPOSED AMENDMENT AND |
| 6.6.506, 6.6.507, 6.6.507A, |) | ADOPTION |
| 6.6.507B, 6.6.507C, 6.6.508, |) | |
| 6.6.508A, 6.6.509, and 6.6.511, and |) | |
| the adoption of New Rules I, II, III, |) | |
| and IV pertaining to Medicare |) | |
| Supplements |) | |

TO: All Concerned Persons

1. On June 4, 2009, at 10:00 a.m., the State Auditor and Commissioner of Insurance will hold a public hearing in the 2nd floor conference room of the State Auditor's Office, 840 Helena Ave., Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The State Auditor and Commissioner of Insurance will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., May 27, 2009, to advise us of the nature of the accommodation that you need. Please contact Darla Sautter, State Auditor's Office, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; TDD (406) 444-3246; fax (406) 444-3497; or e-mail dsautter@mt.gov.

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

6.6.504 DEFINITIONS For purposes of this subchapter, the terms defined in 33-22-903, MCA, will have the same meaning in this subchapter unless clearly designated otherwise. The following definitions are in addition to those in 33-22-903, MCA.

(1) through (6)(b) remain the same.

(7) "Creditable coverage" shall not include the following if it is offered as a separate policy, certificate or contract of insurance:

(a) Medicare supplement health insurance as defined under section 1882(g)(1) of the Social Security Act;

(b) coverage supplemental to the coverage provided under chapter 55 of Title 10, United States Code; and

(c) similar supplemental coverage provided to coverage under a group health plan.

(7) through (9) remain the same, but are renumbered (8) through (10).

~~(40)~~ (11) "Medicare supplement policy" has the meaning provided for in 33-22-903, MCA, except that "Medicare supplement policy" does not include Medicare advantage plans established under Medicare Part C, outpatient prescription drug plans established under Medicare Part D, or any health care prepayment plan

(HCPP) that provides benefits pursuant to an agreement under section 1833(a)(1)(A) of the Social Security Act. Policies that are advertised, marketed or designed primarily to cover out-of-pocket costs under Medicare advantage plans (established under Medicare Part C) must comply with the Medicare supplement requirements contained in Montana administrative rule and statute.

(12) "Pre-standardized Medicare Supplement Benefit Plan," "pre-standardized benefit plan," or "pre-standardized plan" means a group or individual policy of Medicare supplement insurance issued prior to July 16, 1993.

(13) "1990 standardized Medicare Supplement Benefit Plan," "1990 standardized benefit plan," or "1990 plan" means a group or individual policy of Medicare supplement insurance issued on or after July 16, 1993, and prior to June 1, 2010, and includes Medicare supplement insurance policies and certificates renewed on or after that date which are not replaced by the issuer at the request of the insured.

(14) "2010 standardized Medicare Supplement Benefit Plan," "2010 standardized benefit plan," or "2010 plan" means a group or individual policy of Medicare supplement insurance issued on or after June 1, 2010.

(11) remains the same, but is renumbered (15).

AUTH: 33-1-313, 33-22-904, MCA

IMP: 33-22-902, 33-22-903, 33-22-923, MCA

REASON: It is necessary to amend this rule to reflect changes in the Federal regulations that were adopted in the NAIC Medicare Supplement Model Regulation. Federal law requires the states to adopt these rule changes by September 2009. New plan types will be effective June 1, 2010, and are described in these proposed rule changes, so additional definitions are necessary.

6.6.506 PROHIBITED POLICY PROVISIONS (1) Except for permitted preexisting condition clauses as described in ARM 6.6.510, ~~and 6.6.522,~~ and [NEW RULE I](1)(a)(i), no policy or certificate may be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy if such policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

(2) through (4)(c)(ii) remain the same.

AUTH: 33-1-313, 33-22-904, 33-22-905, MCA

IMP: 33-15-303, 33-22-902, 33-22-904, 33-22-905, MCA

REASON: It is necessary to amend this rule to reference the preexisting condition limitations contained in the [New Rule I] pertaining to policies or certificates issued after June 2010.

6.6.507 MINIMUM BENEFIT STANDARDS FOR MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED OR DELIVERED PRIOR TO JUNE 1, 2010 (1) The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state prior

to June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards.

(a) the following standards are in addition to all other requirements of this rule subchapter and Title 33, chapter 22, part 9, MCA, Medicare Supplement Insurance Minimum Standards:

(i) and (ii) remain the same.

(iii) A Medicare supplement policy or certificate must provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes;

(iv) through (1)(vi)(A) remain the same.

(B) provides for such benefits as ~~otherwise meets the requirements of this subsection~~ are required to meet the minimum standards as defined in [NEW RULE I(4)];

(vii) through (3)(c) remain the same.

(i) not provide for any waiting limitation period with respect to treatment of preexisting conditions;

(ii) and (iii) remain the same.

(4) If an issuer makes a written offer to the Medicare supplement policyholders or certificateholders of one or more of its plans, to exchange during a specified period from his or her pre-standardized plan or 1990 standardized plan to a 2010 standardized plan as described in [NEW RULE II], the offer and subsequent exchange shall comply with the following requirements:

(a) An issuer need not provide justification to the commissioner if the insured replaces a pre-standardized plan or a 1990 standardized policy or certificate with an issue age rate 2010 standardized policy or certificate at the insured's original issue age and duration. If an insured's policy or certificate to be replaced is priced on an issue age rate schedule at the time of such offer, the rate charged to the insured for the new exchanged policy shall recognize the policy reserve buildup, due to the pre-funding inherent in the use of an issue age rate basis, for the benefit of the insured. The method proposed to be used by an issuer must be filed with the commissioner for approval as part of the rate filing;

(b) The rating class of the new policy or certificate shall be the class closest to the insured's class of the replaced coverage;

(c) An issuer may not apply new preexisting condition limitations or a new incontestability period to the new policy for those benefits contained in the exchanged pre-standardized plan or 1990 standardized policy or certificate of the insured, but may apply preexisting condition limitations of no more than six months to any added benefits contained in the new 2010 standardized policy or certificate not contained in the exchanged policy; and

(d) The new policy or certificate shall be offered to all policyholders or certificateholders within a given plan, except where the offer or issue would be in violation of state or Federal law.

~~(4)~~(5) Standards for basic ("core") benefits common to benefit plans A through ~~L~~ J include the following:

(a) through (4)(c)(ii)(C) remain the same.

AUTH: 33-1-313, 33-22-904, 33-22-905, MCA

IMP: 33-15-303, 33-22-902, 33-22-904, 33-22-905, MCA

REASON: It is necessary to amend this rule to reflect changes in the Federal regulations that were adopted in the NAIC Medicare Supplement Model Regulation. Federal law requires the states to adopt these rule changes by September 2009. New plan types will be effective June 1, 2010, and are described in these proposed rule changes, so it is necessary to describe how pre 2010 plans could be converted to post 2010 plans.

6.6.507A STANDARD MEDICARE SUPPLEMENT BENEFIT PLANS FOR 1990 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED FOR DELIVERY ON OR AFTER 1990, AND PRIOR TO JUNE 1, 2010 (1) through (7) remain the same.

AUTH: 33-1-313, 33-22-904, MCA

IMP: 33-22-902, 33-22-904, 33-22-905, MCA

REASON: It is necessary to amend this rule to indicate that this rule applies only to policies and certificates issued prior to June 2010.

6.6.507B OPEN ENROLLMENT (1) No issuer shall deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state, nor discriminate in the pricing of such a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant where an application for a policy or certificate is submitted prior to or during the six-month period beginning with the first day of the first month in which an individual is both ~~who is~~ 65 years of age or older and first is enrolled for benefits under Medicare Part B, or if open enrollment was delayed due to employment past age 65. Each Medicare supplement policy or certificate currently available from an issuer must be made available to all applicants who qualify under this rule without regard to age.

(2) through (4) remain the same.

AUTH: 33-1-313, 33-22-904, 33-22-905, MCA

IMP: 33-22-902, 33-22-904, MCA

REASON: It is necessary to amend this rule to clarify that an individual who had previously enrolled in Part B (for instance an individual eligible by reason of disability) is still entitled to open enrollment when that individual turns 65 or otherwise becomes eligible for open enrollment. Therefore, the word "first" is deleted. This change is consistent with the Federal regulations. It is also necessary to clarify that individuals who are actively at work past the age of 65, are still entitled to open enrollment period when they retire and leave the group health plan.

6.6.507C GUARANTEED ISSUE FOR ELIGIBLE PERSONS (1) through (1)(b) remain the same.

(i) deny or condition the ~~insurance~~ issuance or effectiveness of a Medicare supplement policy described in ~~(3)~~ (5) that is offered and is available for issuance to new enrollees by the issuer;

(ii) through (5) remain the same.

(a) an eligible person defined in (2)(a), (b), (c), or (d) is entitled to the issuance of a Medicare supplement policy ~~with any level of benefits up to the level of the previous policy without underwriting offered by any issuer. If such an eligible person chooses a Medicare supplement policy with a higher level of benefits than the previous policy, the issuer may underwrite the new policy; which has a benefit package classified as Plan A, B, C, F (including F with a high deductible), K, or L offered by any issuer;~~

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

(e) An eligible person defined in (2)(g) is entitled to the issuance of a Medicare supplement policy that has a benefit package classified as Plan A, B, C, F (including F with a high deductible), K, or L, and that is offered and is available for issuance to new enrollees by the same issuer that issued ~~to the~~ the individual's Medicare supplement policy with outpatient prescription drug coverage. However, if the eligible person wishes to enroll in an A, B, C, F (including high deductible F), K, or L and that issuer does not offer that plan, then the eligible person is entitled to have that plan issued by any issuer who makes it available for sale to new enrollees in Montana.

(6) through (6)(b) remain the same.

AUTH: 33-1-313, 33-22-904, 33-22-905, MCA

IMP: 33-22-902, 33-22-904, 33-22-905, MCA

REASON: It is necessary to amend this rule to correct typographical errors and to reflect exact changes in the Federal regulations that occurred in 2005. This rule reflects the exact plan types available to eligible individuals.

6.6.508 LOSS RATIO STANDARDS AND REFUND OR CREDIT OF PREMIUM (1) through (2)(a) remain the same.

(b) If, on the basis of the experience as reported, the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation (see ARM 6.6.524) must be done on a statewide basis for each type in a standard Medicare Supplement Benefit Plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

(c) through (4) remain the same.

AUTH: 33-1-313, 33-22-904, 33-22-906, MCA

IMP: 33-15-303, 33-22-902, 33-22-906, MCA

REASON: It is necessary to amend this rule to adopt NAIC model language and provide additional detail relating to refund and credit calculations.

6.6.508A FILING AND APPROVAL OF POLICIES AND CERTIFICATES AND PREMIUM RATES (1) through (3) remain the same.

(4) Except as provided in (4)(a), an issuer shall not file for approval more than one form of a policy or certificate of each type for each standard Medicare Supplement Benefit Plan. ~~Forms H, I, and J may be approved both with and without outpatient prescription drug coverage.~~

(a) through (7) remain the same.

AUTH: 33-1-313, 33-22-904, 33-22-905, 33-22-906, MCA

IMP: 33-22-904, 33-22-906, MCA

REASON: It is necessary to amend this rule to reflect changes in the Federal regulations that were adopted in the NAIC Medicare Supplement Model Regulation. Federal law requires the states to adopt these rule changes by September 2009. Effective June 1, 2010, Forms H, I, and J will no longer be approved as new filings, and since 2005 those forms could not be approved with prescription drug benefits in them because of the availability of Part D coverage.

6.6.509 REQUIRED DISCLOSURE PROVISIONS (1) through (9)(a) remain the same.

(b) The outline of coverage provided to applicants consists of a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage must be in the language and format prescribed below in no less than 12 point type. All plans ~~A-L~~ must be shown on the cover page, and the plans that are offered by the issuer must be prominently identified. Premium information for plans that are offered must be shown on the cover page or immediately following the cover page and must be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant must be illustrated.

(c) The following items must be included in the outline of coverage in the order prescribed below:

[COMPANY NAME]

Outline of Medicare Supplement Coverage-Cover Page: 1 of 2

Benefit Plan(s)____[insert letter(s) of plan(s) being offered]

These charts show the benefits included in each of the 1990 standardized Medicare supplement plans. Every company must make available Plan A. Some plans may not be available in your state. New 1990 standardized benefit plans may not be issued after June 1, 2010.

See Outline of Coverage sections for details about ALL plans

Basic Benefits for Plans A-J:

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (generally 20% of Medicare-approved expenses), copayments for hospital outpatient services.

Blood: First three pints of blood each year.

| A | B | C | D | E |
|----------------|-------------------|--------------------------------------|--------------------------------------|---|
| Basic Benefits | Basic Benefits | Basic Benefits | Basic Benefits | Basic Benefits |
| | | Skilled Nursing Facility Coinsurance | Skilled Nursing Facility Coinsurance | Skilled Nursing Facility Coinsurance |
| | Part A Deductible | Part A Deductible | Part A Deductible | Part A Deductible |
| | | Part B Deductible | | |
| | | Foreign Travel Emergency | Foreign Travel Emergency | Foreign Travel Emergency |
| | | | At-Home Recovery | |
| | | | | Preventive Care NOT covered by Medicare |

| F | F* | G | H | I | J | J* |
|--------------------------------------|--------------------------------------|--------------------------------------|--------------------------------------|--------------------------------------|---|---|
| Basic Benefits | Basic Benefits | Basic Benefits | Basic Benefits | Basic Benefits | Basic Benefits | Basic Benefits |
| Skilled Nursing Facility Coinsurance | Skilled Nursing Facility Coinsurance | Skilled Nursing Facility Coinsurance | Skilled Nursing Facility Coinsurance | Skilled Nursing Facility Coinsurance | Skilled Nursing Facility Coinsurance | Skilled Nursing Facility Coinsurance |
| Part A Deductible | Part A Deductible | Part A Deductible | Part A Deductible | Part A Deductible | Part A Deductible | Part A Deductible |
| Part B Deductible | | | | | Part B Deductible | Part B Deductible |
| Part B Excess (100%) | Part B Excess (80%) | | | Part B Excess (100%) | Part B Excess (100%) | Part B Excess (100%) |
| Foreign Travel Emergency | Foreign Travel Emergency | Foreign Travel Emergency | Foreign Travel Emergency | Foreign Travel Emergency | Foreign Travel Emergency | Foreign Travel Emergency |
| | At-Home Recovery | | | At-Home Recovery | At-Home Recovery | At-Home Recovery |
| | | | | | Preventive Care NOT covered by Medicare | Preventive Care NOT covered by Medicare |

* Plans F and J also have an option called a high deductible Plan F and a high deductible Plan J. These high deductible plans pay the same benefits as Plans F and J after one has paid a calendar year \$47301860 deductible. Benefits from high deductible Plans F and J will not begin until out-of-pocket expenses exceed \$47301860. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan's separate foreign travel emergency deductible.

[COMPANY NAME]

Outline of Medicare Supplement Coverage - Cover Page 2

Basic Benefits for Plans K and L: include similar services as Plans A-J, but cost-sharing for the basic benefits is at different levels.

| | | |
|---|-----|-----|
| J | K** | L** |
|---|-----|-----|

| | | |
|---|--|--|
| Basic Benefits | 100% of Part A hospitalization coinsurance plus coverage for 365 days after Medicare benefits end 50% hospice cost-sharing 50% of Medicare-eligible expenses for the first three pints of blood 50% Part B coinsurance, except 100% coinsurance for Part B preventive services | 100% of Part A hospitalization coinsurance plus coverage for 365 days after Medicare benefits end 75% hospice cost-sharing 75% of Medicare-eligible expenses for the first three pints of blood 75% Part B coinsurance, except 100% coinsurance for Part B preventive services |
| Skilled Nursing Coinsurance | 50% Skilled Nursing Facility Coinsurance | 75% Skilled Nursing Facility Coinsurance |
| Part A Deductible | 50% Part A Deductible | 75% Part A Deductible |
| Part B Deductible | | |
| Part B Excess (100%) | | |
| Foreign Travel Emergency | | |
| At-Home Recovery | | |
| Preventive Care NOT covered by Medicare | | |
| | [\$4000 4140] Out of Pocket Annual Limit*** | [\$2000 2070] Out of Pocket Annual Limit*** |

**Plans K and L provide for different cost-sharing for items and services than Plan A - J. Once you reach the annual limit, the plan pays 100% of the Medicare copayments, coinsurance, and deductibles for the rest of the calendar year. The out-of-pocket annual limit does NOT include charges from your provider that exceed Medicare-approved amounts, called "Excess Charges." You will be responsible for paying excess charges.

***The out-of-pocket annual limit will increase each year for inflation.

See Outlines of Coverage for details and exceptions.

Benefit Chart of Medicare Supplement Plans Sold on or After June 1, 2010.

This chart shows the benefits included in each of the standard Medicare supplement plans. Every company must make Plan "A" available. Some plans may not be available in your state.

Plans E, H, I, and J are no longer available for sale. [This sentence shall not appear after June 1, 2011.]

Basic Benefits:

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (generally 20% of Medicare-approved expenses), or copayments for hospital outpatient services. Plans K, L, and N require insureds to pay a portion of Part B coinsurance or copayments.

Blood: First three pints of blood each year.

Hospice: Part A coinsurance.

| <u>A</u> | <u>B</u> | <u>C</u> | <u>D</u> | <u>F</u> | <u>F*</u> | <u>G</u> |
|---|---|---|---|---|-----------|---|
| <u>Basic, including 100% Part B coinsurance</u> | <u>Basic, including 100% Part B coinsurance</u> | <u>Basic, including 100% Part B coinsurance</u> | <u>Basic, including 100% Part B coinsurance</u> | <u>Basic, including 100% Part B coinsurance</u> | | <u>Basic, including 100% Part B coinsurance</u> |
| | | <u>Skilled Nursing Facility Coinsurance</u> | <u>Skilled Nursing Facility Coinsurance</u> | <u>Skilled Nursing Facility Coinsurance</u> | | <u>Skilled Nursing Facility Coinsurance</u> |
| | <u>Part A Deductible</u> | <u>Part A Deductible</u> | <u>Part A Deductible</u> | <u>Part A Deductible</u> | | <u>Part A Deductible</u> |
| | | <u>Part B Deductible</u> | | <u>Part B Deductible</u> | | |
| | | | | <u>Part B Excess (100%)</u> | | <u>Part B Excess (100%)</u> |
| | | <u>Foreign Travel Emergency</u> | <u>Foreign Travel Emergency</u> | <u>Foreign Travel Emergency</u> | | <u>Foreign Travel Emergency</u> |

| <u>K</u> | <u>L</u> | <u>M</u> | <u>N</u> |
|---|---|---|---|
| <u>Hospitalization and preventive care paid at 100%; other basic benefits paid at 50%</u> | <u>Hospitalization and preventive care paid at 100%; other basic benefits paid at 75%</u> | <u>Basic, including 100% Part B coinsurance</u> | <u>Basic, including 100% Part B coinsurance, except up to \$20 copayment for office visit and up to \$50 copayment for ER</u> |
| <u>50% Skilled Nursing Facility Coinsurance</u> | <u>75% Skilled Nursing Facility Coinsurance</u> | <u>Skilled Nursing Facility Coinsurance</u> | <u>Skilled Nursing Facility Coinsurance</u> |
| <u>50% Part A Deductible</u> | <u>50% Part A Deductible</u> | <u>50% Part A Deductible</u> | <u>50% Part A Deductible</u> |
| | | <u>Foreign Travel Emergency</u> | <u>Foreign Travel Emergency</u> |
| <u>Out-of-pocket limit \$[4140]; paid at 100% after limit reached</u> | <u>Out-of-pocket limit \$[2070]; paid at 100% after limit reached</u> | | |

* Plan F also has an option called a high deductible plan F. This high deductible plan pays the same benefits as Plan F after one has paid a calendar year [\$1860] deductible. Benefits from high deductible plan F will not begin until out-of-pocket expenses exceed [\$1860]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan's separate foreign travel emergency deductible.

(10) and (11) remain the same.

AUTH: 33-1-313, 33-22-904, 33-22-907, MCA

IMP: 33-15-303, 33-22-902, 33-22-904, 33-22-907, MCA

REASON: It is necessary to amend this rule to reflect changes in the Federal regulations that were adopted in the NAIC Medicare Supplement Model Regulation. Federal law requires the states to adopt these rule changes by September 2009. New plan types will be effective June 1, 2010, and are described in these proposed rule changes. The requirements for the 2010 plans are detailed in these new charts.

6.6.511 SAMPLE FORMS OUTLINING COVERAGE (1) The following amounts, as published in the Federal Register, for services furnished in the current calendar year under Medicare's hospital insurance program (Medicare Part A), must apply to the charts for 1990 Plans A through L for policies issued prior to June 2010 in (2)(b) through (m). In each chart, the rule cited in brackets as ARM [6.6.511(1)(a)], [6.6.511(1)(b)], [6.6.511(1)(c)], [6.6.511(1)(d)], [6.6.511(1)(e)], [6.6.511(1)(f)], [6.6.511(1)(g)], [6.6.511(1)(h)], [6.6.511(1)(i)], or [6.6.511(1)(j)], represents the dollar amount specified in the cited rule subsection. The issuer must replace each bracket and rule cite with the correct dollar amount contained in the cited rule subsection when the issuer prints the charts:

- (a) inpatient hospital deductible = ~~\$992942.00~~;
- (b) daily coinsurance amount for the 61st through 90th days of hospitalization in a benefit period = ~~\$248228.00~~;
- (c) daily coinsurance amount for lifetime reserve days = ~~\$496456.00~~;
- (d) daily coinsurance amount for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period = ~~\$124114.00~~;
- (e) 50% of inpatient hospital deductible = ~~\$496456.00~~;
- (f) 75% of inpatient hospital deductible = ~~\$744684.00~~;
- (g) 25% of inpatient hospital deductible = ~~\$248228.00~~;
- (h) 50% of daily coinsurance amount for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period = ~~\$6257.00~~;
- (i) 75% of daily coinsurance amount for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period = ~~\$93,085.50~~;
- and
- (j) 25% of daily coinsurance amount for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period = ~~\$31,028.50~~.

(2) remains the same.

(a) **COVER PAGE**
PREMIUM INFORMATION [boldface type]

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this state. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

DISCLOSURES [boldface type]

Use this outline to compare benefits and premiums among policies.
This outline shows benefits and premiums of policies sold for effective dates prior to June 1, 2010.

READ YOUR POLICY VERY CAREFULLY [boldface type]

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY [boldface type]

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT [boldface type]

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE [boldface type]

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local social security office or consult "The Medicare Handbook" for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT [boldface type]

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan, prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments, and insured payments for each plan, using the same language in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this rule. An issuer may use additional benefit plan designations on these charts pursuant to ARM 6.6.507A(4).]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.]

(b) PLAN A

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: ---While using 60 lifetime reserve days ---Once lifetime reserve days are used: ---Additional 365 days ---Beyond the additional 365 days | All but \$[6.6.511(1)(a)] All but \$[6.6.511(1)(b)] a day All but \$[6.6.511(1)(c)] a day \$0 \$0 | \$0 \$[6.6.511(b)] a day \$[6.6.511(1)(c)] a day 100% of Medicare eligible expenses \$0 | \$[6.6.511(1)(a)] (Part A deductible) \$0 \$0 \$0** All costs |
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101 st day and after | All approved amounts All but \$[6.6.511(1)(d)] a day \$0 | \$0 \$0 \$0 | \$0 Up to \$[6.6.511(1)(d)] a day All costs |
| BLOOD First 3 pints Additional amounts | \$0 100% | 3 pints \$0 | \$0 \$0 |
| HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited <u>copayment</u> /coinsurance for out-patient drugs and inpatient respite care | \$0 | Balance |

**When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN A

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[13100] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|---------------|---------------|-------------------------------|
| MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, --First \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| --Remainder of Medicare approved amounts | Generally 80% | Generally 20% | \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs |
| BLOOD First 3 pints | \$0 | All costs | \$0 |
| Next \$[13100] of Medicare ---approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare ---approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES -- TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|---------------|-----------|-------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES --Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| --Durable medical equipment ---First \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| ---Remainder of Medicare approved amounts | 80% | 20% | \$0 |

(c)

PLAN B

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|--|--|-------------------------------------|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (Part A deductible) | \$0 |
| 61st thru 90th day | All but \$[6.6.511(1)(b)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| 91st day and after: ---While using 60 lifetime reserve days | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| ---Once lifetime reserve days are used: ---Additional 365 days ---Beyond the additional 365 days | \$0 \$0 | 100% of Medicare eligible expenses \$0 | \$0** All costs |
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days | All approved amounts | \$0 | \$0 |
| 21st thru 100th day | All but \$[6.6.511(1)(d)] a day | \$0 | Up to \$[6.6.511(1)(d)] a day |
| 101st day and after | \$0 | \$0 | All costs |
| BLOOD First 3 pints Additional amounts | \$0 100% | 3 pints \$0 | \$0 \$0 |
| HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these | All but very limited <u>copayment/</u> coinsurance for out- patient drugs and inpatient respite care | \$0 | Balance |

**When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN B

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[13100] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|----------------------|-------------------------|---|
| MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[13100] of Medicare approved amounts* Remainder of Medicare approved amounts | \$0 Generally 80% | \$0 Generally 20% | \$[13100] (Part B deductible) \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs |
| BLOOD First 3 pints Next \$[13100] of Medicare approved amounts* Remainder of Medicare approved amounts | \$0 \$0 80% | All costs \$0 20% | \$0 \$[13100] (Part B deductible) \$0 |
| CLINICAL LABORATORY SERVICES -- TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|--------------------|-------------------|---|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES ---Medically necessary skilled care services and medical supplies ---Durable medical equipment First \$[13100] of Medicare approved amounts* Remainder of Medicare approved amounts | 100% \$0 80% | \$0 \$0 20% | \$0 \$[13100] (Part B deductible) \$0 |

(d) PLAN C

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|---------------|-----------|---------|
|----------|---------------|-----------|---------|

| | | | |
|---|---|---------------------------------------|------------|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: ---While using 60 lifetime reserve days ---Once lifetime reserve days are used: ---Additional 365 days ---Beyond the additional 365 days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (Part A deductible) | \$0 |
| | All but \$[6.6.511(1)(b)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| | \$0 | 100% of Medicare eligible expenses | \$0** |
| | \$0 | \$0 | All costs |
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after | All approved amounts | \$0 | \$0 |
| | All but \$[6.6.511(1)(d)] a day | Up to \$[6.6.511(1)(d)] a day | \$0 |
| | \$0 | \$0 | All costs |
| BLOOD First 3 pints Additional amounts | \$0 100% | 3 pints \$0 | \$0 \$0 |
| HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited coinsurance for out-patient drugs and inpatient respite care | \$0 | Balance |

**When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN C

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[13100] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|---------------|-----------|---------|
|----------|---------------|-----------|---------|

| | | | |
|--|---------------|----------------------------------|-----------|
| MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[13100] of Medicare approved amounts* | \$0 | \$[13100] (Part B deductible) | \$0 |
| Remainder of Medicare approved amounts | Generally 80% | Generally 20% | \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs |
| BLOOD First 3 pints | \$0 | All costs | \$0 |
| Next \$[13100] of Medicare approved amounts* | \$0 | \$[13100] (Part B deductible) | \$0 |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES -- TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PARTS A & B

| | | | |
|--|------|-----|-----|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES ---Medically necessary skilled care services and medical supplies ---Durable medical equipment First \$[13100] of Medicare approved amounts* | 100% | \$0 | \$0 |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |

PLAN C

OTHER BENEFITS - NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|------------------|---|--|
| FOREIGN TRAVEL - NOT COVERED BY MEDICARE, Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

(e) PLAN D

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT YEAR

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|------------------|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (Part A deductible) | \$0 |
| 61st thru 90th day | All but \$[6.6.511(1)(a)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| 91st day and after: ---While using 60 lifetime reserve days ---Once lifetime reserve days are used: ---Additional 365 days | All but \$[6.6.511(1)(c)] a day \$0 | \$[6.6.511(1)(c)] a day 100% of Medicare eligible expenses | \$0 \$0** |
| ---Beyond the additional 365 days | \$0 | \$0 | All costs |
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | \$0 | \$0 |
| 21st thru 100th day | All but \$[6.6.511(1)(d)] a day | Up to \$[6.6.511(1)(d)] a day | \$0 |
| 101st day and after | \$0 | \$0 | All costs |
| BLOOD First 3 pints Additional amounts | \$0 100% | 3 pints \$0 | \$0 \$0 |
| HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited coinsurance for outpatient drugs and inpatient respite care | \$0 | Balance |

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN D

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[13100] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|---------------|---------------|-------------------------------|
| MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare approved amounts | Generally 80% | Generally 20% | \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs |
| BLOOD | | | |
| First 3 pints | \$0 | All costs | \$0 |
| Next \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES -- TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|---------------|-----------|---------|
|----------|---------------|-----------|---------|

| | | | |
|--|------|---|-------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| Durable medical equipment First \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare approved amounts* | 80% | 20% | \$0 |
| AT-HOME RECOVERY SERVICES- NOT COVERED BY MEDICARE Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan | | | |
| ---Benefit for each visit | \$0 | Actual charges to \$40 a visit | Balance |
| ---Number of visits covered (must be received within 8 weeks of last Medicare approved visit) | \$0 | Up to the number of Medicare approved visits, not to exceed 7 each week | |
| ---Calendar year maximum | \$0 | \$1,600 | |

OTHER BENEFITS - NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---------------|---|--|
| FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

(f)

PLAN E

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive services as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|---------------|-----------|---------|
|----------|---------------|-----------|---------|

| | | | |
|--|---|--|------------|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: ---While using 60 lifetime reserve days ---Once lifetime reserve days are used: ---Additional 365 days ---Beyond the additional 365 Days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (Part A deductible) | \$0 |
| | All but \$[6.6.511(1)(b)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| | \$0 | 100% of Medicare eligible expenses | \$0** |
| | \$0 | \$0 | All costs |
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101 st day and after | All approved amounts All but \$[6.6.511(1)(d)] a day | \$0 Up to \$[6.6.511(1)(d)] a day | \$0 \$0 |
| | \$0 | \$0 | All costs |
| | | | |
| BLOOD First 3 pints Additional amounts | \$0 100% | 3 pints \$0 | \$0 \$0 |
| HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited coinsurance for outpatient drugs and inpatient respite care | \$0 | Balance |

**When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN E
MEDICARE (PART B) - MEDICAL SERVICES - PER BENEFIT PERIOD

*Once you have been billed \$[13100] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|------------------|-----------|---------|
|----------|------------------|-----------|---------|

| | | | |
|--|---------------|---------------|----------------------------------|
| MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare approved amounts | Generally 80% | Generally 20% | \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs |
| BLOOD First 3 pints | \$0 | All costs | \$0 |
| Next \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES -- TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PARTS A & B

| | | | |
|--|------|-----|----------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES ---Medically necessary skilled care services and medical supplies ---Durable medical equipment First \$[13100] of Medicare approved amounts* | 100% | \$0 | \$0 |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| | \$0 | \$0 | \$[13100] (Part B deductible) |

PLAN E

OTHER BENEFITS - NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|------------------|---|--|
| FOREIGN TRAVEL - NOT COVERED BY MEDICARE, Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

| | | | |
|--|-----|-------|-----------|
| ***PREVENTIVE MEDICARE CARE BENEFIT-NOT COVERED BY MEDICARE Some annual physical and preventive tests and services administered or ordered by your doctor when not covered by Medicare | | | |
| First \$120 each calendar year | \$0 | \$120 | \$0 |
| Additional charges | \$0 | \$0 | All costs |

***Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.

(g) PLAN F or HIGH DEDUCTIBLE PLAN F

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

[**This high deductible plan pays the same benefits as Plan F after one has paid a calendar year \$[186730] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are \$[186730]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

| SERVICES | MEDICARE PAYS | [AFTER YOU PAY \$[186730] DEDUCTIBLE, **] PLAN PAYS | [IN ADDITION TO \$[186730] DEDUCTIBLE, **] YOU PAY |
|---|---------------------------------|---|--|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (Part A deductible) | \$0 |
| 61st thru 90th day | All but [6.6.511(1)(b)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| 91st day and after: While using 60 lifetime reserve days | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| Once lifetime reserve days are used: Additional 365 days Beyond the additional 365 days | \$0 \$0 | 100% Medicare eligible expenses \$0 | \$0*** All costs |

| | | | |
|--|--|-------------------------------|-----------|
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | \$0 | \$0 |
| 21st thru 100th day | All but \$[6.6.511(1)(d)] a day | Up to \$[6.6.511(1)(d)] a day | \$0 |
| 101st day and after | \$0 | \$0 | All costs |
| BLOOD | | | |
| First 3 pints | \$0 | 3 pints | \$0 |
| Additional amounts | 100% | \$0 | \$0 |
| HOSPICE CARE | | | |
| Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited coinsurance for outpatient drugs and inpatient respite care | \$0 | Balance |

***NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**PLAN F or HIGH DEDUCTIBLE PLAN F
 MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR**

*Once you have been billed \$[13100] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year. [****This high deductible plan pays the same benefits as Plan F after one has paid a calendar year \$[186730] deductible. Benefits from the high deductible Plan F will begin until out-of-pocket expenses are \$[186730]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.**]

| | | | |
|----------|---------------|--|---|
| SERVICES | MEDICARE PAYS | [AFTER YOU PAY \$[186730] DEDUCTIBLE,**] PLAN PAYS | [IN ADDITION TO \$[186730] DEDUCTIBLE,**] YOU PAY |
|----------|---------------|--|---|

| | | | |
|---|---------------|----------------------------------|-----|
| MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[13100] of Medicare approved amounts* | \$0 | \$[13100] (Part B deductible) | \$0 |
| Remainder of Medicare approved Amounts | Generally 80% | Generally 20% | \$0 |
| Part B excess charges (Above Medicare approved amounts) | \$0 | 100% | \$0 |
| BLOOD First 3 pints | \$0 | All costs | \$0 |
| Next \$[13100] of Medicare approved amounts* | \$0 | \$[13100] (Part B deductible) | \$0 |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES - TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PLAN F or HIGH DEDUCTIBLE PLAN F

PARTS A & B

| SERVICES | MEDICARE PAYS | [AFTER YOU PAY \$[186730] DEDUCTIBLE,**] PLAN PAYS | [IN ADDITION TO \$[186730] DEDUCTIBLE,**] YOU PAY |
|--|---------------|---|--|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES ---Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| ---Durable medical equipment First \$[13100] of Medicare approved amounts* | \$0 | \$[13100] (Part B deductible) | \$0 |
| ---Remainder of Medicare approved amounts | 80% | 20% | \$0 |

OTHER BENEFITS - NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | [AFTER YOU PAY \$[186730] DEDUCTIBLE, **] PLAN PAYS | [IN ADDITION TO \$[186730] DEDUCTIBLE, **] YOU PAY |
|---|---------------|---|--|
| FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

(h) PLAN G

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | **YOU PAY |
|---|---------------------------------|---------------------------------------|--------------------|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (Part A deductible) | \$0 |
| 61st thru 90th day | All but \$[6.6.511(1)(b)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| 91st day and after: ---While using 60 lifetime reserve days ---Once lifetime reserve days are used: ---Additional 365 days | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| ---Beyond the additional 365 days | \$0 | 100% Medicare eligible expenses | \$0** All costs |
| | \$0 | \$0 | |

| | | | |
|--|--|-------------------------------|------------|
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days | All approved amounts | \$0 | \$0 |
| 21st thru 100th day | All but \$[6.6.511(1)(d)] a day | Up to \$[6.6.511(1)(d)] a day | \$0 |
| 101st day and after | \$0 | \$0 | All costs |
| BLOOD First 3 pints Additional amounts | \$0 100% | 3 pints \$0 | \$0 \$0 |
| HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited coinsurance for outpatient drugs and inpatient respite care | \$0 | Balance |

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN G

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[13100] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|---------------|---------------|-------------------------------|
| MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare approved Amounts | Generally 80% | Generally 20% | \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | 100% | \$0 |

| | | | |
|--|------|-----------|-------------------------------|
| BLOOD First 3 pints | \$0 | All costs | \$0 |
| Next \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES - TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PLAN G

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|---------------|---|-------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES ---Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| ---Durable medical equipment First \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| AT-HOME RECOVERY SERVICES- NOT COVERED BY MEDICARE Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan ---Benefit for each visit | \$0 | Actual charges to \$40 a visit | Balance |
| ---Number of visits covered (Must be received within 8 weeks of last Medicare approved visit) | \$0 | Up to the number of Medicare-approved visits, not to exceed 7 each week | |
| ---Calendar year maximum | \$0 | \$1,600 | |

OTHER BENEFITS - NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|---------------|-----------|---------|
|----------|---------------|-----------|---------|

| | | | |
|---|-----|---|--|
| FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

(i)

PLAN H

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|------------------------------------|---|--------------------|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (Part A deductible) | \$0 |
| 61st thru 90th day | All but \$[6.6.511(1)(b)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| 91st day and after: ---While using 60 lifetime reserve days | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| ---Once lifetime reserve days are used: ---Additional 365 days ---Beyond the additional 365 days | \$0 \$0 | 100% of Medicare eligible expenses \$0 | \$0** All costs |
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days | All approved amounts | \$0 | \$0 |
| 21st thru 100th day | All but \$[6.6.511(1)(d)]a day | Up to \$[6.6.511(1)(d)] a day | \$0 |
| 101st day and after | \$0 | \$0 | All costs |

| | | | |
|---|--|---------|---------|
| BLOOD First 3 pints | \$0 | 3 pints | \$0 |
| Additional amounts | 100% | \$0 | \$0 |
| HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited coinsurance for outpatient drugs and inpatient respite care | \$0 | Balance |

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN H

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[13100] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|---------------|---------------|-------------------------------|
| MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare approved Amounts | Generally 80% | Generally 20% | \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | 0% | All costs |
| BLOOD First 3 pints | \$0 | All costs | \$0 |
| Next \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare Approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES - TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PLAN H

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---------------|-----------|-------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES ---Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| ---Durable medical equipment First \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |

OTHER BENEFITS - NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|---------------|---|--|
| FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

(j)

PLAN I

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|---------------|-----------|---------|
|----------|---------------|-----------|---------|

| | | | |
|--|--|--|-----------|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (Part A deductible) | \$0 |
| 61st thru 90th day | All but \$[6.6.511(1)(b)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| 91st day and after: ---While using 60 lifetime reserve days | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| ---Once lifetime reserve days are used: | | | |
| ---Additional 365 days | \$0 | 100% of Medicare eligible expenses | \$0** |
| ---Beyond the additional 365 days | \$0 | \$0 | All costs |
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | \$0 | \$0 |
| 21st thru 100th day | All but \$[6.6.511(1)(d)] a day | Up to \$[6.6.511(1)(d)] a day | \$0 |
| 101st day and after | \$0 | \$0 | All costs |
| BLOOD | | | |
| First 3 pints | \$0 | 3 pints | \$0 |
| Additional amounts | 100% | \$0 | \$0 |
| HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services | | | |
| | All but very limited coinsurance for outpatient drugs and inpatient respite care | \$0 | Balance |

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN I

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[13100] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|---------------|---------------|----------------------------------|
| MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare approved amounts | Generally 80% | Generally 20% | \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | 100% | \$0 |
| BLOOD First 3 pints | \$0 | All costs | \$0 |
| Next \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES - TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PLAN I

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|---------------|-----------|---------|
|----------|---------------|-----------|---------|

| | | | |
|--|------|--|----------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES ---Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| ---Durable medical equipment First \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible) |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| AT-HOME RECOVERY SERVICES--NOT COVERED BY MEDICARE Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan ---Benefit for each visit | \$0 | Actual charges to \$40 a visit | Balance |
| ---Number of visits covered (must be received within 8 weeks of last Medicare approved visit) | \$0 | Up to the number of Medicare-approved visits, not to exceed 7 each week | |
| ---Calendar year maximum | \$0 | \$1,600 | |

OTHER BENEFITS - NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|------------------|---|--|
| FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

(k) PLAN J or HIGH DEDUCTIBLE PLAN J

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

[**This high deductible plan pays the same benefits as plan J after one has paid a calendar year \$[17301860] deductible. Benefits from the high deductible plan J will not begin until out-of-pocket expenses are \$[17301860]. Out-of-pocket expenses for this deductible are expenses that would

ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

| SERVICES | MEDICARE PAYS | [AFTER YOU PAY \$[47301860] DEDUCTIBLE, **] PLAN PAYS | [IN ADDITION TO \$[47301860] DEDUCTIBLE, **] YOU PAY |
|--|--|--|---|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (Part A deductible) | \$0 |
| 61st thru 90th day | All but \$[6.6.511(1)(b)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| 91st day and after: While using 60 lifetime reserve days | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| Once lifetime reserve days are used: Additional 365 days Beyond the additional 365 days | \$0 \$0 | 100% of Medicare eligible expenses \$0 | \$0*** All costs |
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare- approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | \$0 | \$0 |
| 21st thru 100th day | All but \$[6.6.511(1)(d)] a day | Up to \$[6.6.511(1)(d)] a day | \$0 |
| 101st day and after | \$0 | \$0 | All costs |
| BLOOD First 3 pints Additional amounts | \$0 100% | 3 pints \$0 | \$0 \$0 |
| HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited coinsurance for outpatient drugs and inpatient respite care | \$0 | Balance |

***NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN J or HIGH DEDUCTIBLE PLAN J

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[13100] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.
 [**This high deductible plan pays the same as plan J after one has paid a calendar year \$[47301860] deductible. Benefits from the high deductible plan J will not begin until out-of-pocket expenses are \$[47301860]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

| SERVICES | MEDICARE PAYS | [AFTER YOU PAY \$[47301860] DEDUCTIBLE, **] PLAN PAYS | [IN ADDITION TO \$[47301860] DEDUCTIBLE, **] YOU PAY |
|---|---------------|---|--|
| MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[13100] of Medicare approved amounts* | \$0 | \$[13100] (Part B deductible) | \$0 |
| Remainder of Medicare approved Amounts | Generally 80% | Generally 20% | \$0 |
| Part B Excess Charges (above Medicare approved amounts) | \$0 | 100% | \$0 |
| BLOOD First 3 pints | \$0 | | \$0 |
| Next \$[13100] of Medicare approved amounts* | \$0 | All costs \$[13100] (Part B deductible) | \$0 |
| Remainder of Medicare approved amounts | \$0 | 20% | \$0 |
| CLINICAL LABORATORY SERVICES - TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PLAN J or HIGH DEDUCTIBLE PLAN J

PARTS A & B

| SERVICES | MEDICARE PAYS | [AFTER YOU PAY \$[47301860] DEDUCTIBLE, **] PLAN PAYS | [IN ADDITION TO \$[47301860] DEDUCTIBLE, **] YOU PAY |
|----------|---------------|---|--|
| | | | |

| | | | |
|---|------|--|---------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| Durable medical equipment First \$[13100] of Medicare approved amounts* | \$0 | \$[13100] (Part B deductible) | \$0 |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| HOME HEALTH CARE AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan | | | |
| Benefit for each visit | \$0 | Actual charges to \$40 a visit | Balance |
| Number of visits covered (Must be received within 8 weeks of last Medicare approved visit) | \$0 | Up to the number of Medicare approved visits, not to exceed 7 each week | |
| Calendar year maximum | \$0 | \$1,600 | |

PLAN J or HIGH DEDUCTIBLE PLAN J
OTHER BENEFITS - NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | [AFTER YOU PAY \$[47301860] DEDUCTIBLE,**] PLAN PAYS | [IN ADDITION TO \$[47301860] DEDUCTIBLE,**] YOU PAY |
|--|------------------|---|--|
| FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

| | | | |
|---|------------|--------------|------------------|
| ***PREVENTIVE MEDICAL CARE BENEFIT-NOT COVERED BY MEDICARE Some annual physical and preventive tests and services administered or ordered by your doctor when not covered by Medicare First \$120 each calendar year Additional charges | \$0 \$0 | \$120 \$0 | \$0 All costs |
|---|------------|--------------|------------------|

***Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.

(I) PLAN K

*You will pay half the cost-sharing of some covered services until you reach the annual out-of-pocket limit of \$[414000] each calendar year. The amounts that count toward your annual limit are noted with diamonds (♦) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare copayment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

**A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|---------------------------------|---|--------------------|
| HOSPITALIZATION** Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (50% of Part A deductible) | \$[6.6.511(1)(e)]♦ |
| 61st thru 90th day | All but [6.6.511(1)(b)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| 91st day and after: While using 60 lifetime reserve days | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| Once lifetime reserve days are used: Additional 365 days | \$0 | 100% of Medicare eligible expenses | \$0*** |
| Beyond the additional 365 days | \$0 | \$0 | All costs |

| | | | |
|---|---|---|--|
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after | All approved amounts All but \$[6.6.511(1)(d)] a day \$0 | \$0 Up to \$[6.6.511(1)(h)] a day \$0 | \$0 Up to \$[6.6.511(1)(h)]♦ All costs |
| BLOOD First 3 pints Additional amounts | \$0 100% | 50% \$0 | 50%♦ \$0 |
| HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services | Generally, most Medicare eligible expenses for out-patient drugs and inpatient respite care | 50% of coinsurance or copayments | 50% of coinsurance or copayments♦ |

***NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN K

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

****Once you have been billed \$[13100] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|--|--|--|
| MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[13100] of Medicare approved amounts* Preventive benefits for Medicare covered services Remainder of Medicare approved amounts | \$0 Generally 75% or more of Medicare approved amounts Generally 80% | \$0 Remainder of Medicare approved amounts Generally 10% | \$[13100] (Part B deductible)**** All costs above Medicare approved amounts Generally 10%♦ |

| | | | |
|--|---------------|---------------|--|
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs (and they do not count toward annual out-of-pocket limit of \$[414000])* |
| BLOOD First 3 pints | \$0 | 50% | 50%♦ |
| Next \$[13100] of Medicare approved amounts* | \$0 | \$0 | \$[13100] (Part B deductible)****♦ |
| Remainder of Medicare Approved amounts | Generally 80% | Generally 10% | Generally 10% |
| CLINICAL LABORATORY SERVICES - TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to \$[414000] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

PLAN K

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY* |
|--|---------------|-----------|--------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| Durable medical equipment First \$[13100] of Medicare approved amounts**** | \$0 | \$0 | \$[13100] (Part B deductible)□ |
| Remainder of Medicare approved amounts | 80% | 10% | 10%□ |

****Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare

(m)

PLAN L

*You will pay one-fourth of the cost-sharing of some covered services until you reach the annual out-of-pocket limit of \$[20700] each calendar year. The amounts that count toward your annual limit are noted with a diamond (♦) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare copayment and coinsurance for the rest of the calendar year. However, this limit does not include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

**A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|--|--|---|
| HOSPITALIZATION** Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: While using 60 lifetime reserve days Once lifetime reserve days are used: Additional 365 days Beyond the additional 365 days | All but \$[6.6.511(1)(a)] All but \$[6.6.511(1)(b)] a day All but \$[6.6.511(1)(c)] a day \$0 \$0 | \$[6.6.511(1)(f)] (75% of Part A deductible) \$[6.6.511(1)(b)] a day \$[6.6.511(1)(c)] a day 100% of Medicare eligible expenses \$0 | \$[6.6.511(1)(g)] 25% of Part A deductible♦ \$0 \$0 \$0*** All costs |
| SKILLED NURSING FACILITY CARE** You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after | All approved amounts All but \$[6.6.511(1)(d)] a day \$0 | \$0 Up to \$[6.6.511(1)(i)] a day \$0 | \$0 Up to \$[6.6.511(1)(j)] a day♦ All costs |
| BLOOD First 3 pints Additional amounts | \$0 100% | 75% \$0 | 25%♦ \$0 |
| HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services | Generally, most Medicare eligible expenses for outpatient drugs and inpatient respite care | 75% of coinsurance or copayments | 25% of coinsurance or copayments♦ |

***NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN L

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

****Once you have been billed \$[13100] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|--|--|--|
| MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[13100] of Medicare approved amounts**** | \$0 | \$0 | \$[13100] (Part B deductible)****◆ |
| Preventive benefits for Medicare covered services | Generally 75% or more of Medicare approved amounts | Remainder of Medicare approved amounts | All costs above Medicare approved amounts |
| Remainder of Medicare approved amounts | Generally 80% | Generally 15% | Generally 5%◆ |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs (and they do not count toward annual out-of-pocket limit of [\$20700])* |
| BLOOD First 3 pints | \$0 | 75% | 25%◆ |
| Next \$[13100] of Medicare approved amounts**** | \$0 | \$0 | \$[13100] (Part B deductible)□ |
| Remainder of Medicare Approved amounts | Generally 80% | Generally 15% | Generally 5%◆ |
| CLINICAL LABORATORY SERVICES - TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to \$[20700] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

PLAN L

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY* |
|----------|---------------|-----------|----------|
|----------|---------------|-----------|----------|

| | | | |
|--|------|-----|-----------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| Durable medical equipment First \$[13100] of Medicare approved amounts***** | \$0 | \$0 | \$[13100] (Part B deductible)◆ |
| Remainder of Medicare approved amounts | 80% | 15% | 5%◆ |

*****Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.

AUTH: 33-1-313, 33-22-904, MCA

IMP: 33-15-303, 33-22-901, 33-22-902, 33-22-903, 33-22-904, 33-22-905,
33-22-906, 33-22-907, 33-22-908, 33-22-909, 33-22-910, 33-22-911, 33-22-921,
33-22-922, 33-22-923, 33-22-924, MCA

REASON: It is necessary to amend this rule to reflect changes in the Federal regulations that were adopted in the NAIC Medicare Supplement Model Regulation. Federal law requires the states to adopt these rule changes by September 2009. These charts reflect the required benefits for the 1990 plan designs that can be sold until June 1, 2010, and that may remain in effect if previously issued prior to that date.

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

NEW RULE I BENEFIT STANDARDS FOR 2010 STANDARDIZED
MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES
ISSUED FOR DELIVERY ON OR AFTER JUNE 1, 2010 (1) The following

standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. No issuer may offer any 1990 Standardized Medicare Supplement Benefit Plan for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued before June 1, 2010, remain subject to the requirements of ARM 6.6.507 and other applicable rules and statutes contained in this subchapter and Title 33, chapter 22, part 9, MCA.

(a) The following standards are in addition to all other requirements of this subchapter and Title 33, chapter 22, part 9, MCA, Medicare Supplement Insurance Minimum Standards:

(i) a Medicare supplement policy or certificate must not exclude or limit benefits for a loss incurred more than six months from the effective date of coverage because it involves a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which

medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage;

(ii) a Medicare supplement policy or certificate must not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents;

(iii) a Medicare supplement policy or certificate must provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes;

(iv) no Medicare supplement policy or certificate may provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured other than the nonpayment of premium;

(v) each Medicare supplement policy shall be guaranteed renewable and:

(A) the issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual; and

(B) the issuer shall not cancel or nonrenew the policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

(vi) if the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under (1)(a)(viii), the issuer must offer certificateholders an individual Medicare supplement policy which (at the option of the certificateholder):

(A) provides for continuation of the benefits contained in the group policy; or

(B) provides for such benefits that meet the requirements of this subsection.

(vii) if an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall:

(A) offer the certificateholder the conversion opportunity described in (1)(a)(vi); or

(B) at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

(viii) if a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy must not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(2) Termination of a Medicare supplement policy or certificate must be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

(3) A Medicare supplement policy or certificate must provide that benefits and premiums under the policy or certificate must be suspended at the request of the policyholder or certificateholder for the period (not to exceed 24 months) in which the policyholder or certificateholder has applied for and is determined to be

entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of such policy or certificate within 90 days after the date the individual becomes entitled to such assistance. Upon receipt of timely notice, the issuer must either return to the policyholder or certificateholder that portion of the premium attributable to the period of Medicaid eligibility, or provide coverage to the end of the term for which premiums were paid, at the option of the insured, subject to adjustment for paid claims:

(a) if such suspension occurs and if the policyholder or certificateholder loses entitlement to such medical assistance, such policy or certificate must be automatically reinstated effective as of the date of termination of such entitlement if the policyholder or certificateholder provides notice of loss of such entitlement within 90 days after the date of such loss and pays the premium attributable to the period;

(b) each Medicare supplement policy or certificate must provide that benefits and premiums under the policy must be suspended (for any period that may be provided by Federal regulation) at the request of the policyholder or certificateholder if the policyholder or certificateholder is entitled to benefits under 226(b) of the Social Security Act and is covered under a group health plan (as defined in 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder or certificateholder provides notice of loss of coverage within 90 days after the date of loss of coverage;

(c) reinstatement of coverages as described in (3)(a) and (b) must:

(i) not provide for any limitation with respect to treatment of preexisting conditions;

(ii) provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension; and

(iii) provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended.

(4) Standards for basic ("core") benefits common to benefit Plans A, B, C, D, F, F with high deductible, G, M, and N include the following:

(a) every issuer shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare supplement insurance benefit plans in addition to the basic "core" package, but not in lieu thereof:

(i) coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(ii) coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

(iii) upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100% of the Medicare Part A eligible

expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

(iv) coverage under Medicare Parts A and B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under Federal regulations) unless replaced in accordance with Federal regulations;

(v) coverage for the coinsurance amount (or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount) of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible; and

(vi) coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses.

(b) The following additional benefits must be included in Medicare Supplement Benefit Plans B, C, D, F, and F with high deductible, G, M, and N as provided by [NEW RULE II]:

(i) coverage for 100% of the Medicare Part A inpatient hospital deductible amount per benefit period;

(ii) coverage for 50% of the Medicare Part A inpatient hospital deductible amount per benefit period;

(iii) coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A;

(iv) coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement;

(v) coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge; and

(vi) coverage to the extent not covered by Medicare for 80% of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of \$250, and a lifetime maximum benefit of \$50,000. For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

AUTH: 33-1-313, 33-22-904, 33-22-905, MCA

IMP: 33-15-303, 33-22-901, 33-22-902, 33-22-903, 33-22-904, 33-22-905, 33-22-909, 33-22-910, 33-22-911, 33-22-921, 33-22-922, 33-22-923, 33-22-924, MCA

REASON: It is necessary to adopt this rule to reflect changes in the Federal regulations that were adopted in the NAIC Medicare Supplement Model Regulation. Federal law requires the states to adopt these rules changes by September 2009.

New plan types will be effective June 1, 2010, and this rule reflects the new benefit standards for the new plan designs.

NEW RULE II STANDARD MEDICARE SUPPLEMENT BENEFIT PLANS FOR 2010 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED FOR DELIVERY ON OR AFTER JUNE 1, 2010

(1) The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued before June 1, 2010, remain subject to the requirements of ARM 6.6.507A.

(2) An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic "core" benefits, as established in [NEW RULE I](4).

(3) If an issuer makes available any of the additional benefits described in [NEW RULE I](4)(b) or offers standardized benefits Plans K or L (as described in [NEW RULE II](8)(a) and (b) of this subchapter, then the issuer shall make available to each prospective policyholder and certificateholder, in addition to a policy form or certificate form with only the basic core benefits as describe in (2), a policy form or certificate form containing either standardized benefit Plan C (as described in [NEW RULE II](7)(c) of this subchapter) or standardized benefit Plan F (as described in [NEW RULE II](7)(e) of this subchapter.

(4) No groups, packages, or combinations of Medicare supplement benefits other than those listed in this rule shall be offered for sale in this state, except as may be permitted in [NEW RULE II](11) and ARM 6.6.601-614 of these rules.

(5) Benefit plans must be uniform in structure, language, designation and format to the standard benefit plans listed in this rule and conform to the definitions in 33-22-903, MCA, and ARM 6.6.505. Each benefit shall be structured in accordance with the format provided in [NEW RULE I](4)(a) and (b); or in the case of plans K or L, in [NEW RULE II](8)(a) and (b), and list the benefits in the order shown in this rule. For purposes of this rule, "structure, language, and format" means style, arrangement and overall content of a benefit.

(6) An issuer may use, in addition to the benefit plan designations required in (5), other designations to the extent permitted by law.

(7) The following descriptions detail the contents of the 2010 standardized benefit plans:

(a) standardized Medicare Supplement Benefit Plan A must be limited to the basic ("core") benefits common to all benefit plans, as established in [NEW RULE I](4)(a);

(b) standardized Medicare Supplement Benefit Plan B must include only the following:

(i) the core benefit as established in [NEW RULE I](4)(a), plus the Medicare Part A deductible as established in [NEW RULE I](4)(b).

(c) standardized Medicare Supplement Benefit Plan C must include only the following:

(i) the core benefit, as established in [NEW RULE I](4)(a); plus
(ii) the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, and medically necessary emergency care in a foreign country as established in [NEW RULE I](4)(b).

(d) standardized Medicare Supplement Benefit Plan D must include only the following:

(i) the core benefit, as established in ARM [NEW RULE I](4)(a); plus
(ii) the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country, as established in [NEW RULE I](4)(b).

(e) standardized Medicare Supplement Benefit Plan F must include only the following:

(i) the core benefit as established in [NEW RULE I](4)(a); plus
(ii) the Medicare Part A deductible, the skilled nursing facility care, the Part B deductible, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as established in [NEW RULE I](4)(b).

(f) standardized Medicare Supplement Benefit High Deductible Plan F shall include only the following:

(i) 100% of covered expenses following the payment of the annual high deductible Plan F deductible. The covered expenses include:

(A) the core benefit as defined in [NEW RULE I](4)(a); plus
(B) the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in [NEW RULE I](4)(b);

(ii) The annual high deductible plan F deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement Plan F policy, and shall be in addition to any other specific benefit deductibles. The basis for the deductible shall be \$1500 and shall be adjusted annually from 1999 by the Secretary to reflect the change in the consumer price index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.

(g) standardized Medicare Supplement Benefit Plan G must include only the following:

(i) core benefit as established in [NEW RULE I](4)(a); plus
(ii) the Medicare Part A deductible, the skilled nursing facility care, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as established in [NEW RULE I](4)(b).

(8) The following descriptions detail the contents of two Medicare supplement plans mandated by the MMA:

(a) standardized Medicare Supplement Benefit Plan K must consist of only the following benefits:

(i) coverage of 100% of the Part A hospital coinsurance amount for each day used from the 61st day through the 90th day in any Medicare benefit period;

(ii) coverage of 100% of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the 91st through the 150th day in any Medicare benefit period;

(iii) upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of 100% of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for the balance;

(iv) coverage for 50% of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in (x);

(v) coverage for 50% of the coinsurance amount for each day used for the 21st day through the 100th day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in (x);

(vi) coverage for 50% of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in (x);

(vii) coverage for 50%, under Medicare Part A or B of the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under Federal regulations) unless replaced in accordance with Federal regulations until the out-of-pocket limitation is met as described in (x);

(viii) except for coverage provided in (ix) of this subsection, coverage for 50% of the cost sharing otherwise applicable under Medicare Part B after the policyholder or certificateholder pays the Part B deductible until the out-of-pocket limitation is met as described in (x);

(ix) coverage of 100% of the cost sharing for Medicare Part B preventative services after the policyholder pays the Part B deductible; and

(x) coverage of 100% of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of \$4000 in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary.

(b) standardized Medicare Supplement Benefit Plan L must consist of only the following benefits:

(i) the benefits described in (8)(a)(i), (ii), (iii), and (ix);

(ii) the benefit described in (8)(a)(iv), (v), (vi), (vii) and (viii), but substituting 75% for 50%; and

(iii) the benefit described in (8)(a)(x), but substituting \$2000 for \$4000.

(9) Standardized Medicare Supplement Plan M shall include only the following:

(a) the basic core benefit as defined in [NEW RULE I](4)(a), plus 50% of the Medicare Part A deductible;

(b) skilled nursing facility care, and

(c) medically necessary emergency care in a foreign country as defined in [NEW RULE I](4)(b).

(10) Standardized Medicare Supplement Plan N shall include only the following:

(a) the basic core benefit as defined in [NEW RULE I](4)(a), plus 100% of the Medicare Part A deductible;

(b) skilled nursing facility care; and

(c) medically necessary emergency care in a foreign country as defined in [NEW RULE I](4)(b), with copayments in the following amounts:

(i) the lesser of \$20 or the Medicare Part B coinsurance or copayment for each covered health care provider office visit (including visits to medical specialist); and

(ii) the lesser of \$50 or the Medicare Part B coinsurance or copayment for each covered emergency room visit, however, the copayment shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense.

(11) An issuer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits in addition to the standardized benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits must include only benefits that are appropriate to Medicare supplement insurance, are new or innovative, are not otherwise available, are cost-effective, and are offered in a manner which is consistent with the goal of simplification of Medicare supplement policies. New or innovative benefits must not include an outpatient prescription drug benefit. New or innovative benefits shall not be used to change or reduce benefits, including a change of any cost-sharing provision, in any standardized plan.

AUTH: 33-1-313, 33-22-904, 33-22-905, MCA

IMP: 33-15-303, 33-22-901, 33-22-902, 33-22-903, 33-22-904, 33-22-905, 33-22-909, 33-22-910, 33-22-911, 33-22-921, 33-22-922, 33-22-923, 33-22-924, MCA

REASON: It is necessary to adopt this rule to reflect changes in the Federal regulations that were adopted in the NAIC Medicare Supplement Model Regulation. Federal law requires the states to adopt these rule changes by September 2009. New plan types will be effective June 1, 2010, and this rule reflects the requirements for the new standardized benefit plans.

NEW RULE III. PROHIBITION AGAINST USE OF GENETIC INFORMATION AND REQUESTS FOR GENETIC TESTING (1) This subsection applies to all policies with policy years beginning on or after May 21, 2009. An issuer of a Medicare supplement policy or certificate shall not:

(a) deny or condition the issuance or effectiveness of the policy or certificate (including the imposition of any exclusion of benefits under the policy based on a preexisting condition) on the basis of the genetic information with respect to such individual; and

(b) discriminate in the pricing of the policy or certificate (including the adjustment of premium rates) of an individual on the basis of the genetic information with respect to such individual.

(2) Nothing in (1) shall be construed to limit the ability of an issuer, to the extent otherwise permitted by law, from:

(a) denying or conditioning the issuance or effectiveness of the policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant; or

(b) increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy (in such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the group).

(3) An issuer of a Medicare supplement policy or certificate shall not request or require an individual or a family member of such individual to undergo a genetic test.

(4) Section (3) shall not be construed to preclude an issuer of a Medicare supplement policy or certificate from obtaining and using the results of a genetic test in making a determination regarding payment (as defined for the purposes of applying the regulations promulgated under Part C of Title XI and section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) and consistent with (1).

(5) For purposes of carrying out (4), an issuer of a Medicare supplement policy or certificate may request only the minimum amount of information necessary to accomplish the intended purpose.

(6) Notwithstanding (3), an issuer of a Medicare supplement policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met:

(a) The request is made pursuant to research that complies with part 46 of Title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable state or local law or regulations for the protection of human subjects in research.

(b) The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that:

(i) compliance with the request is voluntary; and

(ii) noncompliance will have no effect on enrollment status or premium or contribution amounts.

(c) No genetic information collected or acquired under this subsection shall be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate.

(d) The issuer notifies the Secretary in writing that the issuer is conducting activities pursuant to the exception provided for under this subsection, including a description of the activities conducted.

(e) The issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under this subsection.

(7) An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information for underwriting purposes.

(8) An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment.

(9) If an issuer of a Medicare supplement policy or certificate obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of (8) if such request, requirement, or purchase is not in violation of (7).

(10) For the purposes of this section only:

(a) "Issuer of a Medicare supplement policy or certificate" includes third-party administrator, or other person acting for or on behalf of such issuer;

(b) "Family member" means, with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual;

(c) "Genetic information" means, with respect to any individual, information about such individual's genetic tests, the genetic tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual. Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual. Any reference to genetic information concerning an individual or family member of an individual who is a pregnant woman, includes genetic information of any fetus carried by such pregnant woman, or with respect to an individual or family member utilizing reproductive technology, includes genetic information of any embryo legally held by an individual or family member. The term "genetic information" does not include information about the sex or age of any individual;

(d) "Genetic services" means a genetic test, genetic counseling (including obtaining, interpreting, or assessing genetic information), or genetic education;

(e) "Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detect genotypes, mutations, or chromosomal changes. The term "genetic test" does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved;

(f) "Underwriting purposes" means:

(i) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the policy;

(ii) the computation of premium or contribution amounts under the policy;

(iii) the application of any preexisting condition exclusion under the policy;

and

(iv) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

AUTH: 33-1-313, 33-22-904, MCA

IMP: 33-22-904, 33-18-901, 33-18-902, 33-18-903, 33-18-904, MCA

REASON: It is necessary to adopt this rule to reflect changes in the Federal regulations that were adopted in the NAIC Medicare Supplement Model Regulation. The Federal Genetic Information Nondiscrimination Act requires the states to adopt these rule changes by July 2009. Discriminating on the basis of genetic information is illegal under both Montana and Federal law and this rule makes specific the prohibition.

NEW RULE IV SAMPLE FORMS OUTLINING COVERAGE (1) The following amounts, as published in the Federal Register, for services furnished in the current calendar year under Medicare's hospital insurance program (Medicare Part A), must apply to the charts for Plans A, B, C, D, F, and High Deductible Plan F, G, K, L, M, and N, issued on or after June 1, 2010, in (2)(b) through (m). In each chart, the rule cited in brackets as ARM [6.6.511(1)(a)], [6.6.511(1)(b)], [6.6.511(1)(c)], [6.6.511(1)(d)], [6.6.511(1)(e)], [6.6.511(1)(f)], [6.6.511(1)(g)], [6.6.511(1)(h)], [6.6.511(1)(i)], or [6.6.511(1)(j)], represents the dollar amount specified in the cited rule subsection. The issuer must replace each bracket and rule cite with the correct dollar amount contained in the cited rule subsection when the issuer prints the charts:

- (a) inpatient hospital deductible = \$992.00;
- (b) daily coinsurance amount for the 61st through 90th days of hospitalization in a benefit period = \$248.00;
- (c) daily coinsurance amount for lifetime reserve days = \$496.00;
- (d) daily coinsurance amount for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period = \$124.00;
- (e) 50% of inpatient hospital deductible = \$496.00;
- (f) 75% of inpatient hospital deductible = \$744.00;
- (g) 25% of inpatient hospital deductible = \$248.00;
- (h) 50% of daily coinsurance amount for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period = \$62.00;
- (i) 75% of daily coinsurance amount for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period = \$93.00; and
- (j) 25% of daily coinsurance amount for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period = \$31.00.

(2) The following are sample forms of the outline of coverage for Medicare supplement policies:

- (a)

COVER PAGE
PREMIUM INFORMATION [boldface type]

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this state. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

DISCLOSURES [boldface type]

Use this outline to compare benefits and premiums among policies.

This outline shows benefits and premiums of policies sold for effective dates on or after June 1, 2010. Policies sold for effective dates prior to June 1, 2010, have different benefits and premiums. Plans E, H, I, and J, are no longer available for sale. [This paragraph shall not appear after June 1, 2011.]

READ YOUR POLICY VERY CAREFULLY [boldface type]

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY [boldface type]

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT [boldface type]

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE [boldface type]

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local social security office or consult "The Medicare Handbook" for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT [boldface type]

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan, prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments, and insured payments for each plan, using the same language in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this rule. An issuer may use additional benefit plan designations on these charts pursuant to ARM 6.6.507A(4).]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.]

(b) PLAN A

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|------------------------------------|---------------------------------------|---|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but \$[6.6.511(1)(a)] | \$0 | \$[6.6.511(1)(a)] (Part A deductible) |
| 61st thru 90th day | All but \$[6.6.511(1)(b)] a day | \$[6.6.511(b)] a day | \$0 |
| 91st day and after: ---While using 60 lifetime reserve days | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| ---Once lifetime reserve days are used: ---Additional 365 days | \$0 | 100% of Medicare eligible expenses | \$0** |
| ---Beyond the additional 365 days | \$0 | \$0 | All costs |

| | | | |
|---|---|--------------------------------|-------------------------------|
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days | All approved amounts | \$0 | \$0 |
| 21st thru 100th day | All but \$[6.6.511(1)(d)] a day | \$0 | Up to \$[6.6.511(1)(d)] a day |
| 101 st day and after | \$0 | \$0 | All costs |
| BLOOD First 3 pints Additional amounts | \$0 100% | 3 pints \$0 | \$0 \$0 |
| HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness | All but very limited copayment/coinsurance for out-patient drugs and inpatient respite care | Medicare copayment/coinsurance | \$0 |

**When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN A

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---------------|---------------|-----------------------------|
| MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, --First \$[131] of Medicare approved amounts* | \$0 | \$0 | \$[131] (Part B deductible) |
| --Remainder of Medicare approved amounts | Generally 80% | Generally 20% | \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs |

| | | | |
|---|------|-----------|-----------------------------|
| BLOOD First 3 pints | \$0 | All costs | \$0 |
| Next \$[131] of Medicare ---approved amounts* | \$0 | \$0 | \$[131] (Part B deductible) |
| Remainder of Medicare ---approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES -- TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---------------|-----------|-----------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES --Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| --Durable medical equipment | | | |
| ---First \$[131] of Medicare approved amounts* | \$0 | \$0 | \$[131] (Part B deductible) |
| ---Remainder of Medicare Approved amounts | 80% | 20% | \$0 |

(c)

PLAN B

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|------------------------------------|--|--------------------|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (Part A deductible) | \$0 |
| 61st thru 90th day | All but \$[6.6.511(1)(b)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| 91st day and after: ---While using 60 lifetime reserve days | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| ---Once lifetime reserve days are used: ---Additional 365 days ---Beyond the additional 365 days | \$0 \$0 | 100% of Medicare eligible expenses \$0 | \$0** All costs |

| | | | |
|---|--|---------------------------------|-------------------------------|
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after | All approved amounts | \$0 | \$0 |
| | All but \$[6.6.511(1)(d)] a day | \$0 | Up to \$[6.6.511(1)(d)] a day |
| | \$0 | \$0 | All costs |
| BLOOD First 3 pints Additional amounts | \$0 100% | 3 pints \$0 | \$0 \$0 |
| HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness | All but very limited copayment/ coinsurance for out-patient drugs and inpatient respite care | Medicare copayment/ coinsurance | \$0 |

**When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN B

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|--------------------------|--------------------------|--|
| MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[131] of Medicare approved amounts* Remainder of Medicare approved amounts | \$0 Generally 80% | \$0 Generally 20% | \$[131] (Part B deductible) \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs |

| | | | |
|---|------|-----------|-----------------------------|
| BLOOD First 3 pints | \$0 | All costs | \$0 |
| Next \$[131] of Medicare approved amounts* | \$0 | \$0 | \$[131] (Part B deductible) |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES -- TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|---------------|-----------|-----------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES ---Medically necessary skilled care services and medical supplies ---Durable medical equipment First \$[131] of Medicare approved amounts* | 100% | \$0 | \$0 |
| Remainder of Medicare approved amounts | 80% | 20% | \$[131] (Part B deductible) |
| | | | \$0 |

(d) PLAN C

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---------------------------------|---|--------------------|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (Part A deductible) | \$0 |
| 61st thru 90th day | All but \$[6.6.511(1)(b)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| 91st day and after: ---While using 60 lifetime reserve days | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| ---Once lifetime reserve days are used: ---Additional 365 days ---Beyond the additional 365 days | \$0 \$0 | 100% of Medicare eligible expenses \$0 | \$0** All costs |

| | | | |
|---|---|--------------------------------|-----------|
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | \$0 | \$0 |
| 21st thru 100th day | All but \$[6.6.511(1)(d)] a day | Up to \$[6.6.511(1)(d)] a day | \$0 |
| 101st day and after | \$0 | \$0 | All costs |
| BLOOD | | | |
| First 3 pints | \$0 | 3 pints | \$0 |
| Additional amounts | 100% | \$0 | \$0 |
| HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness. | All but very limited copayment/coinsurance for out-patient drugs and inpatient respite care | Medicare copayment/coinsurance | \$0 |

**When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN C

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|---------------|-----------------------------|-----------|
| MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[131] of Medicare approved amounts* | \$0 | \$[131] (Part B deductible) | \$0 |
| Remainder of Medicare approved amounts | Generally 80% | Generally 20% | \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs |
| BLOOD | | | |
| First 3 pints | \$0 | All costs | \$0 |
| Next \$[131] of Medicare approved amounts* | \$0 | \$[131] (Part B deductible) | \$0 |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |

| | | | |
|---|------|-----|-----|
| CLINICAL LABORATORY SERVICES -- TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |
|---|------|-----|-----|

PARTS A & B

| | | | |
|---|------|-----------------------------|-----|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES ---Medically necessary skilled care services and medical supplies ---Durable medical equipment | 100% | \$0 | \$0 |
| First \$[131] of Medicare approved amounts* | \$0 | \$[131] (Part B deductible) | \$0 |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |

OTHER BENEFITS - NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---------------|---|--|
| FOREIGN TRAVEL - NOT COVERED BY MEDICARE, Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

(e) PLAN D

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT YEAR

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|---------------|-----------|---------|
|----------|---------------|-----------|---------|

| | | | |
|--|--|--|-----------|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (Part A deductible) | \$0 |
| 61st thru 90th day | All but \$[6.6.511(1)(a)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| 91st day and after: ---While using 60 lifetime reserve days ---Once lifetime reserve days are used: ---Additional 365 days | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| ---Beyond the additional 365 days | \$0 | 100% of Medicare eligible expenses | \$0** |
| | \$0 | \$0 | All costs |
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | \$0 | \$0 |
| 21st thru 100th day | All but \$[6.6.511(1)(d)] a day | Up to \$[6.6.511(1)(d)] a day | \$0 |
| 101st day and after | \$0 | \$0 | All costs |
| BLOOD | | | |
| First 3 pints | \$0 | 3 pints | \$0 |
| Additional amounts | 100% | \$0 | \$0 |
| HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness | | | |
| | All but very limited copayment/ coinsurance for outpatient drugs and inpatient respite care | Medicare copayment/ coinsurance | \$0 |

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN D

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|---------------|-----------|---------|
|----------|---------------|-----------|---------|

| | | | |
|--|---------------|---------------|--------------------------------|
| MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[131] of Medicare approved amounts* | \$0 | \$0 | \$[131] (Part B deductible) |
| Remainder of Medicare approved amounts | Generally 80% | Generally 20% | \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs |
| BLOOD First 3 pints | \$0 | All costs | \$0 |
| Next \$[131] of Medicare approved amounts* | \$0 | \$0 | \$[131] (Part B deductible) |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES -- TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|------------------|-----------|--------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| Durable medical equipment First \$[131] of Medicare approved amounts* | \$0 | \$0 | \$[131] (Part B deductible) |
| Remainder of Medicare approved amounts* | 80% | 20% | \$0 |

OTHER BENEFITS - NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|------------------|---|--|
| FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

(f) PLAN F or HIGH DEDUCTIBLE PLAN F

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

[**This high deductible plan pays the same benefits as Plan F after one has paid a calendar year \$[1860] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are \$[1860]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

| SERVICES | MEDICARE PAYS | [AFTER YOU PAY \$[1860] DEDUCTIBLE, **] PLAN PAYS | [IN ADDITION TO \$[1860] DEDUCTIBLE, **] YOU PAY |
|--|---|---|--|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but \$[6.6.511(1)(a)] | \$(6.6.511(1)(a)) (Part A deductible) | \$0 |
| 61st thru 90th day | All but [6.6.511(1)(b)] a day | \$(6.6.511(1)(b)) a day | \$0 |
| 91st day and after: While using 60 lifetime reserve days | All but \$[6.6.511(1)(c)] a day | \$(6.6.511(1)(c)) a day | \$0 |
| Once lifetime reserve days are used: Additional 365 days | \$0 | 100% Medicare eligible expenses | \$0*** |
| Beyond the additional 365 days | \$0 | \$0 | All costs |
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | \$0 | \$0 |
| 21st thru 100th day | All but \$[6.6.511(1)(d)] a day | Up to \$(6.6.511(1)(d)) a day | \$0 |
| 101st day and after | \$0 | \$0 | All costs |
| BLOOD First 3 pints Additional amounts | \$0 100% | 3 pints \$0 | \$0 \$0 |
| HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness | All but very limited copayment/ coinsurance for outpatient drugs and inpatient respite care | Medicare coinsurance/ coinsurance | \$0 |

***NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN F or HIGH DEDUCTIBLE PLAN F

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

[**This high deductible plan pays the same benefits as Plan F after one has paid a calendar year \$[1860] deductible. Benefits from the high deductible Plan F will begin until out-of-pocket expenses are \$[1860]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

| SERVICES | MEDICARE PAYS | [AFTER YOU PAY \$[1860] DEDUCTIBLE, **] PLAN PAYS | [IN ADDITION TO \$[1860] DEDUCTIBLE, **] YOU PAY |
|---|---------------|---|--|
| MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[131] of Medicare approved amounts* | \$0 | \$[131] (Part B deductible) | \$0 |
| Remainder of Medicare approved Amounts | Generally 80% | Generally 20% | \$0 |
| Part B excess charges (Above Medicare approved amounts) | \$0 | 100% | \$0 |
| BLOOD First 3 pints | \$0 | All costs | \$0 |
| Next \$[131] of Medicare approved amounts* | \$0 | \$[131] (Part B deductible) | \$0 |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES - TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PLAN F or HIGH DEDUCTIBLE PLAN F

PARTS A & B

| SERVICES | MEDICARE PAYS | [AFTER YOU PAY \$[1860] DEDUCTIBLE, **] PLAN PAYS | [IN ADDITION TO \$[1860] DEDUCTIBLE, **] YOU PAY |
|--|---------------|---|--|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES ---Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| ---Durable medical equipment First \$[131] of Medicare approved amounts* | \$0 | \$[131] (Part B deductible) | \$0 |
| ---Remainder of Medicare approved amounts | 80% | 20% | \$0 |

OTHER BENEFITS - NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | [AFTER YOU PAY \$[1860] DEDUCTIBLE, **] PLAN PAYS | [IN ADDITION TO \$[1860] DEDUCTIBLE, **] YOU PAY |
|--|---------------|---|--|
| FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

(g)

PLAN G

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | **YOU PAY |
|----------|---------------|-----------|-----------|
|----------|---------------|-----------|-----------|

| | | | |
|--|---|---------------------------------------|-----------|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but \$[6.6.511(1)(a)] | \$[6.6.511(1)(a)] (Part A deductible) | \$0 |
| 61st thru 90th day | All but \$[6.6.511(1)(b)] a day | \$[6.6.511(1)(b)] a day | \$0 |
| 91st day and after: ---While using 60 lifetime reserve days | All but \$[6.6.511(1)(c)] a day | \$[6.6.511(1)(c)] a day | \$0 |
| ---Once lifetime reserve days are used: ---Additional 365 days | \$0 | 100% Medicare eligible expenses | \$0** |
| ---Beyond the additional 365 days | \$0 | \$0 | All costs |
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | \$0 | \$0 |
| 21st thru 100th day | All but \$[6.6.511(1)(d)] a day | Up to \$[6.6.511(1)(d)] a day | \$0 |
| 101st day and after | \$0 | \$0 | All costs |
| BLOOD | | | |
| First 3 pints | \$0 | 3 pints | \$0 |
| Additional amounts | 100% | \$0 | \$0 |
| HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness | | | |
| | All but very limited copayment/ coinsurance for outpatient drugs and inpatient respite care | Medicare copayment/ coinsurance | \$0 |

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN G

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| | | | |
|----------|---------------|-----------|---------|
| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|---------------|-----------|---------|

| | | | |
|--|---------------|---------------|--------------------------------|
| MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[131] of Medicare approved amounts* | \$0 | \$0 | \$[131] (Part B deductible) |
| Remainder of Medicare approved amounts | Generally 80% | Generally 20% | \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | 100% | \$0 |
| BLOOD First 3 pints | \$0 | All costs | \$0 |
| Next \$[131] of Medicare approved amounts* | \$0 | \$0 | \$[131] (Part B deductible) |
| Remainder of Medicare Approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES - TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PLAN G

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|------------------|-----------|--------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES ---Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| ---Durable medical equipment First \$[131] of Medicare approved amounts* | \$0 | \$0 | \$[131] (Part B deductible) |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |

OTHER BENEFITS - NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|---------------|-----------|---------|
|----------|---------------|-----------|---------|

| | | | |
|---|-----|---|--|
| FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

(h) PLAN K

*You will pay half the cost-sharing of some covered services until you reach the annual out-of-pocket limit of \$[4140] each calendar year. The amounts that count toward your annual limit are noted with diamonds (♦) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare copayment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

**A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---------------------------------|---|---------------------|
| HOSPITALIZATION** Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days | All but \$[6.6.511(1)(a)] | [\$[6.6.511(1)(a)] (50% of Part A deductible) | [\$[6.6.511(1)(e)]♦ |
| 61st thru 90th day | All but [6.6.511(1)(b)] a day | [\$[6.6.511(1)(b)] a day | \$0 |
| 91st day and after: While using 60 lifetime reserve days | All but \$[6.6.511(1)(c)] a day | [\$[6.6.511(1)(c)] a day | \$0 |
| Once lifetime reserve days are used: Additional 365 days | \$0 | 100% of Medicare eligible expenses | \$0*** |
| Beyond the additional 365 days | \$0 | \$0 | All costs |

| | | | |
|--|---|-------------------------------|----------------------------|
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | \$0 | \$0 |
| 21st thru 100th day | All but \$[6.6.511(1)(d)] a day | Up to \$[6.6.511(1)(h)] a day | Up to \$[6.6.511(1)(h)]♦ |
| 101st day and after | \$0 | \$0 | All costs |
| BLOOD First 3 pints Additional amounts | \$0 100% | 50% \$0 | 50%♦ \$0 |
| HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness | All but very limited copayment/ coinsurance for outpatient drugs and inpatient respite care | 50% of copayment/ coinsurance | 50% of Medicare copayment♦ |

***NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN K

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

****Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|--|--|---|
| MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[131] of Medicare approved amounts* | \$0 | \$0 | \$[131] (Part B deductible)**** |
| Preventive benefits for Medicare covered services | Generally 75% or more of Medicare approved amounts | Remainder of Medicare approved amounts | All costs above Medicare approved amounts |
| Remainder of Medicare approved amounts | Generally 80% | Generally 10% | Generally 10%♦ |

| | | | |
|--|---------------|---------------|--|
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs (and they do not count toward annual out-of-pocket limit of [\$4140])* |
| BLOOD First 3 pints | \$0 | 50% | 50%♦ |
| Next \$[131] of Medicare approved amounts* | \$0 | \$0 | \$[131] (Part B deductible)****♦ |
| Remainder of Medicare Approved amounts | Generally 80% | Generally 10% | Generally 10% |
| CLINICAL LABORATORY SERVICES - TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to \$[4140] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

PLAN K

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY* |
|--|---------------|-----------|------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| Durable medical equipment First \$[131] of Medicare approved amounts**** | \$0 | \$0 | \$[131] (Part B deductible)♦ |
| Remainder of Medicare approved amounts | 80% | 10% | 10%♦ |

****Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare

(i)

PLAN L

*You will pay one-fourth of the cost-sharing of some covered services until you reach the annual out-of-pocket limit of \$[2070] each calendar year. The amounts that count toward your annual limit are noted with a diamond (♦) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare copayment and coinsurance for the rest of the calendar year. However, this limit does not include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

**A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|---|---|--|
| HOSPITALIZATION** Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: While using 60 lifetime reserve days Once lifetime reserve days are used: Additional 365 days Beyond the additional 365 days | All but \$[6.6.511(1)(a)] All but \$[6.6.511(1)(b)] a day All but \$[6.6.511(1)(c)] a day \$0 \$0 | \$[6.6.511(1)(f)] (75% of Part A deductible) \$[6.6.511(1)(b)] a day \$[6.6.511(1)(c)] a day 100% of Medicare eligible expenses \$0 | \$[6.6.511(1)(g)] 25% of Part A deductible♦ \$0 \$0 \$0*** All costs |
| SKILLED NURSING FACILITY CARE** You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after | All approved amounts All but \$[6.6.511(1)(d)] a day \$0 | \$0 Up to \$[6.6.511(1)(i)] a day \$0 | \$0 Up to \$[6.6.511(1)(j)] a day♦ All costs |
| BLOOD First 3 pints Additional amounts | \$0 100% | 75% \$0 | 25%♦ \$0 |
| HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness. | All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care | 75% of copayment | 25% of copayment/coinsurance♦ |

***NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN L

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

****Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|--|--|---|
| MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$[131] of Medicare approved amounts**** | \$0 | \$0 | \$[131] (Part B deductible)****◆ |
| Preventive benefits for Medicare covered services | Generally 75% or more of Medicare approved amounts | Remainder of Medicare approved amounts | All costs above Medicare approved amounts |
| Remainder of Medicare approved amounts | Generally 80% | Generally 15% | Generally 5%◆ |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs (and they do not count toward annual out-of-pocket limit of [\$2070])* |
| BLOOD First 3 pints | \$0 | 75% | 25%◆ |
| Next \$[131] of Medicare approved amounts**** | \$0 | \$0 | \$[131] (Part B deductible)◆ |
| Remainder of Medicare Approved amounts | Generally 80% | Generally 15% | Generally 5%◆ |
| CLINICAL LABORATORY SERVICES - TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to \$[2070] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

PLAN L

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY* |
|----------|---------------|-----------|----------|
|----------|---------------|-----------|----------|

| | | | |
|--|------|-----|---------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| Durable medical equipment First \$[131] of Medicare approved amounts***** | \$0 | \$0 | \$[131] (Part B deductible)◆ |
| Remainder of Medicare approved amounts | 80% | 15% | 5%◆ |

*****Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.

(j)

PLAN M

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|--|-----------------------|---------------------------------------|--------------------------------------|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but \$[992] | \$[496](50% of Part A deductible) | \$[496](50% of Part A deductible) |
| 61 st through 90 th day | All but \$[248] a day | \$[248] a day | \$0 |
| 91 st day and after: While using 60 lifetime reserve days | All but \$[496] a day | \$[496] a day | \$0 |
| Once lifetime reserve days are used: Additional 365 days | \$0 | 100% of Medicare eligible expenses | \$0** |
| Beyond the additional 365 days | \$0 | \$0 | All costs |
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare- approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | \$0 | \$0 |
| 21 st through 100 th day | All but \$[124] a day | Up to \$[124] a day | \$0 |
| 101 st day and after | \$0 | \$0 | All costs |

| | | | |
|---|--|---------------------------------|------------|
| BLOOD First 3 pints Additional amounts | \$0 100% | 3 pints \$0 | \$0 \$0 |
| HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness | All but very limited copayment/ coinsurance for outpatient drug and inpatient respite care | Medicare copayment/ Coinsurance | \$0 |

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN M

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---------------------------|---------------------------------|---|
| MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment First \$[131] of Medicare approved amounts* Remainder of Medicare approved amounts | \$0 Generally 80% | \$0 Generally 20% | \$[131] (Part B deductible) \$0 |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs |
| BLOOD First 3 pints Next \$[131] of Medicare approved amounts* Remainder of Medicare Approved amounts | \$0 \$0 80% | All costs \$0 20% | \$0 \$[131] (Part B deductible) \$0 |
| CLINICAL LABORATORY SERVICES - TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PLAN M

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY* |
|--|---------------|-----------|--------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| Durable medical equipment First \$[131] of Medicare approved amounts* | \$0 | \$0 | \$[131] (Part B deductible) |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |

OTHER BENEFITS – NOT COVERED BY MEDICARE

| | | | |
|---|-----|---|--|
| FOREIGN TRAVEL NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

(k)

PLAN N

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|---------------|-----------|---------|
|----------|---------------|-----------|---------|

| | | | |
|--|---|------------------------------------|-----------|
| HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but \$[992] | \$[992](Part A deductible) | \$0 |
| 61 st through 90 th day | All but \$[248] a day | \$[248] a day | \$0 |
| 91 st day and after: While using 60 lifetime reserve days | All but \$[496] a day | \$[496] a day | \$0 |
| Once lifetime reserve days are used: Additional 365 days | \$0 | 100% of Medicare eligible expenses | \$0** |
| Beyond the additional 365 days | \$0 | \$0 | All costs |
| SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | \$0 | \$0 |
| 21 st through 100 th day | All but \$[124] a day | Up to \$[124] a day | \$0 |
| 101 st day and after | \$0 | \$0 | All costs |
| BLOOD | | | |
| First 3 pints | \$0 | 3 pints | \$0 |
| Additional amounts | 100% | \$0 | \$0 |
| HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness | | | |
| | All but very limited copayment/coinsurance for outpatient drug and inpatient respite care | Medicare copayment/coinsurance | \$0 |

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN N

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

* Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| | | | |
|----------|---------------|-----------|---------|
| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|----------|---------------|-----------|---------|

| | | | |
|--|---------------|--|--|
| MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First \$[131] of Medicare approved amounts* | \$0 | \$0 | [\$131] (Part B deductible) |
| Remainder of Medicare approved amounts | Generally 80% | Balance, other than up to [\$20] per office visit and up to [\$50] per emergency room visit. The copayment of up to [\$50] is waived if the insured is admitted to any hospital and the emergency visit is covered as a Medicare Part A expense. | Up to [\$20] per office visit and up to [\$50] per emergency room visit. The copayment of up to [\$50] is waived if the insured is admitted to any hospital and the emergency visit is covered as a Medicare Part A expense. |
| Part B Excess Charges (Above Medicare approved amounts) | \$0 | \$0 | All costs |
| BLOOD First 3 pints | \$0 | All costs | \$0 |
| Next \$[131] of Medicare approved amounts* | \$0 | \$0 | [\$131] (Part B deductible) |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |
| CLINICAL LABORATORY SERVICES - TESTS FOR DIAGNOSTIC SERVICES | 100% | \$0 | \$0 |

PLAN N

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY* |
|----------|------------------|-----------|----------|
|----------|------------------|-----------|----------|

| | | | |
|--|------|-----|--------------------------------|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES Medically necessary skilled care services and medical supplies | 100% | \$0 | \$0 |
| Durable medical equipment First \$[131] of Medicare approved amounts* | \$0 | \$0 | \$[131] (Part B deductible) |
| Remainder of Medicare approved amounts | 80% | 20% | \$0 |

OTHER BENEFITS – NOT COVERED BY MEDICARE

| | | | |
|---|-----|---|--|
| FOREIGN TRAVEL NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First \$250 each calendar year | \$0 | \$0 | \$250 |
| Remainder of charges | \$0 | 80% to a lifetime maximum benefit of \$50,000 | 20% and amounts over the \$50,000 lifetime maximum |

AUTH: 33-1-313, 33-22-904, MCA

IMP: 33-15-303, 33-22-901, 33-22-902, 33-22-903, 33-22-904, 33-22-905,
33-22-906, 33-22-907, 33-22-908, 33-22-909, 33-22-910, 33-22-911, 33-22-921,
33-22-922, 33-22-924, MCA

REASON: It is necessary to adopt this rule to reflect changes in the Federal regulations that were adopted in the NAIC Medicare Supplement Model Regulation. Federal law requires the states to adopt these rules changes by September 2009. New plan types will be effective June 1, 2010, and these charts reflect the required benefits for those new plan designs.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Christina L. Goe, Chief Legal Counsel, State Auditor's Office, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2040; fax (406) 444-3497; or e-mail cgoe@mt.gov, and must be received no later than 5:00 p.m., June 11, 2009.

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

7. The department maintains a list of concerned persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies for which

program the person wishes to receive notices. Such written request may be mailed or delivered to Darla Sautter, State Auditor's Office, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2726; fax (406) 444-3497; or e-mail dsautter@mt.gov or may be made by completing a request form at any rules hearing held by the department.

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

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

/s/ Christina L. Goe
Christina L. Goe
Rule Reviewer

/s/ Robert W. Moon
Robert W. Moon
Deputy Insurance Commissioner

Certified to the Secretary of State May 4, 2009.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.177.405 physical therapy) PROPOSED AMENDMENT
aides, 24.177.504 temporary)
licenses, 24.177.507 out of state)
applicants, 24.177.510 foreign trained)
applicants, 24.177.704 topical)
medication protocols, and)
24.177.2105 continuing education all)
pertaining to physical therapists)

TO: All Concerned Persons

1. On June 4, 2009, at 10:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, 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 Physical Therapy Examiners (board) no later than 5:00 p.m., on May 29, 2009, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdp@mt.gov.

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

24.177.405 PHYSICAL THERAPY AIDES, LICENSE LICENSURE
EXEMPTIONS EXEMPTION, AND SUPERVISION AND DELEGATION (1)
~~Whereas 37-11-101, MCA, creates and defines physical therapy students, physical therapist assistant students and physical therapy aides, the board interprets such categories as exempt from licensure as physical therapists or physical therapist assistants so long as the supervision requirements stated in 37-11-101, MCA, are strictly adhered to. Such supervision requirements include also those imposed by 37-11-105, MCA.~~

~~(2) The board, therefore, finds it necessary to define periodic checks, supervision and direct supervision to mean on-site guidance by a licensed physical therapist who is responsible for and participates in a patient's care. Supervision of an assistant that requires on-site visits means that the physical therapist shall meet with the client personally at least once every six visits or once every two weeks, whichever occurs first.~~

~~(3) Components of tests and measurements of bodily functions and structures administered by a licensed physical therapist may be delegated to a licensed physical therapist assistant.~~

~~(1) As used in these rules, the following definitions apply:~~

~~(a) "Physical therapy aide" as defined in 37-11-101(8), MCA, means an unlicensed individual trained on the job by a physical therapist or physical therapist assistant who performs activities supportive of, but not involving assistance in, the practice of physical therapy by performing designated and supervised routine tasks that do not require a formal course of study.~~

~~(b) "Direct supervision" means that the supervising physical therapist or physical therapist assistant is onsite (on the premises physically) and immediately available for direction and supervision of the physical therapy aide at all times.~~

~~(2) A physical therapy aide performs activities supportive of, but not involving assistance in, the practice of physical therapy by performing patient-related tasks only under the direct supervision of a physical therapist or physical therapist assistant. Such patient-related tasks are limited to preparing a patient for treatment by a physical therapist or physical therapist assistant.~~

~~(3) A physical therapy aide may perform the following routine tasks under onsite supervision, although without direct supervision, by a physical therapist or physical therapist assistant:~~

~~(a) housekeeping activities including caring for and stocking equipment and supplies;~~

~~(b) transporting patients, records, equipment, and supplies in accordance with established policies and procedures;~~

~~(c) assembling and disassembling equipment and accessories;~~

~~(d) preparing, maintaining, and cleaning up treatment areas and maintaining supportive areas; and~~

~~(e) transcribing, recording, or copying treatment documentation generated by a physical therapist or physical therapist assistant. All documents prepared by a physical therapy aide must be signed by the treating physical therapist or physical therapist assistant.~~

~~(4) A physical therapist or physical therapy assistant who fails to directly supervise a physical therapy aide may be subject to disciplinary action by the board.~~

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

IMP: 37-1-131, 37-11-105, MCA

REASON: The board determined it is reasonably necessary to amend this rule to further clarify the role of the physical therapy aide and the definitions associated with aide supervision. The board received information that some licensed physical therapists may be allowing aides to function without proper supervision. The amendments will clearly set forth aide functions and the corresponding required level of supervision to ensure that physical therapy aides are adequately supervised.

~~24.177.504 TEMPORARY LICENSES (1) Applicants for licensure who are holders of a license in another state may be issued a temporary license to practice pending licensure by the board. An interview with at least one board member may~~

~~be required. Said temporary license will terminate when the board makes its final determination on licensure.~~

~~(2) (1)~~ Physical therapist or physical therapist assistant applicants for licensure by examination may be issued a temporary license. The temporary license shall identify the licensed physical therapist who shall be responsible for providing direct supervision. After issuance of the temporary license, the applicant must take and pass his/her examination within 420 60 days of the issuance date. ~~The temporary license shall be valid until the board makes its final determination on licensure, but may be extended at the board's discretion.~~ Only one temporary license will be issued per applicant.

~~(3) (2)~~ If the applicant fails the NPTE examination, the applicant may sit for the next scheduled examination. Temporary licenses will not be extended while the applicant is waiting to retake the NPTE examination.

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

IMP: 37-1-131, 37-1-305, MCA

REASON: The board is amending this rule to limit temporary licenses to applicants for licensure by examination only. Previously, temporary licenses were issued to out-of-state applicants without any set standards or information on disciplinary action in other states. In some instances, temporary license holders simply worked in Montana for the year the temporary license was valid and never applied for full licensure. The board notes that out-of-state license applications are generally processed within two to four weeks. The board is eliminating temporary licensure for out-of-state applicants as unnecessary and to better protect the public by ensuring licensure of competent and qualified applicants.

The board is also amending this rule to require that examination applicants take and pass the examination within 60 days of receiving a temporary license. The board decided to reduce the temporary licensure period from 120 to 60 days since computerized tests are offered more often and in more locations than paper and pencil exams. The board is also removing the board's discretion to extend temporary licenses for anyone due to this increased exam availability.

24.177.507 LICENSURE OF OUT-OF-STATE APPLICANTS (1) through (2)(b) remain the same.

(c) verification of graduation from a board approved physical therapy school or physical therapist assistant curriculum;

(c) remains the same but is renumbered (d).

~~(d)(e)~~ submit three statements of good moral character, one of which is a professional reference from a licensed physical therapist, and two others from persons with knowledge of the applicant within the past five years. All reference letters must be sent directly to the board office from the reference source;

~~(e)(f)~~ verification of all current, previous, and expired licenses in any licensed profession from other states; and

~~(f) verification of physical therapy or physical therapist assistant instruction and graduation; and~~

(g) remains the same.

(3) Applicants applying for licensure from another state who have not been actively engaged in the profession of physical therapy or physical therapist assistant in the ~~five~~ four years immediately preceding application ~~shall~~ may be required to undergo ~~continued~~ remedial study in the field of physical therapy ~~or physical therapist assistant~~ subject to the discretion of the board. Continued Remedial study may include, but will not be limited to:

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

~~(4) All the above would be subject to the discretion of the board.~~

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

IMP: 37-1-131, 37-1-304, 37-11-307, MCA

REASON: The board determined it is reasonably necessary to amend this rule to reword and relocate former (2)(f) as new (2)(c). Verification of education is not a new requirement, but (2)(c) is worded more clearly and in a more logical location.

The board is amending new (2)(f) to clarify the board's intent for verification of other states' licensure. The board determined it is reasonable and necessary to require that out-of-state applicants submit information on any and all types of professional licensure the applicant has held or currently holds when applying in Montana. The board notes that physical therapist applicants may have been licensed in other related health care fields and the information regarding other licenses is necessary to ensure the licensure of qualified, safe practitioners.

The board is amending (3) regarding remedial study for out-of-state applicants. The board concluded that reducing the time an applicant could have been out of practice to four years better protects the public by assuring the applicant's competency to practice. The board is also amending this rule to change the requirement for mandatory remedial study to instances where the board determines it is necessary for the public's continued protection. The board is striking (4) as the board's discretionary authority is stated elsewhere in this rule.

24.177.510 FOREIGN-TRAINED PHYSICAL THERAPIST APPLICANTS

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

(f) if from a non English speaking culture, the applicant shall display competency in the English language by passing the national examination test of English as foreign language (TOEFL) with a ~~score of 50 percent of the total possible points on each subject~~ passing score as designated by the Federation of State Boards of Physical Therapy (FSBPT). The applicant would contact TOEFL by writing:

TOEFL
Box 899
Princeton, NJ 08541, USA

A fee is required by TOEFL and must be paid by the applicant.

(g) through (2) remain the same

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

IMP: 37-11-310, MCA

REASON: The board is amending this rule to comply with standards set by the Federation of State Boards of Physical Therapy (FSBPT), of which the board is a member. The FSBPT administers the physical therapy licensure examinations and has recommended that all states raise the passing score requirement due to information that a 50% on TOEFL is not sufficient to enable passage of the licensure exams. The board also notes that keeping the score at 50% may bar licensees from obtaining licensure in other states that require a higher TOEFL score.

24.177.704 TOPICAL MEDICATION PROTOCOLS (1) remains the same.

(a) bactericidal agents:

(i) action: interferes with functions of the cell wall membrane;:

(ii) indication: topical treatment for dermal infections;:

(iii) remains the same.

~~(iv) SSD, SSD-AF--Silver sulfadiazine; (Sulfamylon)--Mafenide acetate cream; Gentamicin Sulfate--(Garamycin); Mycostatin--(Nystatin)--(cream, powder, ointment); (Lotrisone)--Clotrimazole and betamethasone dipropionate; Polymyxin B Sulfate--(Cortisporin, Neosporin); Nystatin--(Nystex); (Bactroban)--Mupirocin; Neomycin Sulfate--(Cortisporin cream, NeoDecadron topical cream, Neosporin cream, Neo-Synalar cream); Unna Boot--Dome Paste (zinc).~~

(b) debriding agents:

(i) action: cleanse the surface of wounds of wound exudate, bacteria, and particulate contaminants;:

(ii) indication: cleanse exudative wounds such as venous stasis ulcers, decubitus ulcers, infected traumatic and surgical wounds, and infected burns;:

~~(iii) contraindications: Dextranomer should not be used with topical antibiotics or debriding enzymes and should not be used in deep fistulas or any body cavity from which complete removal is not assured. Fibrinolysin and Deoxyribonuclease Combined (Bovine), a debriding enzyme debriding enzymes, should be used with precaution against allergic reactions, particularly in patients hypersensitive to materials of bovine origin or to mercury compounds. Consult the current PDR for specifics.~~

~~(iv) (Elastase)--Fibrinolysin and desoxyribonuclease; (Elastase-Chloromycetin)--Fibrinolysin and desoxyribonuclease with chloramphenicol; Debrisan--(Dextranomer).~~

(c) anesthetic agents:

(i) action: blocks both the initiation and conduction of nerve impulses by decreasing the neuron membranes permeability to sodium ions;:

(ii) indication: relieve pain and inflammation associated with minor skin disorders and for acute inflammatory conditions;:

(iii) remains the same.

~~(iv) (Fluori Methane)--Dichlorodifluoromethane 15%, trichloromonofluoromethane 85%; Lidocaine Hydrochloride; (Xylocaine)--Lidocaine Hydrochloride; (Chempad)--L-Lidocaine, Menthol, H Hydrocortisone, Menthol, LH Lidocaine Hydrocortisone, Menthol; (Medipad)--L-Lidocaine, Menthol, H Hydrocortisone, Menthol, LH Lidocaine Hydrocortisone, Menthol; (Ethyl Chloride)--~~

~~Chloroethane; Menthol 0.8% (Dermoplast, Medicore Derma-HC, Methalgen Cream, Panalgesic Gold cream-liniment, PrameGel, Nephro-Derm Cream); Dibucaine 1% (Nupercainal cream and ointment, only 0.5%).~~

(d) anti-inflammatory agents (see adrenocortico-steroids).

(e) antispasmodic agents:

(i) action: forms strong drug-receptor complex at postganglionic parasympathetic neuroeffector sites in smooth muscle, cardiac muscle and exocrine glands, thereby blocking action of acetylcholine.

(ii) indication: reduce the volume of perspiration by inhibiting sweat gland secretions.

(iii) remains the same.

(f) adrenocortico-steroids:

(i) action: diffuses across cell membranes to complex with specific cytoplasmic receptors. The resulting complexes enter the nucleus, bind to DNA thereby irritating cytoplasmic synthesis of enzymes responsible for systemic effects of adrenocortico-steroid.

(ii) indication: anti-inflammatory (bursitis, tendonitis, myositis, arthritis), antipruritic and vasoconstrictor actions.

(iii) remains the same.

~~(iv) Hydrocortisone Cream 10%, 1%; (Decadron) Dexamethasone sodium phosphate; (Aristocort) triamcinolone acetonide; (Chempad) L Lidocaine, Menthol, H Hydrocortisone, Menthol, LH Lidocaine Hydrocortisone, Menthol; (Medipad) L Lidocaine, Menthol, H Hydrocortisone, Menthol, LH Lidocaine Hydrocortisone, Menthol; Dexamethasone (Decaderm, Decadron); Betamethasone (Alphatrex cream-ointment, Diprolene AF, Lotrisone cream, Maxivate cream-lotion-ointment, Psorion cream, Betatrex).~~

(2) The board considers anti-fungal agents to be within the class of bactericidal agents.

AUTH: 37-11-107, 37-11-201, MCA

IMP: 37-11-106, 37-11-107, MCA

REASON: The board has determined it is reasonably necessary to amend this rule and no longer list allowable topical medications by name. Section 37-11-106, MCA, provides that licensed physical therapists may apply or administer certain classes of topical medications. The board is eliminating the specific listing of medications within the classes because drug names do change and the amendment will also ensure that new drugs are not excluded just because they are not listed specifically.

The board is amending (1)(b)(iii) to no longer specifically limit the use of dextranomer in the practice of physical therapy. Following a review of the rules and updated studies involving debriding agents, the board concluded that anyone using dextranomer in this manner would refer to the physicians' desk reference (PDR) to determine applicability and contraindications. The board is striking the limitation from this rule as no longer necessary.

The board is also amending the rule to make licensees aware of the board's position that anti-fungal agents are considered to be bactericidal agents. Following discussion, the board concluded that anti-fungal agents fall within the bactericidal

agent class of topical medications, and therefore may be used in practice by licensed physical therapists.

24.177.2105 CONTINUING EDUCATION (1) ~~All licensees shall submit evidence of completion of continuing education requirements biennially with their license renewal. Training for entry into a field is not considered adequate assurance of~~ Continuing education is required to ensure continued competence throughout a physical therapist or physical therapist assistant career. Training for entry into the physical therapy field is not considered adequate assurance of continued competence.

~~(2)(5)~~ The board/staff will not preapprove continuing education programs or sponsors. ~~Qualifying criteria for continuing education is specified in these rules. It is the responsibility of the licensee to select quality programs that contribute to their knowledge and competence in the physical therapy field and which also meet these qualifications specified in these rules.~~

(3) ~~The continuing~~ Continuing education ~~program programs~~ must meet the following criteria:

(a) the activity must have significant intellectual or practical content. The activity must deal primarily with substantive physical therapy issues as ~~contained in the physical therapy definition~~ physical therapy is defined in Montana. In addition, the board may accept continuing education activities from other professional groups or academic disciplines if the licensee demonstrates that the activity is substantially related to ~~his or her role~~ the licensee's practice as a physical therapist or physical therapist assistant;

(b) ~~A~~ a continuing education program ~~is defined as~~ may be a class, institute, lecture, conference, workshop, cassette or videotape, correspondence or online course, or peer-reviewed publication of a journal article(s), or textbook(s) ~~or online course;~~

~~(b)(c)~~ the activity must be conducted by an individual or group qualified by practical or academic experience;

~~(c)(d)~~ all acceptable continuing education courses must issue a program ~~or~~ and a certificate of completion ~~containing~~ . The program must contain the following information: full name and qualifications of the presenter; title of the ~~presentation~~ attended presentations; number of hours ~~attended~~; and date and location of each presentation ~~attended~~; name of sponsor; and description of the presentation format; The certificate must bear an official signature or verification of the program sponsor and list the course name, number of hours of continuing education obtained by the licensee, and date and location of the presentation;

~~(d)(e)~~ ~~excluded are~~ programs that promote a company, individual, or product, and programs whose subject is practice economics cannot be credited for continuing education, except those programs specifically dealing with workers' compensation, or public health, medicare, and or insurance coverage issues;

~~(e)(f)~~ ~~Presentation of a course will only be allowed for~~ a maximum of four hours of continuing education credit are allowed for presenting a continuing education course in each two-year cycle. The course must be presented to a group ~~including that includes~~ physical therapists and physical therapist assistants for continuing education credit. ~~Licensees whose regular occupation is teaching of~~

~~physical therapy related courses will not be allowed continuing education credit for these regular teaching duties.~~

~~(4) Implementation for continuing education shall be as follows:~~

~~(a) one continuing education credit shall be granted for each hour of participation in a lab or lecture of the continuing education activity program, excluding breaks and meals.;~~

~~(b) A a maximum of two credits by for cassette or videotape lectures; and~~

~~(c) a maximum of four credits from online or correspondence courses will be allowed. ;~~

~~(d) A a maximum of ten credits is allowed per reporting period for peer-reviewed publication of a journal article(s), textbook(s) and publication(s). ;~~

~~(e) licensees whose regular occupation is teaching of physical therapy related courses will not be allowed continuing education credit for these regular teaching duties.~~

~~(2) Continuing education credits shall be reported as follows:~~

~~(i)(a) Commencing on or before April 30, 1998, licensees Licensees with even-numbered licenses shall submit at least 20 continuing education hours earned within the 24 months prior to the renewal date set by the department in each even-numbered year. Licensees in this category will not report continuing education on the odd-numbered years, but must renew their license each year.;~~

~~(ii)(b) Commencing on or before April 30, 1999, licensees Licensees with odd-numbered licenses shall submit at least 20 continuing education hours earned within the 24 months prior to the renewal date set by the department in each odd-numbered year. Licensees in this category will not report continuing education on the even-numbered years, but must renew their license each year.;~~

~~(b)(c) no continuing Continuing education is not required for licensees renewing their license for the first time;~~

~~(c) all licensees must submit to the board, on the appropriate year's license renewal, a report summarizing their obtained continuing education credits. The board will review these reports and notify the licensee regarding his/her noncompliance by December 1. Licensees found to be noncompliant with the requirement will be asked to submit to the board for approval a plan to complete the continuing education requirements for licensure. Prior to the next reporting year's license renewal deadline, those licensees who were found to be in noncompliance will be formally reviewed to determine their eligibility for license renewal. Licensees who at this time have not complied with continuing education requirements will not be granted license renewal until they have fulfilled the board-approved plan to complete the requirements. Those not receiving notice from the board regarding their continuing education should assume satisfactory compliance. Notices will be considered properly mailed when addressed to the last known address on file in the board office. No continuing education used to complete delinquent continuing education plan requirements for licensure may be used to meet the continuing education requirements for the next continuing education reporting period;~~

~~(d) if a licensee is unable to acquire sufficient continuing education credits to meet the requirements, he or she may request a waiver. All requests for waiver will be considered by the board and evaluated on an individual basis;~~

~~(e)(d)~~ It is the responsibility of the licensee to establish and maintain detailed records of continuing education compliance (in the form of programs and certificates of attendance) and make them available upon board request for a period of two years following submission of a continuing education report;

~~(f)(e)~~ from the continuing education reports submitted each biennium, the board will randomly audit 5 percent of the reports continuing education credits.

(6) Failure to comply with the continuing education requirement may be grounds for disciplinary action.

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

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

REASON: The board determined it is reasonable and necessary to amend this rule to clarify the continuing education (CE) requirements and address confusion among licensees. Therefore the board is renumbering, reorganizing, and updating the rule throughout with better language and grammar choices.

The board is amending this rule to require that acceptable CE courses issue both a program and a certificate of completion, and setting forth the requirements for both documents. The board currently requires a course issue either a program or certificate, but determined that both should be required as the two documents provide different but equally important information regarding CE.

The board is amending this rule to streamline the CE reporting and audit processes and to coincide with the department's shift to online renewals and a reduction in paper records. The current process requires all licensees to submit a CE summary report at renewal, but the board audits only 5% of those that renewed. Following amendment, the board will continue to randomly audit an adequate portion of renewed licensees, as determined by the board, and only those audited will have to supply the documents supporting their CE completion. This amended process will also comply with the CE and renewal requirements of 37-1-141, MCA.

The board is also proposing to eliminate the board's ability to waive CE requirements for licensees. The board determined that allowing board waiver gives the board too much discretion which could lead to allegations of favoritism. Further, the board notes that the CE requirements for physical therapists are not overly burdensome and waivers would not be granted often.

The board is adding (6) to this rule to comply with 37-1-141, MCA, and notify licensees that failure to comply with CE requirements may result in disciplinary action taken by the board.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdtpt@mt.gov, and must be received no later than 5:00 p.m., June 12, 2009.

5. An electronic copy of this Notice of Public Hearing is available through the department and board site on the World Wide Web at www.pt.mt.gov. The

department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdptp@mt.gov, 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. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PHYSICAL THERAPY EXAMINERS
RICHARD SMITH, PT, CHAIRPERSON

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 4, 2009

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.78.102, 37.78.103,) PROPOSED AMENDMENT
37.78.206, 37.78.220, 37.78.401,)
37.78.416, and 37.78.506 pertaining)
to Temporary Assistance for Needy)
Families (TANF))

TO: All Concerned Persons

1. On June 3, 2009, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in auditorium 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.

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 Department of Public Health and Human Services no later than 5:00 p.m. on May 26, 2009, to advise us of the nature of the accommodation that you need. Please contact Rhonda Lesofski, 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 amended provide as follows, new matter underlined, deleted matter interlined:

37.78.102 TANF: FEDERAL REGULATIONS ADOPTED BY REFERENCE

(1) remains the same.

(2) The "Montana TANF Cash Assistance Manual" dated ~~January 4~~ July 1, 2009 is adopted and incorporated by this reference. A copy of the Montana TANF Cash Assistance Manual is available for public viewing at each local Office of Public Assistance, and at the Department of Public Health and Human Services, Human and Community Services Division, 111 N. Jackson St., 5th Floor, P.O. Box 202925, Helena, MT 59620-2925. Manual updates are also available on the department's web site at www.dphhs.mt.gov.

AUTH: 53-4-212, MCA

IMP: 53-4-211, 53-4-601, MCA

37.78.103 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF):
DEFINITIONS The following definitions apply to this chapter:

(1) through (29) remain the same.

(30) Job search and job readiness assistance means the act of seeking or obtaining employment, preparation to seek or obtain employment, including life skills training, and substance abuse treatment, mental health treatment, or rehabilitation activities ~~for those who are otherwise employable.~~

(a) through (59) remain the same.

(60) "Vocational educational training" means organized educational programs that are directly related to the preparation of individuals for employment in current or emerging occupations requiring training ~~other than a~~ up to a baccalaureate or advanced degree.

(61) through (64) remain the same.

AUTH: 53-4-212, MCA

IMP: 53-4-211, 53-4-601, MCA

37.78.206 TANF: GENERAL ELIGIBILITY REQUIREMENTS (1) through (2)(e) remain the same.

(3) The following are not eligible for TANF Cash Assistance:

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

(o) all required members of the filing unit if the filing unit includes an individual who has been sanctioned ~~at least twice~~ and the sanctioned individual has ~~not complied with~~ completed an intensive case management meeting within ~~the first month of eligibility for TANF~~ the 30 day application time period.

(4) through (6)(a)(i) remain the same.

AUTH: 53-2-201, 53-4-212, MCA

IMP: 53-2-201, 53-4-211, 53-4-231, MCA

37.78.220 TANF: ELIGIBILITY, CITIZENSHIP REQUIREMENTS

(1) through (2)(q) remain the same.

(3) Qualified aliens entering the U.S. on or after August 22, 1996 are not eligible for TANF cash assistance benefits for a period of five years from the date of entry unless they are:

(a) through (d) remain the same.

~~(e) American Indians with at least 50% American Indian blood who were born in Canada;~~

(f) through (i) remain the same but are renumbered (e) through (h).

(4) through (7) remain the same.

AUTH: 53-2-201, 53-4-212, MCA

IMP: 53-2-201, 53-4-211, 53-4-231, MCA

37.78.401 TANF: TANF CASH ASSISTANCE; RESOURCES (1) through (3) remain the same.

(4) The following resources are not counted in determining eligibility:

(a) through (4)(q) remain the same.

(r) governmental disaster payments designated for restoration of a home damaged in a disaster if the household is subject to legal sanction if funds are not used as intended; ~~or~~

(s) funds which are held in an escrow account during the household's participation in a department of housing and urban development family self-sufficiency program; or

(t) senior benefit payments received by the Crow elders as per the Crow Boundary Settlement Act of 1994.

(5) through (7) remain the same.

AUTH: 53-4-212, MCA

IMP: 53-4-211, 53-4-601, 53-4-606, MCA

37.78.416 TANF: TANF CASH ASSISTANCE; EXCLUDED UNEARNED INCOME (1) remains the same.

(2) In testing gross monthly income and in determining grant amount, the following unearned income shall be excluded:

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

(y) emergency assistance payments provided under ARM 37.78.601 and 37.78.602; ~~and~~

(z) interest earned on countable resources; and

(aa) payments received by Crow elders under the Crow Boundary Settlement Act of 1994, P.L. 103-444.

AUTH: 53-4-212, MCA

IMP: 53-4-211, 53-4-601, MCA

37.78.506 TANF: TANF CASH ASSISTANCE; SANCTIONS (1) through (9) remain the same.

(10) If an individual who has been sanctioned ~~at least twice~~ applies for TANF cash assistance, that individual is required to ~~comply with~~ complete an intensive case management meeting ~~within the first 30 days of eligibility application~~ for TANF, or the case will be ~~closed~~ denied for failing an eligibility requirement as outlined in ARM 37.78.206(3)(o).

AUTH: 53-4-212, MCA

IMP: 53-4-211, 53-4-601, 53-4-608, 53-4-717, MCA

4. The Department of Public Health and Human Services (department) is proposing amendments to ARM 37.78.102, 37.78.103, 37.78.206, 37.78.220, 37.78.401, 37.78.416, and 37.78.506 pertaining to Temporary Assistance for Needy Families (TANF).

ARM 37.78.102

ARM 37.78.102 currently adopts and incorporates by reference the TANF policy manual effective January 1, 2009. The department proposes to make some

revisions to this manual that will take effect on July 1, 2009. The proposed amendments to ARM 37.78.102 are necessary to incorporate into the Administrative Rules of Montana the revised versions of the policy manual and to permit all interested parties to comment on the department's policies and to offer suggested changes. It is estimated that changes to the TANF manual could affect approximately 7,874 TANF recipients. Manuals and draft manual material are available for review in each local Office of Public Assistance and on the department's web site at www.dphhs.mt.gov.

ARM 37.78.103

This ARM has been updated to reflect the definition of "job search and job readiness" and "vocational educational training" individual as defined in the TANF Reauthorization contained in the Deficit Reduction Act of 2005. The "job search and job readiness" definition was updated by removing the language "for those who are otherwise employable". "Vocational educational training" definition was updated to include the language of training up to a baccalaureate or advanced degree.

ARM 37.78.206

This ARM has been updated to reflect changes in the sanction policy. Currently those individuals who have been sanctioned at least twice since January 1, 2008 are required to participate in an intensive case management (ICM) meeting during the first 30 days of TANF eligibility. If the ICM meeting is not held within 30 days this will result in case closure for failing an eligibility requirement. Upon reapplication the ICM must be completed before benefits may be authorized. The department has observed that individuals may complete one or more ICM meetings; however, we continue to see a high number of participants who are sanctioned. This is an indication that the current policy does not deter participants from incurring additional sanctions. This leads us to believe that the individuals who have chosen not to participate fully in the program will continue to do so.

To address these issues, the sanction policy set forth in this ARM is changed so required individuals who are applying for TANF cash assistance who have been sanctioned twice are required to complete an ICM within the first 30 days of application. Failure to complete this ICM will result in denial of the application for failing an eligibility requirement. By decreasing the requirement to only requiring the ICM meeting after the second sanction we feel this would result in a simpler process for the participant but still focus on the issues that are surrounding the individual's noncompliance. The intent of the meeting is to address barriers to participation, identify, and implement accommodations if found appropriate and involve other community and family resources as the participant wishes. Similar ICM meetings currently take place for those families who are identified as "at-risk" based on the number of TANF months they have used.

The TANF Reauthorization regulations contain strict definitions of allowable work activities, as well as criteria for verification and documentation of such work

activities. The regulations limit those activities states may claim as allowable work activities for purposes of meeting the work participation rate as mandated by the Administration for Children and Families (ACF). Individuals who are not complying with the allowable work activities are subject to sanction and have a negative impact on the work participation rate. Failure to meet the work participation rates will result in monetary penalties to the state. By strengthening the consequences for noncompliance in allowable work activities, the department believes it may limit any negative impact to the work participation rate and avoid monetary penalties for that category.

The changes will apply to an average of approximately 6,610 TANF participants who currently are mandated to participate in work activities or are a member of the participant's filing unit. There will be no additional cost to the state unless a penalty is imposed for failure to meet the work participation rate.

ARM 37.78.220

This ARM has been updated to reflect federal policy that the Five-year Ban policy does apply to American Indians with at least 50% American Indian blood who were born in Canada. This change is being implemented to align with the federal guidance that was distributed by ACF in policy announcement TANF-ACF-PA-2005-01.

This change will apply to an average of approximately 37 TANF recipients who are identified as noncitizens currently receiving cash assistance. However, it will impact fewer than the number indicated as the average number encompasses all noncitizens receiving TANF cash assistance, not specifically those who are American Indians born in Canada. There will be no additional cost to the state unless a penalty is imposed for failure to meet the work participation rate.

ARM 37.78.401

This ARM has been updated to clarify existing policy that the senior benefit payments that are received by the Crow Elders are excluded as a resource per P.L. 103-444, Crow Boundary Settlement Act 1994.

This change will have a positive impact on TANF cash assistance participants.

This change could affect approximately 324 TANF recipients who are identified as Crow Tribal members receiving TANF cash assistance. However, it will impact fewer than the number indicated as the average number encompasses all Crow individuals receiving TANF cash assistance and not specifically Crow Elders.

ARM 37.78.416

ARM has been updated to clarify existing policy that the senior benefit payments that are received by the Crow Elders are excluded as income per P.L. 103-444, Crow Boundary Settlement Act 1994.

This change will have a positive impact on TANF cash assistance participants.

This change could affect approximately 324 TANF recipients who are identified as Crow Tribal members receiving TANF cash assistance. However, it will impact fewer than the number indicated as the average number encompasses all Crow individuals receiving cash assistance and not specifically Crow Elders.

ARM 37.78.506

This ARM has been updated to reflect changes in the sanction policy. Currently those individuals who have been sanctioned at least twice since January 1, 2008 are required to participate in an intensive case management (ICM) meeting during the first 30 days of TANF eligibility. If the ICM meeting is not held within 30 days this will result in case closure for failing an eligibility requirement. Upon reapplication the ICM must be completed before benefits may be authorized. The department has observed that individuals may complete one or more ICM meetings; however, we continue to see a high number of participants who are sanctioned. This is an indication that the current policy does not deter participants from incurring additional sanctions. This leads us to believe that the individuals who have chosen not to participate fully in the program will continue to do so.

To address these issues, the sanction policy set forth in this ARM is changed so required individuals who are applying for TANF cash assistance who have been sanctioned twice are required to complete an ICM within the first 30 days of application. Failure to complete this ICM will result in denial of the application for failing an eligibility requirement. By decreasing the requirement to only requiring the ICM meeting after the second sanction we feel this would result in a simpler process for the participant but still focus on the issues that are surrounding the individual's noncompliance. The intent of the meeting is still to address barriers to participation, identify and implement accommodations if found appropriate and involve other community and family resources as the participant wishes. Similar ICM meetings currently take place for those families who are identified as "at-risk" based on the number of TANF months they have used.

The TANF Reauthorization regulations contain strict definitions of allowable work activities, as well as criteria for verification and documentation of such work activities. The regulations limit those activities states may claim as allowable work activities for purposes of meeting the work participation rate as mandated by the Administration for Children and Families (ACF). Individuals who are not complying with the allowable work activities are subject to sanction and have a negative impact on the work participation rate. Failure to meet the work participation rates will result in monetary penalties to the state. By strengthening the consequences for noncompliance in allowable work activities, the department believes it may limit any

negative impact to the work participation rate and avoid monetary penalties for that category.

The changes will apply to an average of approximately 6,610 TANF participants who currently are mandated to participate in work activities or are a member of the participant's filing unit. There will be no additional cost to the state unless a penalty is imposed for failure to meet the work participation rate.

Following is a brief overview of the TANF manual sections with substantive changes related to the above ARM changes.

TANF 301-2 - Alien Status

TANF 301-2 has been updated to reflect the change in policy that the Five-year Ban policy must be applied to an American Indian born in Canada who is at least 50% American Indian is considered to be Lawfully Admitted for Permanent Residence.

TANF 402-2 - Resources

TANF 402-2 is being updated to reflect that the senior benefit payments received by the Crow Elders will be excluded.

TANF 502-1 - Earned Income

TANF 502-1 is being updated to reflect that the senior benefit payments received by the Crow Elders will be excluded.

TANF 702-3 - Sanction

TANF 702-3 is being updated to reflect that if an individual who has been sanctioned twice applies for TANF cash assistance, that individual is required to complete an intensive case management meeting within 30 days of application for TANF or the case will be denied for failing an eligibility requirement.

5. The department intends to apply these rules retroactively to July 1, 2009. A retroactive application of the proposed rules does not result in a negative impact to any affected party.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Rhonda Lesofski, 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, and must be received no later than 5:00 p.m., June 11, 2009.

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

8. 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.

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

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

/s/ Frank Clinch
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State May 4, 2009.

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

| | | |
|---------------------------------------|---|--------------------------|
| In the matter of the adoption of New |) | NOTICE OF PUBLIC HEARING |
| Rule I - CLXVIII, amendment of |) | ON PROPOSED ADOPTION, |
| 37.5.117, 37.5.304, 37.95.127, |) | AMENDMENT, AND REPEAL |
| 37.95.227, 37.106.2506, 37.111.104, |) | |
| 37.111.123, 37.111.305, 37.111.339, |) | |
| 37.111.504, 37.111.523, and repeal of |) | |
| 37.111.1001, 37.111.1002, |) | |
| 37.111.1003, 37.111.1010, |) | |
| 37.111.1011, 37.111.1012, |) | |
| 37.111.1013, 37.111.1021, |) | |
| 37.111.1022, 37.111.1023, |) | |
| 37.111.1024, 37.111.1025, |) | |
| 37.111.1101, 37.111.1102, |) | |
| 37.111.1105, 37.111.1112, |) | |
| 37.111.1113, 37.111.1114, |) | |
| 37.111.1115, 37.111.1130, |) | |
| 37.111.1131, 37.111.1132, |) | |
| 37.111.1133, 37.111.1138, |) | |
| 37.111.1139, 37.111.1140, |) | |
| 37.111.1141, 37.111.1142, |) | |
| 37.111.1143, 37.111.1147, |) | |
| 37.111.1148, 37.111.1149, |) | |
| 37.111.1150, 37.111.1151, |) | |
| 37.111.1152, 37.111.1153, |) | |
| 37.111.1154, 37.111.1155, |) | |
| 37.111.1156, 37.111.1158, |) | |
| 37.111.1159, 37.111.1160, and |) | |
| 37.111.1161 pertaining to swimming |) | |
| pools, spas, and other water features |) | |

TO: All Concerned Persons

1. On June 3, 2009, at 1:30 p.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 Department of Public Health and Human Services no later than 5:00 p.m. on May 26, 2009, 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 MT 59604-4210; telephone (406)444-9503; fax (406)444-9744; or e-mail dphhslegal@mt.gov.

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

NEW SUBCHAPTER 1: PURPOSE, APPLICABILITY, AND DEFINITIONS

RULE I PURPOSE AND APPLICABILITY (1) The intent of [new subchapters 1 through 22] is to help assure a safe and sanitary environment in and around public swimming pools, spas, and other water features.

(2) This chapter defines public swimming pools, spas, and other water features; establishes minimum standards for the construction, maintenance, and operation of public swimming pools, spas, and other water features and related facilities; regulates the inspection of such features and facilities; and provides for the enforcement of this chapter.

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

RULE II REQUIRED UPGRADING TO EXISTING FACILITIES AND OPERATIONS (1) Existing licensed public swimming pools, spas, or other water features that were in use or under construction prior to [the effective date of this rule] and which do not fully comply with the upgraded requirements for the physical plants set out in [new subchapters 5 through 9], but met the rules in effect at the time of construction, may continue to be operated as long as the facility meets the requirements of the grandfather clause in [RULE CXLIX] and the operating requirements in this chapter, poses no significant health or safety risks, and is operated and maintained as designed, except that:

(a) Existing pools with slopes that exceed 1:3 in a deep end or diving well must be renovated to no greater than a 1:3 slope by January 1, 2011. Pools that do not meet this requirement will not be licensed after December 31, 2010.

(b) Existing public swimming pools, spas, and other water features, must comply with the barrier requirements set out in [RULES XLII through XLVI] by March 1, 2010, or later date set in these rules. Facilities that do not meet this requirement will not be licensed after December 31, 2009.

(c) Existing wading pools that are permanent structures and that use the daily fill and drain method of operation in conjunction with hand or manual chlorination shall not be licensed and may not operate after December 31, 2009. No wading pool may be operated between adoption of these rules and December 31, 2009, until the wading pool complies with the requirements of the Virginia Graeme Baker Pool and Spa Safety Act, 15 USC 8001-8005.

(d) Diving boards may not be used in any pool designed before or after [the effective date of new subchapters 1 through 22] until the pool and diving board meets the requirements of ANSI I 1991 or [RULES LVIII through LVII].

(e) License holders of indoor pools, spas, or other water features that

currently use isocyanurates or cyanuric acid as a disinfectant must convert to a different disinfectant system no later than [one year after effective date].

(f) Under the provisions of the Virginia Graeme Baker Pool and Spa Safety Act, existing pools and spas are required to be in compliance with the applicable standards set out in 15 USC 8001-8005.

(2) All swimming pools, spas, and other water features must meet the operating requirements set in these rules with the following exception:

(a) current licensees of any swimming pools, spas, or other water features, do not need to meet the requirement of having an operator who meets the qualifications set in [RULE LXXIX] until January 1, 2011.

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

RULE III DEFINITIONS In addition to the definitions in 50-53-102, MCA, the following definitions apply to these rules.

(1) "Accessible" means readily available for inspection or replacement of parts.

(2) "Activity pool" means any pool designed primarily for play activity that uses constructed features and devices such as, but not limited to, lily pad walks, flotation devices, small slide features, and similar attractions.

(3) "Adult supervision" means a situation whereby a child at rest or play is within the constant sight and hearing of an adult, age 18 or over, who is charged with safeguarding the child. Adult supervision must be of a nature that is uninterrupted, meaning that it is without absences, voids, or distractions that separate adult from child by distance, obstacles, or any hindrance to sight and sound communication.

(4) "Algae" means microscopic plant-like organisms that contain chlorophyll. These organisms include green, blue-green or black, brown, and yellow-green (mustard) algae.

(5) "Air gap" means the unobstructed vertical distance through the free atmosphere between the lowest opening from an inlet pipe and the flood-level rim of a receptacle or floor drain.

(6) "Algaecide" means a natural or synthetic substance used for killing, destroying, or controlling algae growth.

(7) "Alkalinity" means a measure of the amount of bicarbonate, carbonate, or hydroxide compounds present in a water solution. It is the buffering potential for water to change pH.

(8) "ASME" means the American Society of Mechanical Engineers.

(9) "ANSI" means the American National Standards Institute.

(10) "ANSI/NSPI-1 2003" means the American National Standards Institute and National Spa and Pool Institute, Standards for Public Swimming Pools, approved March 10, 2003.

(11) "ANSI/NSPI-2 1999" means the American National Standards Institute and National Spa and Pool Institute, Standards for Public Spas, approved February 4, 1999.

(12) "Antivortex drain cover or plate" means a plate or cover that is affixed to

the main outlet of a swimming pool, spa, or other water feature that prevents a vortex from forming as water passes through to the main outlet. Some industry standards may use the term, "Listed Suction Outlet Cover/Grate" to describe this safety feature. See "Listed suction outlet covers".

(13) "Attendant" is a term used with regard to public swimming pools, spas, or other water features that do not require lifeguards. It means a person who oversees the use of a public swimming pool, spa, or other water feature by bathers and provides supervision of the facility and basic assistance to bathers in need. Each attendant must be currently certified by the American Red Cross or American Heart Association in infant, child, and adult cardiopulmonary resuscitation (CPR), and American Red Cross or American Heart Association standard first aid. Attendants must be at least fifteen years of age.

(14) "Automated external defibrillator (AED)" means a medical device heart monitor and defibrillator that is approved by the U.S. Food and Drug Administration.

(15) "Backwash" means the process of thoroughly cleansing the filter media and/or elements by reverse water flow.

(16) "Barrier" means a fence, wall, or an enclosed room that is accessible only by a key or electronic card, or other method used to completely surround the public swimming pool, spa, or other water feature and to obstruct or restrict access to it.

(17) "Bather" means any person authorized by the owner, licensee, or certified operator to use a pool, spa, or other water feature or adjoining deck area for the purpose of water sports, therapy, swimming, sunbathing, or related activities.

(18) "Bathhouse" means a structure that contains dressing rooms, showers, and toilet facilities for use at a public bathing place or adjacent to a public swimming pool, spa, or other water feature.

(19) "Bather load" means the maximum number of persons that could be in the pool, spa, or other water feature at any given moment or during any stated period of time. Bather load for a pool, spa, or other water feature are calculated as provided in [RULE XXXV].

(20) "Breakpoint chlorination" means the addition of a sufficient amount of chlorine to water to destroy the combined inorganic compounds present.

(21) "Bromine" means a chemical element that exists as a liquid in its elemental form or as part of a chemical compound which is a bacteriological agent used to disinfect swimming pool water.

(22) "Brominator" means a device used to apply or deliver a bromine disinfectant to water at a controlled rate. It may also be called a bromine feeder.

(23) "Cardiopulmonary Resuscitation (CPR)" means a lifesaving technique involving chest compressions and/or mouth-to-mouth breathing, to circulate oxygenated blood to vital organs.

(24) "Cartridge" means a depth, pleated, or surface type filter component with fixed dimensions designed to remove suspended particles from water flowing through the filter.

(25) "Catch pool" means a body of water located at the terminus of a manufactured water slide attraction that is provided for the purpose of terminating the slide action and providing a route for exit to a deck or walkway area.

(26) "Certified operator" means someone who has successfully completed

the Certified Pool Operator (CPO) course sanctioned by the National Swimming Pool Foundation, the Aquatic Facility Operator (AFO) course sanctioned by the National Recreation and Park Association, or an equivalent course approved by the department. A certified operator must be currently certified, recertified, or must have obtained any Continuing Education Units (CEUs) required by the sanctioning organization.

(27) "Chemical feeder" means a mechanical device used for adding chemicals to the water circulating in a pool, spa, or other water feature.

(28) "Chlorinator" means a device used to apply or to deliver a chlorine sanitizer to water at a controlled rate.

(29) "Chloramines" means compounds that are formed when free chlorine combines with nitrogen-containing compounds such as perspiration or ammonia. They can cause eye and skin irritation, have strong objectionable chlorine-type odors, and low sanitizing capability. Also see "Combined residual chlorine".

(30) "Chlorine" means a chemical agent that exists as a gas in its elemental form or as a part of a chemical compound which is an oxidant. It is a bacteriological agent used to disinfect the water in pools, spas, or other water features.

(31) "Chlorine demand compounds" means organic matter, chloramines, and other compounds that react with chlorine and deplete it.

(32) "Chlorine generator" means equipment that produces chlorine, hypochlorous acid, or hypochlorite on-site for disinfection and oxidation of water contaminants.

(33) "Circulation equipment" means the mechanical components that are a part of a circulation system on a pool, spa, or other water feature. The components have different functions but when connected to each other by piping, perform as a coordinated system for purposes of maintaining water in a clear, sanitary, and desirable condition. Some components of circulation equipment include, but are not limited to:

- (a) pumps;
- (b) hair and lint strainers;
- (c) filters;
- (d) valves;
- (e) gauges;
- (f) meters;
- (g) heaters;
- (h) surface skimmers;
- (i) inlet/outlet fittings; and
- (j) chemical feeding devices.

(34) "Circulation system" means the arrangement of mechanical equipment components, connected by piping to and from a pool, spa, or other water feature, causing it to flow through the various system components for purposes of:

- (a) clarifying;
- (b) heating;
- (c) purifying; and
- (d) returning the water back to the original body of water.

(35) "Clarifier" means a chemical that coagulates and neutralizes suspended particles in water. It can also mean coagulant or flocculent. Examples are inorganic

salts of aluminum or iron, and water soluble organic polyelectrolyte polymers.

(36) "Combined residual chlorine" means the portion of the total residual chlorine existing in water in chemical combination with ammonia, nitrogen, and/or organic compounds, mostly comprised of chloramine. The combined chlorine number is the result of subtracting the free residual chlorine levels from the total chlorine levels, as determined by a test kit.

(37) "Contaminant" means any physical, chemical, biological, or radiological substance, or matter in water.

(38) "Critical safety violation" means a health or safety violation that has the potential to imminently cause or result in water contamination illness, serious injury or death, or an environmental or safety hazard. When a critical safety violation occurs, the public swimming pool, spa, or other water feature, or the portion of the facility affected must be closed until the violation has been corrected. Critical safety violations are listed in [RULE V and RULE VI].

(39) "Cross connection" means a physical connection between the potable water system and a nonpotable water source such as a pool, spa, or other water feature. The term also indicates the physical connection between a pool, spa, or other water feature and the sanitary sewer or waste water disposal system.

(40) "Cyanuric Acid (CYA)" is a stabilizer chemical which helps reduce the loss of chlorine in outdoor swimming pools due to the action of ultraviolet rays of the sun. It accumulates on the various surfaces of pools. High levels of CYA require adjustments to pool alkalinity.

(41) "Deck" means an area immediately adjacent to or attached to a pool, spa, or other water feature that is specifically constructed or installed for sitting, standing, or walking.

(42) "Deep area" means the portion of any pool, spa, or other water feature that has a water depth of five feet or more.

(43) "Department" means the Department of Public Health and Human Services (DPHHS) provided for in 2-15-2201, MCA and its authorized representatives and local boards of health and their authorized representatives who conduct inspections and enforcement actions on behalf of the department.

(44) "Depth" means the vertical distance measured from the bottom of the pool, spa, or other water feature to the designed or actual water level. The measurement must be taken three feet out from the wall of the pool, spa, or other water feature.

(45) "Diatomite" means the filtering medium of a diatomaceous earth filter that is composed of microscopic fossil skeletons of the diatom, a tiny freshwater aquatic plankton.

(46) "Disinfectant" means any oxidant, which includes but is not limited to, chlorine, chlorine dioxide, bromine, chloramines, and ozone that is added to water in any part of the treatment or distribution process and that is intended to kill or inactivate pathogenic microorganisms.

(47) "Diving board" means a recreational mechanism for entering a pool, consisting of a semi-rigid board which derives its elasticity through the use of a fulcrum mounted below the board.

(48) "Diving envelope" is the area of a pool that is designed for safe diving. Diving area is the same thing.

(49) "Diving platform" is a stationary platform designed for diving.

(50) "DPD" means diethyl-phenylene diamine. It is the only acceptable test method that specifically measures bromine or free available and total residual chlorine levels.

(51) "Effluent" means the outflow water from a filter, pump, pool, spa, or other water feature.

(52) "Employee" means any or all of the following persons who perform any work at a public swimming pool, spa, or other water feature. The term employee includes:

- (a) the owner;
- (b) a licensee;
- (c) a certified operator;
- (d) a person in charge;
- (e) a person having supervisory or management duties;
- (f) a person on the payroll;
- (g) a family member;
- (h) a volunteer;
- (i) a person performing work under a contractual agreement; or
- (j) any other person performing work.

(53) "Equalizer line" means a pipe located below the water level that draws water into the pump when the water level drops below the skimmer inlet.

(54) "Facility" means a public bathing place and includes any public swimming pools, spas, or other water features, bathhouses, restrooms, dressing rooms, equipment rooms, deck enclosures, and all other appurtenances directly serving the public bathing place.

(55) "Feet of head" means the resistance in a hydraulic system based on the equivalent to the height of a column of water that causes the same resistance (100 feet of head equals 43 pounds per square inch). Also see "Total dynamic head".

(56) "Filter" means a device that separates solid particles from water by recirculation through a porous substance. The term filter includes the following types of filters:

- (a) "cartridge filter" means a filter that utilizes a porous element that acts as a filter medium;
- (b) "diatomaceous earth filter" means a filter that utilizes a thin coating of diatomaceous earth (DE) or other filter aid over a porous fabric as its filter medium;
- (c) "permanent medium filter" means a filter that utilizes a filter medium such as sand; and
- (d) "sand filter" means a filter using sand or sand and gravel as a filter medium.

(57) "Filter Medium" means a finely graded material such as sand, diatomaceous earth, polyester fabric or anthracite, that is used to trap solid particles from the influent water and to return clear water to the pool, spa, or other water feature.

(58) "Floor" means those portions of the interior pool surface having a slope of no more than 45 degrees from horizontal.

(59) "Flow-through hot springs pool" means a hot springs pool in which the water is continually flowing and in which the water volume exchange is sufficient to

produce a turnover of the entire volume of pool water to waste water discharge every eight hours.

(60) "Flow meter" is a device that measures the rate of flow of water or other liquid through piping.

(61) "Flow rate" means the quantity of water flowing past a designated point within a specified time. It is usually expressed as "gallons per minute".

(62) "Flume" means a trough-like or tubular structure with water that is generally recognized as a water slide that directs the path of travel and the rate of descent by the rider.

(63) "Flume slide" is a slide or slides of various configurations that are characterized by having deep riding channels, vertical and lateral curves, high water flows and which accommodate riders who may or may not use mats, tubes, rafts, and other transport vehicles. The term includes, but is not limited to, family raft rides, inner-tube rides, body slides, and speed slides.

(64) "Free available chlorine" means the portion of the total chlorine remaining in chlorinated water that is not combined with ammonia or nitrogen compounds and that will react chemically with undesirable or pathogenic organisms.

(65) "Gutter" means an overflow trough in the perimeter wall of a pool or spa that is a component of the circulation system or where excess water can flow to a waste water discharge outlet.

(66) "Handrail" is a support device that is intended to be gripped by a user for the purpose of resting or steadying. It is typically located within or at exits to the pool, or spa, or a part of a set of steps.

(67) "Hardness" means the amount of calcium and magnesium salts dissolved in water. It is measured by a test kit and expressed as parts per million (ppm) of equivalent calcium carbonate.

(68) "Hot springs pool" means an indoor or outdoor structure or basin containing an artificial body of naturally hot water that is intended for swimming, soaking, or recreational bathing. The term includes but is not limited to hot springs spas, hot springs swimming pools, and hot springs wading pools.

(69) "Hot tub" means a spa.

(70) "Hydrotherapy pool" or "therapeutic pool" or "therapy pool" means a unit that may have a therapeutic use. Its features may include, but are not limited to:

- (a) hydrotherapy jet circulation;
- (b) hot water;
- (c) cold water;
- (d) mineral baths;
- (e) air induction bubbles; or
- (f) any combination thereof.

(71) "Influent" means water entering a filter, pool, or other device.

(72) "Interactive play attraction" means a manufactured water play device or a combination of water-based play devices in which water flow volumes, pressures, or patterns are intended to be varied by the bather without negatively influencing the hydraulic conditions of other devices. These address only the water treatment and filtration requirement for such attractions.

(73) "Ladder" is a structure for ingress/egress that usually consists of two long parallel side pieces joined at intervals by crosspieces or "treads".

(74) "Langelier index" means a numerical calculation, based on the Langelier water balance equation that indicates whether the water may be corrosive or scale forming. Also known as "Saturation Index".

(75) "Lazy river" means a constructed water course through which people travel by use of flotation devices. They are manufactured streams of near-constant depth in which the water is moved by pumps or other means of propulsion to provide a river like flow that transports bathers over a defined path.

(76) "Lap pool" means any indoor or outdoor swimming pool with a minimum depth exceeding three feet six inches and a maximum depth not exceeding seven feet with a minimum length of 40 feet.

(77) "License" means the document issued by the department that authorizes a person to operate a public swimming pool, spa, or other water feature.

(78) "Licensee" means the person or other entity that is legally responsible for the operation of a public swimming pool, spa, or other water feature and any adjacent facility, and who possesses a valid license to operate the public swimming pool, spa, or other water feature.

(79) "Lifeguard" means a qualified person who is responsible for supervision and lifesaving at a licensed public bathing place or public swimming pool. Under this chapter, "Lifeguard" means either a certified lifeguard or a licensed lifeguard with the following certification or training as set forth in [RULE CVIII].

(80) "Listed suction outlet cover/grate" means a suction outlet cover/grate which has been tested, certified, and listed by a nationally recognized testing laboratory in accordance with ASME A112.19.8-2007.

(81) "Listed safety vacuum release system" means a safety vacuum release device tested and certified by a nationally recognized testing laboratory in accordance with ASME A112.19.8-2007 or ASTM F2387-04.

(82) "Local board of health" or "board" means a local board as defined in 50-2-101, MCA.

(83) "Local health officer" or "officer" means a local health officer as defined in 50-2-101, MCA.

(84) "Multi-sectional pool" is a pool that has a number of different uses such as zero entry pool, lazy river, and slide pool, but which may have interconnecting areas.

(85) "National Sanitation Foundation International" (NSFI or NSF), means an independent, nonprofit organization of scientists, engineers, educators, and others engaged in research and testing and in the development of standards in selected public health and environmental areas.

(86) "NTU" means Nephelometric Turbidity Unit (NTU). NTU is a means of measuring turbidity in a sample by using an instrument called a nephelometer. The normal measuring range is 0 to 100 NTUs. Also see "Turbidity".

(87) "Other regulatory authority" means another agency that may have jurisdiction over some aspect of the construction or operation of public swimming pools, spas, or other water features or related facilities. The term includes, but is not limited to, the Montana Department of Environmental Quality (DEQ), the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), the Montana Department of Labor and Industry (DOLI), the United States Department of Justice (DOJ) and those agencies enforcing state and

local building codes.

(88) "Oxidation reduction potential (ORP)" means the measurement of the oxidizing properties of any sanitizer being used in a pool, spa, or other water feature, and is measured in millivolts (mV) by an ORP meter. Also known as "high resolution reduction" or "HRR".

(89) "Oxidizers" means products used to destroy organic and inorganic contaminants in water.

(90) "Overflow gutter system" means overflows, gutters, surface skimmers, and surface collection systems of various design and manufacture used for removal of water from a pool, spa, or other water feature.

(91) "Ozone (O³)" means a gaseous molecule composed of three atoms of oxygen that is generated on-site and used for oxidation of water contaminants. Ozone can also be used to regenerate bromine from bromide ions and as a supplemental contact sanitizer in conjunction with an EPA-registered sanitizer that provides a constant residual.

(92) "Ozone contact concentration" means the amount of ozone that is dissolved in pool, spa, or other water feature.

(93) "Ozone generator" means a device that produces ozone, generally exposing oxygen or air to corona discharge or ultraviolet light.

(94) "Pathogens" means disease-causing microorganisms.

(95) "Parts per million (ppm)" means a unit of measurement of a chemical which indicates the parts by weight in relation to one million parts by weight of water. It is equivalent to the term milligrams per liter (mg/l).

(96) "Person" means a person, firm, partnership, corporation, organization, or the state or any political subdivision of the state.

(97) "Person in charge" means the individual present at a public swimming pool, spa, or other water feature and the related facilities who is responsible for the operation at the time of inspection.

(98) "pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between zero and seven indicate acidity. Values between seven and 14 indicate alkalinity. The value for pure distilled water is seven, which is considered neutral.

(99) "Plaster" means a mixture of white cement and aggregate used as a type of interior finish, which is white or lightly tinted, and is applied to a concrete pool, spa, or other water feature.

(100) "Plumbing system" means:

(a) the water supply and distribution pipes;

(b) plumbing fixtures and traps;

(c) soil, waste, and vent pipes;

(d) sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and

(e) water-treating equipment.

(101) "Plummet line" means a vertical line extending through the center from the center point of the front edge of the diving platform or springboard to the water's surface.

(102) "Plunge pool" means the pool located at the end of a flume. It is also

known as a "catch pool".

(103) "Point A" means the point on the surface of the pool directly below the end of the diving board through which the plummet line passes. All references in the diving envelope calculations are in reference to "Point A".

(104) "Public bathing place" means a facility with one or more artificial bodies of water with a restroom or other bathhouse facilities operated for persons other than only the owner's family or invited guests. Synonymous with "swimming area".

(105) "Public swimming pool" means an artificial pool and related facilities for swimming, bathing, wading, or other aquatic therapy or recreation. The term includes, but is not limited to, natural hot water pools, spas, splash decks, water slides, lazy rivers, and wave pools. The term does not include swimming pools located on private property, including the private common area property of owner-occupied condominium developments that is used for swimming or bathing only by the owner, members of the owner's family, or their invited guests. The term also does not include medicinal hot water baths for individual use. For purposes of these rules, a "swimming pool" or "pool" is either a privately owned public swimming pool or spa, or a public swimming pool as defined here:

(a) "Privately owned public swimming pool or spa" means any swimming pool, spa, or other water feature operated in conjunction with lodging facilities such as motels, hotels, campgrounds, apartments, and condominiums that are rented or leased; in conjunction with a health club or athletic club, or any other nongovernmentally owned or operated swimming pool, spa, or other water feature; or

(b) "Public swimming pool or spa" means any swimming pool, spa, or other water feature operated by a person as owner, licensee, lessee, or concessionaire, whether or not a fee is charged. Any person who is charged money or any other consideration to use the pool is not an invited guest for the purposes of this definition. Swimming pools are classified as Class A - D and Types VI - IX and Type N in [RULE XXIII] and Table 4. See Table 3 for minimum water envelopes for diving pools.

(106) "PSI" means pounds per square inch.

(107) "Pump" means a mechanical device, usually powered by an electric motor, which causes hydraulic flow and pressure for the purpose of filtration, heating, and circulation of pool, spa, or other water feature.

(108) "Pump capacity" means the volume of liquid a pump is capable of moving during a specified period of time against a given total head.

(109) "Pump curve" means a graph of performance characteristics of a given pump under varying horsepower, flow, and resistance factors. It is used in checking and sizing a pump.

(110) "Rate of flow" means the quantity of water flowing past a designated point within a specified time, such as the number of gallons flowing past during one minute.

(111) "Recreational water" means a facility or area together with associated buildings, facilities, and equipment, in conjunction with artificial or natural ponds, springs, lakes, streams, or other bodies of water that is designated for public bathing, recreational and swimming use, and is licensed and operated by the Montana Department of Fish, Wildlife and Parks.

(112) "Redecorate" means to make cosmetic changes or to add accessories.

(113) "Remodel" or "renovate" mean a substantial or material alteration. In the context of these rules, the terms mean the activity of restoring or upgrading all or part of a public bathing place or public swimming pool structure and its component parts including, but not limited to, the rebuilding and/or replacement of worn and broken components. Remodeling or renovation may include rebuilding or replacing pipes, drains, filtration systems, disinfectant systems, circulation systems, and/or pool decks. The terms do not include painting, replacing tile or caulk, or other such cosmetic changes.

(114) "Responsible adult" means an adult, age 18 or over, who is charged with safeguarding the child.

(115) "Return inlet" means the aperture or fitting through which water under pressure returns into the pool, spa, or other water feature.

(116) "Return piping" is the piping that is referred to as effluent, returning water to the pool or spa.

(117) "Ring buoy" means a ring-shaped floating buoy capable of supporting a bather, and which has an attached rope.

(118) "Risk" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in the water of a public swimming pool, spa, or other water feature.

(119) "Rope and float line" or "float line" means a continuous line not less than one-half inch in diameter, which is supported by buoys and attaches to opposite sides or ends of a pool to separate the deep and shallow ends in a pool that is greater than five feet in depth. A rope and float line may also be used to separate pools of different uses or types.

(120) "Safety Vacuum Release System (SVRS)" is a system or device capable of providing vacuum release at a suction outlet in case of a high vacuum occurrence due to a suction outlet flow blockage.

(121) "Sand Bottom Pools" mean pools that use sand as an interior floor finish over an impervious surface and are equipped to treat and filter the water in the sand areas to maintain a healthful sand condition.

(122) "Saturation index" means a mathematical calculation, based on the interrelation of temperature, calcium hardness, total alkalinity and pH, that predicts if pool water is corrosive, scale-forming, or neutral. It can also mean a number that indicates whether water will have a tendency to deposit calcium carbonate from a solution, or whether it will be potentially corrosive. When correctly balanced, the water will be neither scale-forming nor corrosive. Also see "Langelier Index".

Five factors are used in the computation:

- (a) pH;
- (b) total alkalinity;
- (c) calcium hardness;
- (d) temperature; and
- (e) total dissolved solids (TDS).

(123) "Scale" means the precipitate that forms on surfaces in contact with water when the calcium hardness, pH, or total alkalinity levels are too high.

(124) "Self-contained hot tub" means a hot tub that has a cabinet that houses the controls, the pump, heater, and filter. Most portable hot tubs are made of an

acrylic thermoplastic shell and are surrounded by a cabinet made of wood, alternative wood, or thermoplastic. It can be moved to another location and reinstalled, and all control, water heating, and water circulating equipment are an integral part of the product. It may be permanently wired or cord connected. It is also known as a "portable hot tub". Nonself-contained hot tub means a hot tub that is made of an acrylic or thermoplastic shell molded at the factory to comfortably fit the body's contours. It does not have water heating and circulating equipment as an integral part of the product, and may employ separate components such as an individual filter, pump, heater, and controls, or assembled combinations of various components.

(125) "Self-closing or self-latching" means a device which causes a gate to automatically fully close and latch without human or electrical power.

(126) "Serious accident or injury" means any accident or injury:

(a) requiring emergency services response where a person requires medical treatment as determined by the emergency medical response personnel, including a drowning that does not result in death;

(b) resulting in a person seeking medical attention at a medical facility, hospital emergency room, or admittance to a hospital;

(c) requiring a lifeguard save of a drowning person; or

(d) resulting in a death.

(127) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

(128) "Shallow area" means any portion of a pool where the water depth ranges from zero feet to five feet.

(129) "Shock treatment" means the practice of adding significant amounts of an oxidizing chemical to water to destroy organic and inorganic contaminants in the water.

(130) "Sight barrier" means a fence system that prevents entry but allows visual observation. Also see "Barrier".

(131) "Signal word" means a visual alerting device in the form of a decal or label placard or other marking such as an embossing, stamping, etching, or other process that advises the observer of the nature and degree of the potential hazard(s) that can cause property damage, injury, or death. It can also provide safety precautions, describe evasive actions to take, or provide other directions to eliminate or reduce a potential hazard. Aquatic safety signage shall conform to specifications as described in the ANSI Z-535 series of standards on product safety signs and labels. The following signal words mean:

(a) "CAUTION" indicates a potentially hazardous situation that, if not avoided, could result in minor or moderate injury. It may also be used to alert against unsafe practices;

(b) "WARNING" indicates a potentially hazardous situation that, if not avoided, could result in death or serious injury; and

(c) "DANGER" indicates an imminently hazardous situation that, if not avoided, will result in death or serious injury. This signal word is to be limited to the most extreme situations.

(132) "Single-use spa" means a spa that is completely drained, sanitized, and refilled between each guest. Single-use spas are not required to be licensed.

(133) "Skimmer" means a device installed in the pool, spa, or other water features that permits the removal of floating debris and surface water to the filter.

(134) "Skimmer cover" means a removable lid to close the deck opening to the skimmer housing.

(135) "Skimmer equalizer pipe" means a connection from the skimmer housing to the pool or spa below the weir that is sized to satisfy pump demand and prevent air lock or pump loss of prime.

(136) "Skimmer weir" means the part of a skimmer which adjusts automatically to small changes in water level to assure a continuous flow of water to the skimmer.

(137) "Slip-resistant" means a surface which has been treated or textured to significantly reduce the chance of a bather slipping in wet conditions.

(138) "Sodium hypochlorite" or "NaOCL" means a clear liquid form of an inorganic chlorine compound obtainable in concentrations of five to sixteen percent available chlorine, also known as liquid bleach or bleach.

(139) "Spa" means an artificial pool that is designed for recreational bathing or therapeutic use and is not drained, cleaned, or refilled for individual use. A spa includes, but is not limited to, a therapeutic pool, hydrotherapy pool, whirlpool, hot tub, or Jacuzzi-type whirlpool bath. A spa consists of a warm water reservoir with hydromassage jets that are manufactured of prefabricated material at a factory. A spa may be "self-contained" or "nonself-contained".

(140) "Splash deck" means a constructed area over which water is sprayed or jetted to contact bathers, but is not allowed to pool. A splash deck may also be known as an "Interactive Play Attraction", a "spray pool", or a zero depth spray pool.

(141) "Springline" means a line from which the pool wall breaks from vertical and begins its radius arc of the curvature (for cove construction) to the bottom of the pool.

(142) "Stabilizer" means a chemical which helps reduce the excess loss of residual chlorine in water due to ultraviolet rays of the sun. Also see "Cyanuric Acid".

(143) "Steps" means a riser and a tread or a series of risers and treads extending down from the deck and terminating at the pool floor. The term also includes recessed steps that are set into the pool wall.

(144) "Suction piping or influent piping" means piping that is connected to the suction side of the pump.

(145) "Suction outlet" means the aperture or fitting through which water under negative pressure is drawn from the pool, spa, or other water feature.

(146) "Superchlorination" means the rapid addition of a high dose of chlorine to water for the purpose of eliminating combined chlorine levels; reducing cloudy water, slime formation, musty odors, algae and bacteria counts; and/or improving the water's ability to maintain effective sanitizer residual. Also see "shock treatment" or "breakpoint chlorination".

(147) "Surge chamber" means a storage vessel within the recirculating system used to absorb the water displaced by bathers. Also known as "surge pit" or "surge tank".

(148) "Swimming area" means a facility with one or more artificial bodies of water and a restroom or other bathhouse facility that is operated for persons other than

only the owner's family or invited guests. The term is synonymous with "public bathing place".

(149) "Tamperproof or vandal-proof" means requiring special tools to alter or remove portions of the equipment.

(150) "Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

(151) "Test kit" means a device for monitoring or measuring a specific chemical residual or other parameter in the water of a pool, spa, or other water feature.

(152) "Total alkalinity" means the ability of water to resist change in pH. It is also known as the buffering capacity of water, and consists mainly of carbonates, bicarbonates and hydroxides. Total alkalinity is measured with a DPD test kit and measured in parts per million (ppm).

(153) "Total available chlorine" or "total chlorine" means the sum of both free available and combined chlorine.

(154) "Total dissolved solids" or "TDS" means a measure of the total amount of dissolved matter in water including, but not limited to, calcium, magnesium, carbonates, bicarbonates, or metallic compounds.

(155) "Total Dynamic Head" or "TDH" is the sum of all resistances in a complete operating system. One pound per square inch is equivalent to 6.89 KiloPascal (kPa). One pound per square inch is also equivalent to 70.3 grams per square centimeter. One hundred feet of head is equivalent to 296.47 KiloPascal (kPa). One hundred feet of head is equivalent to 3.02 kilograms per square centimeter. Also see "Feet of head".

(156) "Tourist home" means a privately owned house or condominium that is not occupied by an owner or manager and that is rented, leased, or furnished in its entirety to transient guests on a daily or weekly basis.

(157) "Turbidity" means a cloudy condition of the water due to the presence of extremely fine particulate materials in suspension which interfere with the passage of light. "Turbidity" also means the cloudy appearance of water caused by the presence of suspended and colloidal matter. A turbidity measurement is used to indicate the clarity of the water. Turbidity is measured in NTUs.

(158) "Turnover" or "turnover rate" means the period of time, usually expressed in hours, required to circulate a volume of water equal to the capacity of the pool, spa, or other water feature.

(159) "Vanishing edge or negative edge" means a water-feature detail in which water flows over the edge of at least one of the pool walls and is collected in a catch basin.

(160) "Velocity" means the speed at which a liquid flows between two specified points. Velocity is expressed in feet per second.

(161) "Vortex pool" means a circular pool equipped with a method of transporting water in the pool for the purpose of propelling riders at speeds dictated by the velocity of the moving stream.

(162) "Wading pool" means a pool in which the water depth does not exceed two feet.

(163) "Wall" means any interior pool wall surface with a slope of no more than 11° from vertical.

(164) "Waste water" is water that is backwashed from the filter and sent to the sanitary sewer or other approved disposal method.

(165) "Waste water disposal system" means a plumbing system used to dispose of backwash or other water from a pool, spa, or other water feature or from dressing rooms and other facilities associated with a public bathing place.

(166) "Water feature" means an artificially created recreational structure or area using moving water. These features may include but are not limited to splash decks, water slides, lazy rivers, and wave pools.

(167) "Water line" means the middle point of the operating range of the skimmer system if the pool is so equipped; or where an overflow system is in use, the height of the overflow rim.

(168) "Water slide" means a slide adjacent to or in a pool with a water flow in it that originates above the surface of the pool water and ends with a drop into the pool. It consists of a trough-like slide or tubular structure that directs the path of travel and the rate of descent by the rider. Also see "Flume".

(169) "Wave pool" means a pool designed for the purpose of producing breaking wave action in the water that does not use sheet flow technology.

(170) "Zero depth pool" means a pool with a sloping entry starting above the water line at deck level and ending below the water line.

(171) "Zero depth spray pool" means an area where water is dispersed using a fountain or similar installation and in which the water that is sprayed does not accumulate on the ground. The water from a zero depth spray pool may be recirculated or drained to waste. The water must be chlorinated or must come from an approved municipal water system. A zero entry spray pool may also be known as a splash deck or as a spray pool.

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

NEW SUBCHAPTER 2: ENGINEERING STANDARDS

RULE IV ADOPTION OF ANSI/NSPI STANDARDS (1) Unless otherwise specified in the rule, the following American National Standards Institute, American Society of Mechanical Engineers, National Sanitation Foundation International, American Society of Testing Materials, and American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ANSI/NSPI) standards and codes are adopted by reference and apply to all new construction or remodeling or renovation of existing facilities:

(a) ANSI/NSPI-1 2003 American National Standard for Public Swimming Pools; approved March 10, 2003 and published by National Spa and Pool Institute (now Association of Pool & Spa Professionals), 2111 Eisenhower Avenue, Suite 500, Alexandria VA 22314-4695;

(b) ANSI/NSPI-2 1999 American National Standard for Public Spas; approved February 4, 1999 and published by Association of Pool & Spa Professionals, 2111 Eisenhower Avenue, Suite 500, Alexandria VA 22314-4695;

(c) ANSI/APSP-7 2006 American National Standard for Suction Entrapment Avoidance in Swimming Pools, Wading Pools, Spas, Hot Tubs, and Catch Basins;

approved September 11, 2006, and published by Association of Pool & Spa Professionals, 2111 Eisenhower Avenue, Suite 500, Alexandria VA 22314-4695;

(d) ANSI/NSPI-8 1996 Model Barrier Code for Residential Swimming Pools, Spas, and Hot Tubs; approved December 19, 1995 and published by National Spa and Pool Institute (now Association of Pool & Spa Professionals), 2111 Eisenhower Avenue, Suite 500, Alexandria VA 22314-4695;

(e) ANSI/IAF-9 2005 American National Standard for Aquatic Recreational Facilities; approved October 7, 2004, and published by International Aquatic Foundation, P.O. Box 4038, Alexandria VA 22303;

(f) ASME A112.19.8-2007 Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs; issued March 30, 2007 and published by The American Society of Mechanical Engineers, 3 Park Avenue, New York, NY 10016-5990, (800)843-2763;

(g) NSF/ANSI Standard 50-2008 Pool, Spa & Recreational Water Products; approved February 2008, published by American National Standards Institute, 1819 L Street, NW, Washington, DC 20036;

(h) ASHRAE 62.1-2007 Ventilation for Acceptable Indoor Air Quality; published by American Society of Heating, Refrigerating, and Air-Conditioning Engineers, 1791 Tullie Circle NE, Atlanta, GA 30329; and

(i) ASTM F 2376-06 Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems; American Society for Testing Materials International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959.

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

NEW SUBCHAPTER 3: POOL CLOSURES AND OTHER CORRECTIVE ACTION FOR SAFETY VIOLATIONS

RULE V CRITICAL HEALTH AND SAFETY VIOLATIONS THAT REQUIRE IMMEDIATE CLOSURE (1) The following items are critical health and safety violations that require a pool owner or operator to immediately close a swimming pool, spa, or other water feature and related facilities until the safety violations have been resolved:

(a) no filtration is available, whether because the pump has broken or for some other reason;

(b) no sanitizer is available or the sanitizer feeder is not operational;

(c) sanitizer falls outside the parameters set in [RULE LXXXIX], Table 7;

(d) a main drain cover is missing, loose, or unsecured or there is any other entrapment hazard present;

(e) there is a violation of the chlorine gas storage and handling standards set in [RULE LXXXI];

(f) pool clarity falls outside the parameters set in [RULE LXXXIX], Table 7, or is insufficient to allow an observer to see the main drain from anywhere in or around the pool;

(g) a fecal accident or vomit accident has occurred;

- (h) there are not lifeguards on duty in required numbers where lifeguards are required;
 - (i) there is no person currently certified in CPR present at the facility where required;
 - (j) there is not a "no lifeguard on duty" sign posted in a situation where a lifeguard is not required;
 - (k) the temperature of the water in a pool, spa, or other water feature exceeds 104°F; except that natural flow through hot springs pools may be 106°F;
 - (l) lighting in the vicinity of the swimming pool, spa, or other water feature is inadequate to allow an observer to see the main drain from anywhere in or around the pool;
 - (m) there is a missing vacuum filtering cover;
 - (n) at an outdoor pool, thunder is heard, or one or more lightning flashes is observed; and/or
 - (o) a drowning or other serious accident has occurred and emergency responders or investigators are still present to render aid to the victim or to gather evidence.
- (2) The pool owner or operator is required to self close the swimming pool, spa, or other water feature until any of the above safety violations have been corrected.
- (3) The pool owner or operator shall prepare and maintain a report of each instance in which the pool is self-closed to correct a safety violation under this rule. The report shall be signed by the person responsible for correcting the safety violation and it shall document:
- (a) the nature of the safety violation;
 - (b) the date and time the violation occurred;
 - (c) the date and time the pool was closed;
 - (d) the measures taken to correct the safety violation; and
 - (e) the date and time the pool reopened.
- (4) If any drowning other serious accident or injury has occurred, the report shall be submitted to the department within 48 hours of the incident by faxing it to the Food and Consumer Safety Division, Department of Public Health and Human Services, (406)444-4135.
- (5) Failure or refusal of an operator to close a pool, spa, or other water feature when one of the health or safety violations in (1)(a) through (o) has occurred presents an imperative risk to public health and safety that supports emergency closure of the facility and emergency suspension of the facility licenses.

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

RULE VI HEALTH AND SAFETY VIOLATIONS THAT MAY REQUIRE IMMEDIATE POOL CLOSURE

(1) The department may order a swimming pool, spa, or other water feature immediately closed where there have been repeated or ongoing or a combination of the following health and safety violations:

- (a) pH of the water is higher than 7.8 and the chlorine or bromine reading is at or near minimum required levels;

- (b) alkalinity of the water falls outside the parameters of 80-220 ppm;
 - (c) except during lap swimming or competitive swimming, no guard line is in place at the break between the shallow and deep ends of the swimming pool, spa, or other water feature; or
 - (d) the following required safety equipment is not available:
 - (i) lifepole or shepherd's crook must be available at poolside;
 - (ii) a ring buoy or rescue tube must be available at poolside; and/or
 - (iii) a backboard with head restraints must be readily available.
- (2) The department may close any pool, spa, or other water feature for any of the violations listed in [RULE CLVIII].
- (3) Once the facility operator has submitted and satisfactorily completed a corrective action plan under [RULE CLX], the department will approve reopening any pool, spa, or other water feature.

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

RULE VII REQUIRED INSTALLATION OF ULTRAVIOLET DISINFECTANT SYSTEM (1) In instances in which a swimming pool, spa, or other water feature has more than ten users contract water borne disease such as cryptosporidia or giardia within a period of 30 days the department may require the pool licensee to develop a corrective action plan approved by the department.

(2) If the corrective action fails to bring the disease outbreak under control, the department may require that the facility install and utilize an ultraviolet disinfectant system as a secondary disinfectant system.

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

NEW SUBCHAPTER 4: PLAN REVIEW

RULE VIII PLAN REVIEW REQUIRED FOR POOLS, SPAS, AND OTHER WATER FEATURES (1) Complete plans and specifications for work or installation must be submitted to the Montana Department of Public Health and Human Services for review and approval before any construction begins or before any change is made to the existing facility whenever the owner or operator of a public swimming pool, spa, or other water feature intends to:

(a) construct, reconstruct, alter, convert, or repair any aspect of the swimming pool, spa, other water feature, or any related facility and the work will be more extensive than what occurs in routine maintenance; or

(b) install equipment at the location of the pool, spa, or other water features.

(2) All plans and specifications listed in [RULE XI] for new facilities and all plans and specifications pertaining to any planned changes or additions to existing facilities shall be submitted as attachments to a plan review checklist form. The forms are available from the department by contacting the Food and Consumer Safety Section, Department of Public Health and Human Services, 1400 Broadway, Room C-214, Helena, Montana 59620 or at www.fcss.mt.gov.

(3) The plan review checklist form, plans and specifications, and the applicable plan review fee, shall be submitted to the Food and Consumer Safety Section, Department of Public Health and Human Services, 1400 Broadway, Helena, Montana 59620, at least:

(a) 90 days prior to the anticipated date that the construction or reconstruction, alteration, or conversion of an existing public swimming pool, spa, or other water feature, or related facility is set to begin; or

(b) 30 days prior to the anticipated installation date of new or replacement equipment.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

RULE IX QUALIFICATIONS REQUIRED FOR PERSONS PREPARING PLANS FOR REVIEW (1) Plans, specifications, and supporting data must be prepared by a professional engineer who is registered in Montana, an architect who is registered in Montana, or a construction contractor registered in Montana. A licensed professional engineer or a registered architect shall include his seal and signature on any plans and specifications submitted to the health authority. A registered construction contractor shall include an original signature on any plans and specifications submitted to the health authority.

(2) Plans for all municipal pools and for all other pools exceeding 2000 square feet total in size, pools more than 70 feet long in one dimension, or pools that include lazy rivers, slide pools, or wave pools, or other complex designs must be stamped by a Professional Engineer or an American Institute of Architecture (AIA) licensed architect. Stamps or seals may be provided electronically.

(3) Any plans for any slide structure must be reviewed and approved by a licensed structural engineer and the plan for the slide must include his seal.

(4) It is the responsibility of any builder, engineer, or architect involved in the construction of a new facility or involved in the design or reconstruction of a major remodel of any pool, spa, or other water feature, to ensure that all requirements of these rules are met.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

RULE X SCOPE OF REVIEW BY THE DEPARTMENT (1) The department shall review all plans, specifications, and supporting data only to determine if they are in compliance with these rules.

(2) In reviewing whether a plan complies with all applicable standards, the department may conduct preliminary inspections of any construction or of any reconstruction to any existing pool, spa, or other water feature during the construction or reconstruction and upon completion to determine whether the design and construction or reconstruction complies with the plans that were submitted.

(3) The department's review of the plans will not include:

(a) a review of the structural design or structural stability of any section or part of the facility;

(b) any determination of whether the plan is in compliance with building, electric, plumbing, mechanical, or ventilation codes; or

(c) any determination of whether the swimming pool, spa, or associated water feature complies with the Americans with Disabilities Act.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

RULE XI ENGINEERING REVIEW (1) If the department determines it is necessary to have an engineering review conducted on facets of the design including, but not limited to, such things as the total dynamic head (TDH), pipe flow velocities, air exchange, or other complex calculations, it may contract with an engineering firm to conduct that portion of the plan review.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

RULE XII SUBMITTING PLANS FOR REVIEW (1) Plans and specifications shall be submitted to the department in duplicate with a completed plan review checklist. All plans and specifications shall be drawn to a standard scale and with sufficient detail to permit a comprehensive review of whether the plan complies with all applicable standards.

(2) All specifications for any plans submitted for review must comply with the standards set by these rules. An inadvertent failure of the department to reject a specification that does not meet the requirements of these rules does not excuse the licensee or license applicant from its duty to meet the standards set here.

(3) The plan submittal package for the construction of a public swimming pool, spa, or other water feature or related facility, or for the reconstruction, alteration, or conversion of an existing public swimming pool, spa, or other water feature or related facility, shall include, but not be limited to:

(a) a plan view and a sectional view of both the pool, spa, or other water feature or related facility, and surrounding area;

(b) one or more drawings showing cross-sections through the main drain;

(c) a drawing of the overall plan showing the pool, spa, or other water feature in relation to other facilities in the area, including any equipment room;

(d) a detailed view of the equipment layout in the equipment room;

(e) a piping schematic that shows the piping configuration, pipe size, valves, inlets, main drains, over flow outlets, skimmers, make-up water, backwash from the filter, and treatment facilities;

(f) scaled drawings of the pool bottom and sidewalls;

(g) cross section drawings with measurements of the step risers and treads and of any handrails;

(h) all manufacturer specifications for all required components of the pool, spa, or other water features including, but not limited to, treatment equipment, pumps, disinfectant feeders, chemical feeder filters, and strainers;

(i) specifications for the materials that will be used to construct the pool or spa and for the materials used as finishes on any of the walkways;

- (j) specifications for the slope and drainage of pool bottoms, decks, and other surface requiring drainage;
- (k) plans and drawings related to all bathhouse or other sanitary facilities;
- (l) an estimation of the anticipated bather load of the pool or spa;
- (m) calculations of the surface area and volume of the pool, spa, or other water features, calculations of the turn-over rate, flow rate, water velocities, total dynamic head, and pump curve showing design flow for each swimming pool, spa, or other water feature;
- (n) all specification sheet(s) pertaining to suction outlet cover/grates that will be used and documentation that they comply with ASME A112.19.8M-2007;
- (o) the name and location of any water source that will or may supply water to the swimming pool, spa, or other water feature;
- (p) details on the method that will be used to dispose of pool water and all other wastewater in compliance with applicable law;
- (q) details on barrier construction;
- (r) the plan review fee established in Table 1 of [RULE XIV]; and
- (s) any other information specifically requested by the department.

AUTH: 50-53-103, MCA
IMP: 50-53-103, MCA

RULE XIII INCOMPLETE PLAN REVIEW APPLICATIONS (1) The department shall provide timely review of any plan review application packet it receives to determine if it is complete and to determine whether more information is needed based upon the specific plans submitted.

(2) If the department determines that all items required in [RULE XII] for the review have not been submitted, it will notify the applicant in writing and will identify which items still need to be submitted. Review of the plans will not proceed until those items of information are submitted.

(3) If the department is required to send a second or subsequent letter requesting that the applicant submit previously identified items, the packet review fee set in [RULE XIV] will be charged each time the department must review the submissions to determine if they are yet complete and must then notify the applicant that items are still missing from the plan review application packet.

(4) The department may request, in writing, that the applicant provide additional information pursuant to [RULE XII]. Any such request will be made by the department as soon as practicable. Where the department has requested this additional information, review of the remainder of the plan review checklist and supporting documents will continue to the extent possible while the department waits to receive the additional information. No additional fee for reviewing an incomplete application will be charged in these circumstances.

AUTH: 50-53-103, MCA
IMP: 50-53-103, MCA

RULE XIV BASE FEE TABLE

Table 1.

| Type | Square Footage | Fee(s) |
|--|---|---|
| Swimming Pool | Less than 500 sq. ft. | \$175 |
| Swimming Pool | 500-999 | \$275 |
| Swimming Pool | 1,000-1,999 | \$385 |
| Swimming Pool | 2,000-3,999 | \$550 |
| Swimming Pool | 4,000+ sq. ft. | \$625 |
| Spa pool | Less than 500 sq. ft. | \$175 |
| Spa pool | 500 sq. ft. or larger | \$275 |
| Wading pool | | \$175 |
| Spray attraction | By size, see above | |
| Lazy river | By size, see above | |
| Wave pool | By size, see above | |
| Other pools not listed above | By size, see above | |
| Filter system change | | \$75 |
| Disinfection system change | | \$75 |
| Remodel or renovations | | \$300+\$75/hour over 4 hours review time |
| Incomplete application | | After the department has on one occasion notified the applicant in writing of items from the plan review that still need to be submitted, a \$75 fee will be assessed for each subsequent notification listing previously identified missing items. |
| Fee for interim plan review conducted as determined needed under [RULE XIX] to determine if construction is complying with submitted plans | | \$200 |
| Fee for inspection for final plan approval before opening or large or complex projects | Facilities with multiple water features | \$300 |
| Fee for additional review of plan and facility to determine if licensee or license applicant has corrected previously | | \$75/hour for actual review time |

| | | |
|---|--|----------------------------------|
| identified deficiencies | | |
| Fee for department to review requested changes to an approved plan | | \$75/hour for actual review time |
| Engineering review | | reasonable fees |
| Fee for final inspection of small project plans to determine if construction complied with plan | Spa less than 810 sq. ft. or pool less than 20,000 gallons | \$60 |

AUTH: 50-53-103, MCA
IMP: 50-53-103, MCA

RULE XV PAYMENT OF PLAN REVIEW FEES (1) The applicant shall submit any required fee identified in Table 1 based on square footage of specific type of pool, spa, or other water feature in [RULE XIV] to the department at the time the plan review checklist and supporting documents are submitted. Pools not located on contiguous properties are considered separate projects for purposes of the fee schedule. Plan review will not begin until the fee is received.

(2) After the first time that a notice of incomplete application is sent to the applicant identifying items that are missing and needed for review, each time a subsequent notice is sent to the applicant identifying one or more of those items as still missing, a \$75 incomplete plan review fee must be submitted with the additional materials that are subsequently provided to the department. Plan review will not begin until the fee is received.

(3) Fees for subsequent review, including interim review, final review, and engineering reviews shall be paid at or before those reviews occur or within 30 days of when an invoice for an engineering review is submitted to the license applicant or licensee.

AUTH: 50-53-103, MCA
IMP: 50-53-103, MCA

RULE XVI ENGINEERING REVIEW FEES (1) The department may incur reasonable engineering fees for an engineering consultation on aspects of the application for plan review that are beyond the in-house expertise of department personnel.

(2) If the department contracts with an engineering firm to conduct an engineering review, the applicant will be required to reimburse the department for those engineering costs based upon the costs the engineering firm charges the department for the engineering review. This fee is in addition to any other applicable review fees set out in [RULE XIV], Table 1.

(3) The fee for any engineering review must be paid before the department or local regulatory authority may issue a license for the pool, spa, water slide, water recreational facility, or related facility.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

RULE XVII PAYMENT OF REVIEW FEES (1) Plan review fees must be paid before the department will issue a license.

(2) If the department requires plan review at identified phases of construction of water parks or complex projects to ensure that the construction is in compliance with the plans, a fee of \$200 must be paid at the time of each such additional review.

(3) The plan review fee for any pre-opening or final plan review of a swimming pool, complex, water park, or other complex project is \$300. That fee encompasses the review of all pools, spas, or other water features opening at the facility to ensure that construction is in compliance with the plan.

(4) A fee of \$60 will be charged for a pre-opening or final review for a simple project such as a spa less than 800 gallons in size or a swimming pool less than 20,000 gallons in size.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

RULE XVIII PLAN REVIEW APPROVAL AND EXTENSIONS (1) Plan review approval by the department is valid for one year and substantial and continuous construction must be initiated within 12 months of the date of approval.

(2) If substantial and continuous construction has not been initiated within 12 months from the date of the department's plan approval, the owner must obtain an extension in writing from the department. In no case shall an extension of the plan approval be granted for more than six months beyond the one year expiration date of the original approval. The department is not required to approve a request for an extension of the plan approval.

(3) In any instance in which construction is not initiated within one year of plan approval or within the time granted for an extension, construction must cease and plans, specifications, and supporting documents, and appropriate fees must be resubmitted for another review.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

RULE XIX PLAN REVIEW DURING CONSTRUCTION PHASE

(1) Whenever plans and specifications must be submitted to the department for review, the department shall review the construction or reconstruction of any pool, spa, or other water features and related facilities to ensure that it is constructed in compliance with the applicable requirements of these rules.

(2) Depending upon the complexity of the project, the department may require interim reviews to be conducted at phases of construction that the department identifies to the applicant during the initial plan review.

(3) A pre-opening or final licensing review must be performed for any swimming pool or any combination of water features before the final approval may be granted and a license issued.

(4) Any deficiencies identified during the final plan review must be

satisfactorily addressed by the applicant before the department may issue a license to operate the pool.

(5) The department may conduct pre-opening or final plan review when it determines that its own expertise is necessary for an adequate technical inspection, or the department may request a local health department to conduct pre-opening or final plan review.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

RULE XX CERTIFICATION AND DEVIATIONS FROM APPROVED PLAN

(1) The pool or spa and related facilities shall be built in accordance with the plans as approved unless a modification of the approved plans is approved in writing by the department.

(2) The department's fee for conducting a review of change to an approved plan will be calculated and assessed at a rate of \$75 per hour.

(3) Within 30 days of the completion and licensing of any swimming pool, spa, or other water feature or related facilities, the architect, or engineer, or contractor of record, overseeing the project must submit a certification in the form of an "as-built" letter to the department indicating that the facility was built according to the plans submitted or which identifies and documents any changes that were made on-site. Any change from the approved plans must still meet all requirements of these rules.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

RULE XXI INFORMATION AND TRAINING TO BE PROVIDED TO LICENSE APPLICANT

(1) Upon completion of any construction or installation at a pool, spa, or other water feature, the contractor, subcontractor, and suppliers must provide the license applicant of the facility with complete written plans and operating instructions pertaining to all features or equipment constructed or installed at the pool, spa, or other water features, including the plans and instructions for any and all equipment, the circulation system, and maintenance required for the swimming pool or spa water.

(2) The contractor, subcontractor, and suppliers must meet with the owner/licensed operator of the facility and provide training to the license applicant on:

(a) the operation and maintenance of all equipment installed during the project;

(b) the operation and maintenance of any circulation system installed during the project; and

(c) the maintenance required for any swimming pool, spa, or other water feature to meet the requirements of these rules.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

RULE XXII UNAPPROVED CONSTRUCTION OR INSTALLATION (1) Any construction, renovation, alteration, or installation of equipment that was not reviewed and approved by the department violates these rules.

(2) If construction on the pool shell, pool piping, or an other component associated solely with the pool, spa, or other water features begins before the plan is submitted for review and approved, the construction must cease immediately until the plans, specifications, and applicable fees provided for in these rules are submitted, the review is completed, and the project is approved.

(3) If construction, renovation, alteration, or installation of equipment was completed before the department was notified by the owner or license applicant of the project, the pool, spa, or other water feature may not operate and no member of the public may be allowed to use the facility until the plans, specifications, and applicable fees provided for in these rules are submitted and the project is reviewed and approved.

(4) If construction, renovation, alteration, or installation of equipment was completed before obtaining the required approval from the department and it is determined upon review that one or more aspect of the construction, renovation, alteration, or installation of equipment does not comply with these rules, no license will be granted for operation of the facility until the owner or license applicant takes any and all steps necessary to bring the pool, spa, or other water feature into compliance with the rules. No member of the public may be allowed to use the pool, spa, or other water feature until the department has determined that it is in compliance with these rules and a license has been issued.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

NEW SUBCHAPTER 5: DESIGN AND CONSTRUCTION

RULE XXIII POOL CLASSIFICATION (1) Public pools and privately owned public pools or portions of such pools shall be classified and defined as follows:

(a) Class A, Competition Pool is any pool intended for use for accredited competitive aquatic events such as La Federation Internationale De Natation Amateur (FINA), U.S. Swimming, U.S. Diving, National Collegiate Athletic Association (NCAA), National Federation of State High Schools Associations (NFSHSA), etc. The use of the pool is not limited to competitive events.

(b) Class B, Public Pool is any pool intended for public recreational use.

(c) Class C, Semi-Public Pool is any pool operated solely for, and in conjunction with, lodgings such as hotels and motels.

(d) Class D, Other Pool is any pool operated for medical treatment, therapy, exercise, lap swimming, recreational play, and other special purposes including, but not limited to, wave or surf action pools, activity pools, splashers pools, kiddie pools, and play areas. Class D pools include the following:

(i) Class D-1, Wave Action Pools include any pool designed to simulate breaking or cyclic waves for purposes of general play or surfing;

(ii) Class D-2, Activity Pools are those pools designed for casual water play

ranging from simple splashing activity to the use of attractions placed in the pool for recreation;

(iii) Class D-3, Catch Pools are bodies of water located at the termination of a manufactured water slide attraction provided for the purpose of terminating the slide action and providing a means for exit to a deck or walkway area;

(iv) Class D-4, Leisure Rivers are manufactured streams of near-constant depth in which the water is moved by pumps or other means of propulsion to provide a river-like flow that transports bathers over a defined path that may include water features and play devices;

(v) Class D-5, Vortex Pools are circulation pools equipped with a method of transporting water in the pool for the purpose of propelling riders at speeds dictated by the velocity of the moving stream;

(vi) Class D-6, Sand Bottom Pools are pools that use sand as an interior floor finish over an impervious surface and are equipped to treat and filter the water in the sand areas to maintain a healthful sand condition;

(vii) Class D-7, Interactive Play Attractions are manufactured devices using sprayed, jetted, or other water sources contacting the bathers and do not incorporate standing or captured water as part of the bather activity area;

(viii) Class D-8, Amusement Park Attractions are manufactured features designed for bather interaction or incidental contact with static, splashing, or flowing water; and

(ix) Class D public pools may be diving or nondiving. If diving, they shall be further classified into types as an indication of the suitability of a pool for use with diving equipment.

(e) Class E pools may be used for instruction, play, or therapy, and with temperatures above 86°F.

(f) Type VI-IX Public pools as defined in Table 3, [RULE LV] are suitable for the installation of diving equipment by type.

(g) Type N is a nondiving public pool. (No diving allowed.)

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

RULE XXIV LOCATION OF SWIMMING POOL, SPA, AND OTHER WATER FEATURES (1) Outdoor swimming pools, spas, and other water features must be located where they will not be exposed to excessive dust or other materials which would be detrimental to human health or hazardous to the operation or use of the pool or spa.

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

RULE XXV MATERIALS (1) Pools, spas, and other water features shall be constructed of concrete, steel, or other approved materials which are inert, stable, nontoxic, watertight, and enduring.

(2) Nontempered window glass is prohibited in the entrance of any pool, spa, or other water feature.

- (3) No wooden spa units are permitted.

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

RULE XXVI SURFACES (1) The inside surface of the pool, spa, or other water feature shall be constructed of materials that are:

- (a) nontoxic to humans and the environment;
- (b) that are impervious and enduring; and
- (c) that will provide a smooth and easily cleaned surface without cracks or open joints (excluding structural joints).

(2) The surfaces within the pool, spa, or other water feature intended to provide footing for users shall have a slip-resistant surface and shall not cause injury to feet during normal use. The slant of the floor surface shall facilitate cleaning and the movement of bottom deposits to main drains.

(3) The colors, patterns, or finishes of the pool, spa, or other water feature interior shall not obscure objects or surfaces within the pool. The walls and floor shall be white or light pastel in color. In pools that are used competitively, the walls and floor shall be white, except for race lane lines and required accent colors.

- (4) Earth floors are not permitted for pools, spas, or other water features.

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

RULE XXVII SHAPE (1) The shape of any pool, spa, or other water feature must be such that the circulation of the water and supervision of swimmers is not impaired.

- (a) The shape must not impair adequate supervision of bathers.
- (b) The shape must not impair the circulation system's ability to maintain sufficient circulation to meet turnover requirements to ensure proper sanitation.

AUTH: 50-53-103, MCA

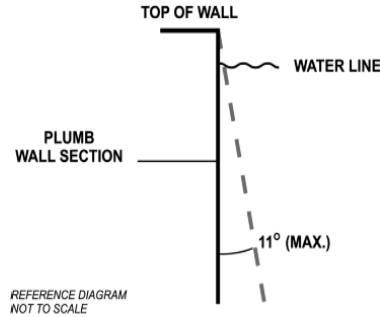
IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

RULE XXVIII SLOPE (1) Swimming pool floor slope shall not exceed one foot vertical drop for every 12 feet, as measured horizontally in the shallow areas, and one foot vertical to three feet horizontal, as measured in the deep area. These slopes shall be uniform except at the transition point from shallow to deep areas (five foot depth). All pool floors shall be sloped to the main drain.

(2) Swimming pool walls shall be vertical for a water depth of at least two feet, nine inches with a slope no greater than 11° from vertical, as shown in Figure 1.

(3) The maximum allowable wall slope for all pools except Class A pool walls where racing lanes end is 11°. Any wall section must be vertical for at least 2'9" and then it may have a radius of slope to meet the pool floor.

Figure 1.



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

RULE XXIX LEDGES AND BENCHES (1) Rest ledges provided on pool vertical walls shall be at least 48 inches below the water surface and shall have a slip-resistant surface. The ledge shall slope one half inch in four inches toward the pool. Ledges shall have a minimum width of four inches and a maximum width of eight inches.

(2) Underwater seats or benches, when provided, shall conform to the following:

- (a) the horizontal surface shall be 20 inches maximum below the waterline;
- (b) underwater seats and benches shall not be used as the required pool entry/exit access;
- (c) underwater seats and benches are allowed in conjunction with pool stairs;
- (d) the leading edge of an underwater bench or seat shall be visually set apart from the surrounding pool surfaces by either a contrasting color or other visual image; and
- (e) the seats and benches shall have slip-resistant surfaces.

(3) In nonspa pools with benches, markings on the deck must be provided to indicate that there is a bench below the water surface.

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

RULE XXX DRAINS AND SUCTION OUTLETS (1) The main drain outlets of the pool shall be plainly visible and located at the deepest portion of the pool.

(2) All pools, spas, and other water features constructed after [the effective date of new subchapters 1 through 22], shall have dual or multiple main drains.

(3) Drain covers must meet the requirements of ASME A112.19.8 (2007).

(4) The suction outlet(s) including covers, fittings, and hardware shall be designed and installed in accordance with the manufacturer's specifications to provide protection from body and hair entrapment.

(5) All main drains and suction outlets of any pool, spa, or other water feature must meet the requirement of the Virginia Graeme Baker Pool and Spa Safety Act, H.R. HR6 303-309 (2007) 15 USC 8001-8005.

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

RULE XXXI DEPTH MARKERS (1) The water depth shall be plainly marked in units of feet and inches at or above the water surface on the vertical pool wall and on the edge of the deck or walk next to the pool.

(2) The water depth shall be marked at maximum and minimum points and at the points of break between the deep and the shallow areas. The markings shall be paced at no more than 25 feet intervals measured peripherally.

(3) Depth markers shall be in numbers of at least four inches in height and in a color contrasting with the background.

(4) Where depth markers cannot be placed on the vertical walls above the water level, other means shall be used to plainly mark depth levels in a manner to make them plainly visible to persons in the pool.

(5) The depth in diving areas shall be marked.

(6) Lap pools shall have depth markers spaced at not more than 25 foot intervals and at each end of the pool.

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

RULE XXXII WATER DEPTHS IN SHALLOW END OF POOL (1) Minimum depth for a swimming pool shall be three feet except in specialized pools or pool entries approved by the department, which include, but are not limited to, the following types of pools or pool entries:

- (a) wading pools;
- (b) zero entry pools; and
- (c) therapy pools.

(2) Maximum water depth at the shallow end of a swimming pool shall not exceed three feet six inches, except in special purpose swimming pools, special instructional pools or restricted or recessed areas of a pool that are separated from the shallow portion of the pool by safety lines attached to the sides of the pool and supported by buoys.

(3) Such specialized pools must be approved by the department. Such pools include but are not limited to:

- (a) lap pools not exceeding four feet in depth at the shallow end;
- (b) therapy pools; or
- (c) instructional pools for scuba diving or for other specialized training.

(4) Use of specialized pools with shallow ends deeper than three feet, six inches, must be restricted to swimmers who have demonstrated their competency to swim in the deep end of a pool.

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

RULE XXXIII VENTILATION (1) Pools built before [the effective date of this

rule] must provide air turnover that is adequate to prevent the buildup of odors, excessive condensation, and chloramines.

(2) Bathhouses, dressing rooms, shower rooms, and toilet rooms constructed or renovated after [the effective date] shall meet the following ventilation requirements:

- (a) air temperatures on indoor facilities shall be kept within a range of 1°F to 3°F warmer than the water temperature;
- (b) relative humidity on indoor facilities should be kept near 50 percent;
- (c) ventilation rates on indoor facilities should be at least eight complete air exchanges per hour;
- (d) air supply should be 100 percent fresh air, but never less than 40 percent fresh air with the capability of bringing in 100 percent fresh air when needed during peak usage times or when attempting breakpoint chlorination; and
- (e) ventilation in pools built after [the effective date of this rule] must meet ventilation requirements of the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) or the building code in force for that location for air turnover, or the requirements listed immediately above, whichever is more stringent.

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

RULE XXXIV LIGHTING (1) All indoor pools, spas, or other public bathing places, and all outdoor pools, spas, and public bathing places operating at night shall have safe and adequate artificial lighting sufficient to meet the clarity as requirements of [RULE XCV]. Such lights shall be spaced to provide illumination so that all portions of the pool, spa, or other water feature, including the bottom, may be readily seen without glare.

(2) If lighting is not provided as required by this section, the facility operator shall not permit any use of the facility at any time there is insufficient light to clearly view the main drain of the pool from any location on the perimeter or deck surrounding the pool.

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

RULE XXXV MAXIMUM FACILITY OCCUPANCY LIMITS (1) All spas shall have a minimum of ten square feet per person.

(2) All other pools and other water features shall meet the minimum square footage for bather load as described in Table 2:

Table 2. Maximum user load, pools, and other water features.

| Pool/Deck area | Shallow instructional or wading areas | Deep area (not including the diving area) | Diving area (per each diving board) |
|----------------|---------------------------------------|---|-------------------------------------|
| Pools with | 15 sq. ft. per user | 20 sq. ft. per user | 300 sq. ft. |

| | | | |
|--|---------------------|---------------------|-------------|
| minimum deck area required elsewhere in this chapter | | | |
| Pools with deck area at least equal to water surface area | 12 sq. ft. per user | 15 sq. ft. per user | 300 sq. ft. |
| Pools with deck area at least twice the water surface area | 8 sq. ft. per user | 10 sq. ft. per user | 300 sq. ft. |

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

RULE XXXVI DECK AREAS (1) All swimming pools constructed after the [the effective date of this rule] or operated by a municipality shall have a deck surrounding it that is a minimum width of six feet of unobstructed deck area as measured from the pool edge.

(2) All privately owned public swimming pools constructed prior to [the effective date of this rule] must be surrounded by a deck that has a minimum width of four feet of unobstructed deck area as measured from the pool edge.

(3) All spa decks shall be a minimum of four feet wide and shall extend around at least 50 percent of the unit perimeter.

(4) Decks surrounding other water features shall be appropriate to the use intended but shall, at a minimum, provide adequate space for emergency assistance.

(5) Deck areas are not required in vanishing edge pools at the overflow area. No pool or other water feature may have a vanishing edge that is more than 25 percent of the pool perimeter.

(6) Any waterfall or other feature that may obstruct a deck shall be reviewed, on a case-by-case basis, to determine whether the deck still meets minimum requirements.

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

RULE XXXVII DECK SURFACES (1) All deck surfaces must be impervious, slip resistant, and easily cleanable and must entirely surround any swimming pool, or other water feature. Spa decks must be impervious, slip resistant, and easily cleanable and must extend around at least 50 percent of the spa perimeter.

(2) The use of wood deck material around a swimming pool or spa is prohibited.

(3) The use of deck carpet is not permitted within six feet of the pool, spa, or other water feature.

(4) If deck carpet is used, it must be clean and be maintained in good repair.

(5) Where deck carpet is used, the deck must slant away from the carpet.

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

RULE XXXVIII DECK DRAINS (1) The entire deck area shall have a slope of not less than one quarter inch per foot and not more than one half inch per foot directed away from the swimming pool, spa, or other water feature edge. Decks shall be sloped to effectively drain either to perimeter areas or to deck drains. The drainage shall be designed to remove splash water, deck cleaning water, and rain water to the waste water disposal system without leaving standing water.

(2) Deck drains shall be provided on all indoor pools and spas and shall be located so that no deck drain services more than 400 square feet of the deck.

(3) Outdoor pools shall utilize either deck or perimeter drain systems.

(4) The deck area drains shall not be connected to the recirculating piping system.

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

RULE XXXIX HOSE CONNECTIONS (1) Hose connections equipped with vacuum breakers shall be installed at intervals that enable all parts of any swimming pool or spa area to be reached with a hose no longer than 50 feet.

(2) The water volume and water pressure for hose connections must be sufficient to provide effective cleaning.

(3) Care must be taken so the deck wash material and debris is not washed into the pool, spa, or other water feature.

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

RULE XL WATER SUPPLY (1) The department hereby adopts and incorporates by reference ARM 17.38.207, stating maximum microbiological contaminant levels for public water supplies, and the following Department of Environmental Quality publications setting construction, operation, and maintenance standards for springs, wells, and cisterns, respectively:

(a) Circular #11, "Springs";

(b) Circular #84-11, "Minimum Design Standards for Small Water Systems";

and

(c) Circular #17, "Cisterns for Water Supplies". Copies of ARM 17.38.207 and Circulars #11, #84-11, and #17 may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951.

(2) In order to ensure an adequate and potable supply of water, a pool, spa, or other water feature must either:

(a) connect to a water supply system meeting the requirements of ARM Title

17, chapter 38, subchapters 1, 2, and 5; or

(b) if the pool, spa, or other water feature is not utilized for more than 25 persons daily at least 60 days out of the calendar year, including guests, staff, and residents; and an adequate public water supply system is not accessible; utilize a nonpublic system:

(i) whose construction and use meet these standards set in Department of Environmental Quality Circular #84-11; or

(ii) if construction of the establishment was commenced on or after June 28, 1985, which is designed by an engineer registered in Montana and determined by the department or the local health authority to provide assurance of an adequate and potable water supply equivalent to that in Circular #84-11; or

(iii) if construction of the establishment was commenced prior to June 28, 1985, and utilizes a spring or cistern, which is operated and maintained in accordance with the standards set in either Department of Environmental Quality Circular #11 (for a spring) or Circular #17 (for a cistern), whichever is applicable.

(3) If a nonpublic water supply system is used in accordance with (2)(b), an establishment must submit a water sample at least quarterly to a laboratory licensed by the department to perform microbiological analysis of public water supplies in order to determine that the water does not exceed the maximum microbiological contaminant levels stated in ARM 17.38.207, incorporated by reference in (1).

(4) An establishment must replace or repair the water supply system serving it whenever the water supply:

(a) contains microbiological contaminants in excess of the maximum levels contained in ARM 17.38.207, as incorporated by reference in (1); or

(b) does not have the capacity to provide water adequate to meet the circulation requirements for sanitization of the water used in the pool, spa, or other water feature and with sufficient additional quantity for drinking, showering, other personal hygiene, laundry, and water-carried waste disposal.

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

RULE XLI SEWAGE SYSTEM AND SOLID WASTE (1) An adequate and safe wastewater system must be provided for conveying, treating, and disposing of all sewage. Immediate measures must be taken to alleviate health and sanitation hazards caused by wastewater at any facility operating a pool, spa, or other water feature.

(2) All sewage, including liquid waste, must be disposed of by a public sewage system approved by the Montana Department of Environmental Quality or by a sewage treatment and disposal system constructed and operated in accordance to applicable state and local laws. Nonwater-carried sewage disposal facilities are prohibited.

(3) A wastewater system has failed and requires replacement or repair if any of the following conditions occur:

(a) the system fails to accept, treat, or dispose of wastewater as designed;

(b) effluent from the wastewater system contaminates a potable water supply or state waters; or

(c) the wastewater system is subjected to mechanical failure, including electrical outage, or collapse or breakage of a septic tank, lead line, or drainfield line.

(4) Extension, alteration, replacement, or repair of any wastewater system must be done in accordance with all applicable state and local laws.

(5) Mop water or soiled cleaning water may not be disposed of in any sink other than a mop or utility sink or a toilet.

(6) Solid waste must be collected, stored, and disposed of in a manner that does not create a sanitary nuisance and meets the requirements of ARM 37.112.137 for disposal of infectious waste. Solid waste must be removed from the premises at least weekly to a licensed solid waste disposal facility.

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

NEW SUBCHAPTER 6: BARRIERS

RULE XLII BARRIERS: GENERAL REQUIREMENTS (1) Barriers shall be provided to prevent unauthorized persons from gaining access to public swimming pools, spas, and other water features and related facilities, except natural bodies of water.

(2) A barrier of durable material shall be provided outside the minimum required deck area of all outdoor public swimming pools, spas, and other water features. The barrier must separate the public swimming pool, spa, or other water feature from all other areas and/or structures.

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

RULE XLIII BARRIERS FOR OUTDOOR POOLS AND WATER FEATURES OTHER THAN SPLASH DECKS (1) Barriers for outdoor pools, spas, or other water features, excluding splash decks shall be:

(a) at least 60 inches in height; and

(b) constructed so that all gates or doors in the barrier open out from the pool and are equipped with self-closing doors or gates with self-latching closure mechanisms and locking mechanisms at a height of at least 54 inches above the ground or three inches below the top of the gate on the side facing the pool.

(2) All entries must be equipped so that they can be locked at all times when supervision is not provided at the swimming pool, spa, or other water feature to prevent unauthorized swimmers from using the pool, spa, or other water feature.

(3) Lifeguarded pools are not required to have a self-closing, self-latching gate during the period a pool is in use; however, facility gates must be closed and locked during nonuse periods.

(4) One barrier may surround multiple pools, spas, or water features at one outdoor facility, except that a barrier four feet in height must be provided to separate a wading pool or splash deck from other pools.

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

RULE XLIV BARRIERS FOR SPLASH DECKS (1) Splash decks and interactive play attractions built after the [effective date of this rule] must have a barrier that is at least 60 inches high around the deck. Splash decks built before [the effective date of this rule] must install a barrier meeting this requirement by March 1, 2010.

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

RULE XLV BARRIERS FOR INDOOR POOLS (1) All entries to any indoor public swimming pool, spa, or other water feature must be equipped so that they can be locked at all times when there is no supervision of the swimming pool, spa, or other water feature, to prevent unauthorized bathers from using the facilities.

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

RULE XLVI DEADLINE FOR RETROFITTING BARRIERS IN EXISTING FACILITIES (1) Existing public swimming pools, spas, and other water features must install barriers that meet the requirements of these rules on or before January 1, 2010.

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

NEW SUBCHAPTER 7: STEPS, LADDERS, TREADS, HANDHOLDS, AND HANDRAILS

RULE XLVII ENTRIES AND PLACEMENT OF STEPS AND LADDERS

(1) Sloping entries used as a pool entrance shall not exceed a one foot in 12 feet ratio slope. Sloping entry surfaces shall be of slip-resistant materials.

(2) Where the distance from the pool or spa floor to the top of the wall is 24 inches or less, such areas shall be considered as providing their own natural mode for entry and exit.

(3) Steps or ladders shall be provided at the shallow end of the swimming pool if the vertical distance from the bottom of the pool to the deck or walk is over two feet.

(4) Recessed steps or ladders shall be provided at the deep portion of the swimming pool and if the pool is over 30 feet wide such steps or ladders shall be installed on each side of the deep end of the pool.

(5) All steps and ladders shall be located outside the minimum diving water envelope.

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

RULE XLVIII LADDER SPECIFICATIONS (1) All portions of any ladder, including the steps, treads, and handholds, must be constructed of materials that are resistant to corrosion and the materials must be easily cleanable.

(2) Ladder steps must be sloped to drain.

(3) All ladder steps and treads shall have a slip-resistant surface.

(4) There shall be a uniform distance between ladder treads, with a seven inch minimum width. Except for the bottom riser, all ladder step risers at the centerline shall have a maximum uniform height of 12 inches.

(5) Ladder treads shall have a minimum horizontal uniform depth of two inches.

(6) All ladders shall be designed to provide two handholds and shall be securely attached to the side of the pool or spa. There shall be a clearance of three inches minimum and five inches maximum between the pool wall and the ladder.

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

RULE XLIX STAIR SPECIFICATIONS (1) All steps shall be easily cleanable, impervious, and corrosion resistant.

(2) All steps shall be sloped to drain.

(3) All stairs shall have slip-resistant treads.

(4) The leading edge of all stairs shall be distinguished by a color contrasting with the color of the steps and pool floor. The contrasting accent must be at least one inch wide and must extend across the entire width of the stair.

(5) Stair treads shall have a minimum unobstructed horizontal width of ten inches.

(6) There shall be a uniform distance between stair steps with a seven inch minimum distance. Except for the bottom stair step, all step risers at the center line shall have a maximum uniform height of 12 inches. The bottom riser height shall be allowed to vary from the other risers as may be required to meet the floor, but shall not exceed 12 inches in height.

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

RULE L RECESSED TREADS (1) The design and construction of recessed treads in the pool wall shall conform to the following requirements:

(a) All recessed treads shall have slip-resistant surfaces;

(b) Recessed treads shall have a uniform vertical spacing of seven inches minimum to nine inches maximum;

(c) Recessed treads shall have a depth of five inches minimum and a width of 12 inches minimum;

(d) Recessed treads shall be provided with a handrail on each side of the treads; and

(e) Recessed treads shall drain into the pool.

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

RULE LI HANDHOLDS (1) Every pool shall be provided with handholds around the entire perimeter of the pool.

(2) Coping, perimeter overflow system, or decking along the immediate top edge of the pool must not be more than 12 inches above the waterline.

(3) The handholds must have rounded, slip-resistant edges and must not exceed four inches in thickness.

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

RULE LII HANDRAILS (1) When ladders, stairs, or recessed treads are provided to assist in entering or exiting a swimming pool, spa, or other water feature, handrails are required.

(2) Handrails must extend from the bottom of the last step leading into the pool, spa, or other water feature over the coping to the edge of the deck.

(3) Handrails shall be made of corrosion resistant materials and must be securely attached.

(4) The leading edge of a handrail that facilitates pool exit on stairs shall not be more than 18 inches back from the vertical face of the bottom riser.

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

NEW SUBCHAPTER 8: DIVING BOARDS

RULE LIII DIVING BOARDS - GENERALLY (1) Diving equipment shall be installed to conform with the manufacturer's specifications.

(2) Existing diving boards may not be used unless they meet manufacturer's specifications.

(3) New diving boards must meet the requirements of these rules when installed.

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

RULE LIV DIVING BOARDS - SPECIFICATIONS (1) Supports, platforms, and steps for diving boards shall be of sufficient structural strength to safely carry the maximum anticipated loads.

(2) Steps shall be of corrosive-resistant material which is easily cleanable and they shall have slip-resistant tread surfaces.

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

RULE LV DIVING BOARDS - MINIMUM WATER DEPTHS AND MINIMUM DIVING ENVELOPE REQUIREMENTS (1) Swimming pools having diving equipment shall be designed to comply with the design requirements of Figure 2 and to provide at least the minimum water depth required in Table 3.

Figure 2.

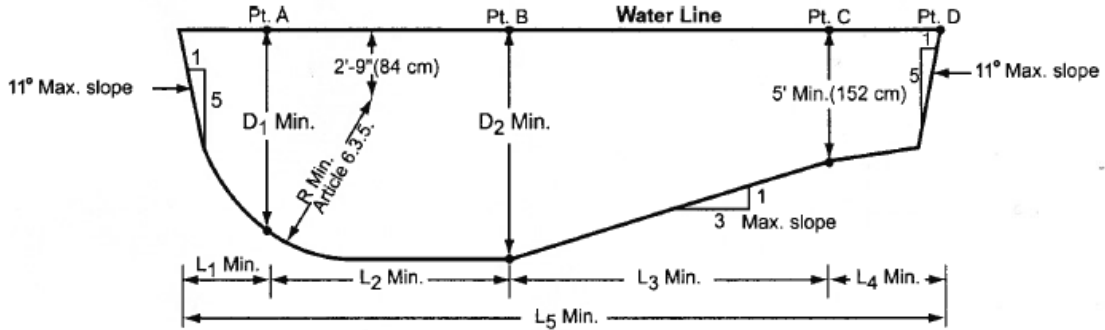


Table 3.

| Pool Type | Minimum Dimensions | | | | | | | | Minimum width of pool at: | | |
|-----------|--------------------|----------------|-------|----------------|----------------|----------------|----------------|----------------|---------------------------|--------|--------|
| | D ₁ | D ₂ | R | L ₁ | L ₂ | L ₃ | L ₄ | L ₅ | Pt.A | Pt.B | Pt.C |
| VI | 7'-0" | 8'-6" | 5'-6" | 2'-6" | 8'-0" | 10'-6" | 7'-0" | 28'-0" | 16'-0" | 18'-0" | 18'-0" |
| VII | 7'-6" | 9'-0" | 6'-0" | 3'-0" | 9'-0" | 12'-0" | 4'-0" | 28'-0" | 18'-0" | 20'-0" | 20'-0" |
| VIII | 8'-6" | 10'-0" | 7'-0" | 4'-0" | 10'-0" | 15'-0" | 2'-0" | 31'-0" | 20'-0" | 22'-0" | 22'-0" |
| IX | 11'-0" | 12'-0" | 8'-6" | 6'-0" | 10'-6" | 21'-0" | 0 | 37'-6" | 22'-0" | 24'-0" | 24'-0" |

NOTE: For definition of pool types see definitions in [RULE XXIII]

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

RULE LVI DIVING BOARDS - MAXIMUM LENGTH OF DIVING BOARDS AND MAXIMUM HEIGHT ABOVE WATER (1) A diving board may not be installed or utilized if it exceeds the maximum allowable length for diving boards or the maximum board height over the water set out in Table 4.

Table 4.

| Related Diving Equipment - Pool Type | Maximum Diving Board Length | Maximum Board Height Over Water |
|--------------------------------------|-----------------------------|---------------------------------|
| Type VI | 10' | 26" or 2/3 meter |
| Type VII | 12' | 30" or 3/4 meter |
| Type VIII | 16' | 1 meter |
| Type IX | 16' | 3 meter |

NOTE: For definition of pool types see definitions in [RULE XXIII]

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

RULE LVII DIVING BOARD INSTALLATION (1) Diving boards must be installed so that they comply with the following requirements:

(a) There shall be an unobstructed clear vertical distance of 13 feet above any diving board measured from the center of the front end of the board. This area shall extend horizontally at least eight feet behind, eight feet to each side; and 16 feet forward from the horizontal location to the tip of the diving equipment;

(b) a horizontal separation of ten feet shall be provided between adjacent diving boards, except that this may be reduced to eight feet for surface boards that are installed lower than one-half meter high;

(c) a low diving board shall not be located below a high diving board; and

(d) the board shall be installed so that its overhang of the pool wall complies with the manufacturer's recommendations.

(2) Handrails shall be provided at all steps and ladders leading to diving boards.

(3) Diving boards or platforms more than one meter high shall be protected with guardrails.

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

NEW SUBCHAPTER 9: POOL FACILITIES

RULE LVIII DRESSING ROOMS, TOILETS, AND SHOWER AREAS

(1) The requirements set forth in this subchapter apply to all public pools, spas, and other bathing places, including those privately owned public facilities where nonmembers or nonlodging guests are allowed to use the facility.

(2) With the exception of existing Class B pools operated in conjunction with lodging and open only to guests of the motel or hotel, every Class A, Class B, and Class C pool shall be equipped with dressing rooms that are located adjacent to the locker room or the showering areas.

(3) At a minimum, one dressing room for males and one dressing room for females shall be provided.

(4) The ceilings, walls, and floors of dressing rooms, toilet, and shower areas shall be constructed of smooth, impervious, easily cleanable material, not adversely affected by steam, water, or disinfectant.

(5) The floors shall be smooth, nonslip to bare feet, shall have no open cracks or joints, and shall have a minimum slope of 1/4 inch per foot toward the drains with no low spots which will allow water to stand.

(6) Deck carpet is not permitted within six feet of shower areas or in hallways in or leading to dressing rooms which will normally be traveled by individuals wearing shoes.

(7) Any pool with a bather load less than 250 shall provide two screened

changing areas in each dressing room. Any pool with a bather load greater than 250 shall provide an additional screened changing area for each additional 200 bathers.

(8) Partitions for screened changing areas and toilets shall have a minimum clearance of six inches above the floor.

(9) Dressing rooms, toilet, and shower areas shall be lighted so that all parts are easily visible for cleaning and maintenance.

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

RULE LIX NUMBER OF FIXTURES REQUIRED (1) In facilities built or extensively remodeled after [the effective date of new subchapters 1 through 22], showers, toilets, urinals, and hand washing facilities shall, at a minimum, meet the number required by Table 5.

Table 5, Fixture Ratio Required.

| | First 1500 Males | First 1500 Females | Additional Males Over 1500 | Additional Females over 1500 |
|------------------------|---------------------|--------------------|----------------------------|------------------------------|
| Toilets (water closet) | 1:75 for first 1500 | 1:40 | 1:120 | 1:60 |
| Hand sinks | 1:200 | 1:150 | 1:200 | 1:150 |
| Showers | 1:50 | 1:50 | 1:50 | 1:50 |

(2) A facility may substitute urinals for up to 50 percent of the toilets in the men's room.

(3) All fixtures shall be properly protected as required by the appropriate plumbing code.

(4) All fixtures must be so designed that they may be readily cleaned, disinfected, and maintained.

(5) Hand washing facilities must provide liquid, foam, or powdered soap and either disposable towels with adjacent waste receptacles or hand blowers.

(6) One drinking fountain is required for every 1000 bathers.

(7) A service sink is required for each facility. It shall be located somewhere other than the dressing rooms.

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

RULE LX SHOWERS (1) Separate shower facilities shall be provided in the dressing rooms, and shall be located so that bathers must pass from the shower room directly into the swimming pool, spa, or other water feature area.

(2) All showers must be equipped with a mixing valve.

(3) Liquid, foam, or powdered soap shall be provided for each shower unit.

(4) Where shower booths are provided, the booth partitions shall be of a

material which will not be damaged by shower water and shall have a minimum clearance of six inches above the floor.

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

RULE LXI BABY CHANGING TABLES (1) All pool dressing rooms must provide at least one baby changing table with an adjacent waste receptacle with lid and hand sanitizing available to clean the changing table.

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

RULE LXII CLASS C POOLS (1) Existing Class C pools are not required to provide dressing rooms and bathrooms adjacent to the pool. New Class C pools must provide at least one unisex bathroom with a toilet, a hand sink, and a changing table. The Class C pool must also provide a shower. The shower may be located in the public area of the pool facility.

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

NEW SUBCHAPTER 10: CIRCULATION SYSTEMS

RULE LXIII RECIRCULATION SYSTEMS (1) A circulation system consists of pumps, piping, return inlets, suction outlets, filters, disinfection equipment, and other equipment that may be attached to the circulation system shall be provided for complete circulation and treatment of water for all public swimming pools, including spas and other water features.

(2) In this rule, the terms "circulation" and "recirculation" can be used interchangeably.

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

RULE LXIV TURNOVER RATES (1) Pools, spas, and other water features constructed or modified after [effective date] must have a circulation system that is capable of producing a recirculation turnover rate for the entire volume of water within the time period specified in Table 6 for the specific pools, spas, or other water features listed.

(2) Existing pools, spas, or other water features that have not lost their grandfather status under [RULE CXLIX] must continue to meet the minimum turnover rates approved at the time of initial licensing.

(3) Table 6.

| Pool or Other Water Feature Type | Required Minimum turnover Rate (Hours) |
|----------------------------------|--|
|----------------------------------|--|

| | |
|--|---|
| Wave Pool | 2 |
| Activity Pool -less than 24 inches in depth | 1 |
| Activity Pool -24 inches or greater in depth | 2 |
| Catch Pool (for slides and flumes) | 1 |
| Lazy River | 2 |
| Vortex Pool | 1 |
| Interactive Play Attractions | 1 |
| Swimming Pool - volume of 30,000 gal or less | 4 |
| Swimming Pool - volume of more than 30,000 gal | 6 |
| Wading Pool | 30 minutes |
| Flow through Hot Springs | 8 |
| Spa | 30 minutes |
| Hydrotherapy Pool | 1 hour or less if pool is less than 1,000 gallons or 2 hours or less if pool is 1,000 gallons or more |
| Spray pools, splash decks (no standing water) | 30 minutes |

(4) The system shall be designed to meet the required turnover rate when operated in accordance with the manufacturer's recommended maximum pressure and flow with the filter in a clean media condition.

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

RULE LXV OPERATION OF CIRCULATION SYSTEM (1) The circulation system shall be operated in a manner that creates a pattern of recirculation that uses at least 70 percent return water from the skimmers or gutters and the remainder from the main drain. The main drain percentage may be increased during nonoperational hours to assist in debris removal.

(2) The recirculation system must be operated 24 hours a day. If the system is shut down for periodic maintenance and repair, no person, including any employee of the facility, may be allowed to use the swimming pool, spa, or other water feature.

(3) No more than two spa units may use one recirculation system and no spa may utilize the recirculation or disinfection system of a swimming pool or other water feature. Wading pools and spas constructed after [the effective date of this rule] must have their own recirculation system separate from any other pool or spa.

(4) A surface skimming system such as the overflow gutters or skimmers described in [RULES LXIX and LXX] shall be provided for each pool, spa, or other water feature.

(5) The direction of recirculation shall be counterclockwise unless

manufacturer specifications require a clockwise flow.

(6) The water velocity in the recirculation system piping shall not exceed:

(a) ten feet per second for discharge piping, except for copper pipe where the velocity shall not exceed six feet per second;

(b) six feet per second for suction piping; or

(c) one and one half feet per second through suction grates.

(7) Recirculation system inlets and outlets shall be installed in a location that will produce uniform circulation of water and which will maintain even distribution of sanitizer residual throughout the pool, spa, or other water feature. Inlets and outlets shall be designed and installed so that they do not constitute a hazard to the user.

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

RULE LXVI PUMPS (1) Any pool, spa, or other water feature constructed or significantly modified after [the effective date] must use a centrifugal pump for water circulation. The pump shall be capable of providing the flow required for filtering the water against the total dynamic head developed by the complete recirculation system.

(2) The pump shall not be operated if any main drain grate plate or other suction cover or vacuum outlet cover is missing, broken, or loose. If such an event should occur, the pool, spa, or other water feature shall be shut down immediately and must remain closed until a proper repair or replacement has been accomplished.

(3) A cleanable strainer or screen shall be provided on all pressure filter systems upstream of all recirculation pumps to remove solids, debris, hair, lint, and other such matter. The strainer shall be constructed of noncorrosive material and shall be located so as to be easily accessible for regular cleaning. Strainers are not required in systems that use vacuum diatomaceous earth filters.

(4) Pumps located below the waterline shall have valves installed on suction and discharge lines. The valves shall be located in a readily accessible place, to allow regular maintenance and to allow easy removal of the pumps. Pumps not located below the waterline shall be self-priming.

(5) All pumps shall comply with ANSI/NSF 50-2008.

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

RULE LXVII INLETS (1) Inlets are features of the pool, spa, or other water feature which return water to the pool or spa from the filters as a part of the recirculation system. Inlets shall be submerged, and located to:

(a) produce uniform circulation of water throughout the swimming pool with no dead spots; and

(b) carry pool bottom debris to the outlets.

(2) A pool, spa, or other water feature shall have a minimum of two return inlets regardless of the size of the pool, spa, or other water feature. A third inlet is required for any pool, spa, or other water feature with 900 square feet or more of

surface area. An additional return inlet is required for each additional 300 square feet of surface area or fraction thereof.

(3) Sufficient numbers of inlets shall be provided and properly spaced and located to allow complete and uniform recirculation of water and to maintain uniform sanitizer residual at all times.

(a) If wall inlets are used, the distance between adjacent inlets must not exceed 15 feet.

(b) If floor inlets are used, they shall be placed at no more than 15 foot intervals and the distance from these inlets to the wall shall not exceed 15 feet.

(4) Any pool having a width greater than 40 feet must have floor inlets meeting the requirements of (3)(b) or a combination of wall and floor units meeting the requirements of this rule.

(5) All inlets shall discharge at the depth designed by the manufacturer.

(6) All inlets must be located at least five feet from any skimmer.

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

RULE LXVIII OUTLETS (1) A circulation system must include one or more outlets, or suction outlets to conduct water to a recirculation pump and to serve as a drain when needed.

(2) All pools, spas, and other water features must have main drain outlets at the deepest point to permit the water to be completely and easily removed.

(3) The grated areas of any outlet shall be of sufficient size to decrease the possibility of clogging or creating suction hazards dangerous to the safety of the bathers.

(4) All pools, spas, or other water features must have dual main drains or must use other equivalent drain methods that conform to ANSI/APSP 7-2006 and ASME A112.19.8-2007 standards to prevent sufficient suction from building up to create an entrapment hazard.

(5) A minimum of two hydraulically balanced suction outlets per pump suction line are required except as described in (6) and must meet the following criteria:

(a) the outlets shall be spaced not more than 20 feet apart, not less than three feet apart, and not more than 15 feet from side walls;

(b) there must be an inlet within five feet of any corner in the pool;

(c) when dual suction outlets are used, no piping or valve arrangement is permitted that will isolate one suction fitting as the sole source of fluid to the pump. However, once the water from multiple outlets flows into a single pipe that loads to a pump suction inlet, the single pipe may be valved off to shut off the flow to the pump;

(d) each suction outlet shall be capable of handling 100 percent of the flow without creating a suction hazard;

(e) each suction outlet, other than skimmers, that measures less than 18 inches by 24 inches or a diagonal of less than 29 inches shall be provided with a cover that has been tested by a nationally recognized testing laboratory and complies with ASME A112.19.8-2007; and

(f) the maximum openings of the main drain cover must not exceed one half inch.

(6) A single outlet shall be permitted only where the outlet's dimensions are at least 18 inches by 24 inches or a diagonal of at least 29 inches or it otherwise meet the requirement of ANSI/APSP-7 2006 or the federal pool/spa safety Act of 2007.

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

RULE LXIX OVERFLOW GUTTERS (1) Overflow gutters are a type of surface skimming system. Overflow gutters shall be provided on all pools having a surface area over 1600 square feet unless the license applicant can demonstrate that use of more skimmers than minimally required will provide sufficient recirculation to meet or exceed required turnover rates.

(2) Pools having a surface area less than 1600 square feet may use either overflow gutters or skimmers.

(3) Overflow gutters shall extend around the entire perimeter of the pool, except at steps or recessed ladders.

(4) The hydraulic capacity of the overflow gutter shall be capable of handling 100 percent of the recirculation flow.

(5) Where large or surge gutters are used they shall be designed to prevent entrance or entrapment of a bather's arms or legs.

(6) The overflow gutter edge or lip shall also be designed to serve as a handhold.

(7) The water level in the pool, spa, or other water feature shall be maintained at a level one-quarter inch above the overflow gutter or as designed by the manufacturer.

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

RULE LXX SKIMMERS (1) Skimmers may be used in place of overflow gutters as a means of skimming and recirculating the water. Skimmers are permitted if at least one skimming device is provided for each 500 square feet of water surface area or fraction thereof, with a minimum of two skimmers required, except that spas or pools with less than 500 square feet of water surface and with a turnover rate that exceeds the minimum requirements under [new subchapters 1 through 22] by at least 25 percent.

(2) Skimming devices shall be built into the wall and shall develop sufficient velocity on the water surface to induce floating oils and wastes into the skimmer from the water surface of the entire pool, spa, or other water feature.

(3) The circulation system shall be designed to handle a minimum of 100 percent of the water turnover rate through the skimmers.

(4) An easily removable and cleanable basket or screen through which all overflow water must pass shall be provided to trap large solids. The skimmer shall be constructed of sturdy corrosion-resistant materials.

(5) The water level for skimmers must be maintained at the manufacturer's recommended level, which is normally at least one half the vertical height of the

skimmer.

(6) Each skimmer shall be equipped with an equalizer line or other device to prevent airlock on the suction line should the water of the pool drop below the weir level, or the water level at the bottom of the skimmer. Equalizer line openings at the pool wall shall be covered with a fitting to prevent entrapment in accordance with ASME A112.19.8-2007.

(7) Skimmer covers located on a walking surface shall be securely seated, slip resistant, of sufficient strength to withstand normal deck use, and shall not constitute a tripping hazard.

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

RULE LXXI VACUUM EQUIPMENT (1) Vacuum equipment shall be provided to remove sediment and other accumulations from the bottom of the swimming pool, spa, or other water feature.

(2) When not in use, all vacuum fittings shall be covered with an automatic closure device that cannot be opened without a special tool. Where a skimmer is used for vacuuming, automatic closure is not required.

(3) A missing vacuum filtering cover is an entrapment hazard which requires the pool operator to immediately close the pool, spa, or other water feature until the cover is replaced and reinstalled.

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

RULE LXXII FILTRATION EQUIPMENT (1) Filtration equipment shall be provided on all pools, spas, and other water features and shall be installed and maintained in accordance with the manufacturer's specifications. Filters shall be sized to accommodate or exceed the design flow rate of the system.

(2) Filters shall be designed so that filtration surfaces may be easily inspected and serviced.

(3) A flow rate indicator shall be provided and installed in a manner that shows the recirculation rate of the pool, spa, or other water features. The indicator shall measure the rate of flow through the filtering system with an appropriate range readable in gallons per minute and that is accurate within ten percent of actual flow.

(4) Flow meters shall be installed in a straight section of the piping. There shall be straight pipe upstream and downstream from the location of the flow meter. The upstream pipe section must be a minimum of four pipe diameters in length. The downstream straight pipe section must be a minimum of ten pipe diameters in length.

(5) Filters shall comply with the requirements of ANSI/NSF 50-2008.

(a) The maximum flow rate for different types of filters may not exceed the requirements of ANSI/NSF 50-2008. The maximum application rate for sand filters shall not exceed 15 gallons per square foot of media, unless a higher rate is specifically approved by the manufacturer for commercial use.

(b) Filters shall be fitted with both influent and effluent gauges.

(6) For cartridge type filters, a minimum of three filters must be provided for each pool, spa, or other water feature:

- (a) one in use;
- (b) one which has been cleaned and is ready for use; and
- (c) one which is being cleaned.

(7) For sand-type filters, whether of the gravity or pressure type, including high-rate filters, the filter system shall be provided with an influent pressure indicator and an effluent pressure indicator to show the condition of the filters. The filter system shall include an air relief device at or near the high point of the filter. A sight glass shall be provided on the back-wash discharge line.

(8) For diatomaceous earth type filters, whether of the vacuum or pressure type:

(a) the filter shall be designed, constructed, and operated to preclude the introduction of appreciable quantities of filter-aid into the pool, spa, or other water feature during pre-coating operations; and

(b) the filters shall be designed and installed with adequate working space provided above and around the filter to allow the easy removal and replacement of any part and for proper maintenance.

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

RULE LXXIII CROSS-CONNECTIONS AND FILL LINES (1) No direct mechanical connection is allowed between the potable water supply and the pool, spa, or other water feature; chemical feeder equipment; or the pool, spa, or other water feature piping that would permit sewage or waste water to enter the recirculation system or that would permit water from the recirculation system, pool, spa, or other water feature to enter the make-up water supply.

(2) Where water from an approved water source is added to the pool, spa, or other water feature, cross connections between the public water system and water in the pool, spa, or other water feature shall be eliminated by pumping make-up water from a pump suction well or by admitting water by means of an air-gapped supply, preferably located under a low diving board.

(3) If an over-the-rim water supply spout is used it shall be located under a diving board, adjacent to a ladder, or shall otherwise be properly shielded in order to minimize tripping hazards. Additionally:

(a) the open end of the spout shall have no sharp edges and shall not protrude more than two inches beyond the edge of a pool; and

(b) the spout shall be separated from pool water by an air gap of at least six inches between the flood level of the pool and the lowest point of the spout.

(4) No direct connections to sewers shall be permitted. The drain system for any pool, spa, or other water feature may not be directly connected to a sewer in a manner that would permit back flow of the sewer into the pool, spa, or other water feature.

(5) Where a surge or balancing tank is used, the point of discharge from the make-up water line into the surge or balancing tank shall be at least six inches above the rim of the tank.

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

RULE LXXIV PIPING SYSTEM (1) The piping system for any pool, spa, or other water feature shall be designed to reduce friction losses so that adequate flows are maintained in the piping system.

(2) The piping system of the pool, spa, or other water feature shall be marked in distinguishing colors to identify filtered water, make-up water, waste water, vacuum lines, and heating lines and shall be marked to identify the direction of flow.

The color system used for distinguishing the different piping systems shall be as follows:

- (a) green pipes are designated for filtered water;
- (b) yellow pipes are designated for raw or make-up water;
- (c) black pipes are designated for waste water;
- (d) red pipes are designated for the heating line;
- (e) blue pipes are for vacuum lines; and
- (f) orange pipes are for unfiltered water.

(3) As an alternative to color coding the piping system, labels which identify the pipe function and which show the direction of flow with arrows may be used as an acceptable pipe identification method.

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

RULE LXXV DISINFECTANT AND CHEMICAL FEEDERS (1) The swimming pool, spa, or other water feature shall be equipped with a continuous disinfectant feeder. The water must be continuously disinfected by a chemical which distributes an easily measured, free available chlorine or bromine residual. The water shall at all times contain sanitizer residuals as required in this rule and which are measured by industry-accepted field tests.

(2) All proposed disinfectants must be approved by the department. Only Environmental Protection Agency (EPA) registered sanitizers approved by the department shall be used.

(3) All disinfectant equipment other than compressed chlorine gas feeders must be approved by the National Sanitation Foundation International which must certify that the equipment meets the requirements of ANSI/NSF 50-2008. The disinfectant equipment shall be capable of introducing a sufficient quantity of EPA-approved disinfectant to maintain the required levels for disinfectant under all conditions of intended use.

(4) Sanitizer and pH shall be monitored and controlled automatically by suitable regulators. After [the effective date of this rule], all new pools, spas, and other water features and all existing pools, spas, and other water features that undergo major renovations shall install automatic chemical feed equipment and an Oxygen Reduction Potential ("ORP" or "HRR") controller to monitor and adjust chemical levels. Automatic controllers shall be standardized in accordance with the manufacturer's instructions.

(5) Chemical feeders must be capable of supplying not less than the equivalent of three pounds of chlorine for outdoor pools or one pound of chlorine for an indoor pool, per 10,000 gallons of pool, spa, or other water feature capacity during a 24-hour period.

(6) Skimmer baskets shall not be used as chemical feeders.

(7) A change in the method or type of disinfection used must be approved in writing by the department before it is implemented.

(8) The water must be continuously disinfected by a chemical which imparts an easily measured, free available residual effect. The water shall contain sanitizer residuals as required in these rules at all times and they must be measured by industry-accepted field tests. Only EPA-registered sanitizers approved by the department shall be used.

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

RULE LXXVI HAND DOSING OF DISINFECTANT NOT PERMITTED

(1) The hand dosing of disinfectant or the introduction of disinfectant at a pool, spa, or other water feature by means other than through a chemical feeder which has been NSF approved is not permitted except for superchlorination or for bringing the residual of the disinfectant up to required levels when the facility is closed.

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

RULE LXXVII SALT GENERATORS (1) When salt generators are used for producing chlorine for pools, spas, or other water features, they must be capable of providing adequate chlorine for anticipated or actual heavy use periods. If salt generators can not consistently produce adequate chlorine, then a backup chlorine system must be installed and used.

(2) Salt generators shall not be used for spas, splash decks, catch pools for slides or flumes, wading pools, or other water features that may experience heavy use.

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

RULE LXXVIII EQUIPMENT ROOM (1) The equipment room shall be so located that it cannot be entered directly from the shower rooms. If entry is gained from the deck area of the pool, spa, or other water feature, the equipment room must be kept secure at all times.

(2) The equipment room shall have a floor drain.

(3) The floor shall have a minimum slope of one-quarter inch per foot toward the drains with no low spots which would allow the water to stand.

(4) The recirculation equipment shall be located for convenient inspection and servicing. Adequate headroom shall be provided above pressure filters to allow

easy observation and reading of gauges.

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

NEW SUBCHAPTER 11: FACILITY OPERATIONS

RULE LXXIX OPERATOR QUALIFICATIONS (1) The licensee of the pool, spa, or other water feature shall ensure adequate numbers of personnel are trained and knowledgeable in water testing, operating the water treatment equipment, and that sufficient numbers of trained personnel are available whenever the facility is open for use.

(2) The licensee of any public swimming pool, spa, or other water feature shall employ at least one staff member who is currently certified as a Certified Pool Operator (CPO), as an Aquatic Facility Operator (AFO), or who has equivalent current certification approved by the department. The certified operator for the facility shall be at the facility or available to be called to the swimming pool, spa, or other water feature whenever it is open.

(a) In remote locations, the department may approve having one certified operator oversee more than one pool, spa, or other water feature, if that person is not responsible for more than three pools, spas, or other water features located on physically separate properties.

(b) Each municipally-owned swimming pool, spa, or other water feature must have its own certified operator with the following exceptions:

(i) municipally-owned or operated pools may have one certified operator responsible for all wading pools located throughout the municipality; or

(ii) one certified operator may be responsible for multiple water features if they are located on one contiguous property.

(3) Certified operators must complete any continuing education or training required by the entity that certified them.

(4) Current licensees of swimming pools, spas, or other water features must meet the requirements of this rule no later than January 1, 2011.

(5) New pools, spas, or other water features opened after [the effective date of this rule] must meet this requirement in order to operate.

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

RULE LXXX RECORD KEEPING (1) The facility shall maintain accurate records concerning the daily operations of all swimming pools, spas, or other water features at the facility.

(2) Records shall be maintained on forms approved by the department.

(3) The facility shall maintain daily records on the following water tests:

(a) disinfectant residual;

(b) combined chlorine concentration;

(c) pH;

(d) water temperature (spas and hot spring pools only);

- (e) maintenance information;
 - (f) bather loads; and
 - (g) clarity readings.
- (4) The facility shall maintain records of weekly readings of the following:
- (a) the cyanuric acid concentration;
 - (b) alkalinity;
 - (c) calcium concentration; and
 - (d) saturation index calculations.
- (5) The facility shall maintain records on all of the following:
- (a) serious injury accident reports;
 - (b) incident reports for incidents not requiring medical attention; and
 - (c) fecal and vomit accidents.
- (6) The pool operator shall post the facility's license and all applicable operators' licenses. Copies of all other required certifications must be available whenever the pool, spa, or other water feature is open upon request of the department or any member of the public. This includes life guard certifications and first aid, AED, and CPR certifications.
- (7) The pool, spa, or other water feature licensee, owner, or operator shall obtain and retain a copy of all Material Safety Data Sheets (MSDS) for each chemical used in the facility. The facility shall maintain records which document that each person that works with a specific chemical has read the relevant MSDS sheet.
- (8) All records must be kept on file and in a readily accessible location for a minimum of 36 months for review by the department, except that accident and incident reports must be maintained at the facility for 60 months.
- (9) The operator of the swimming pool, spa, or other water feature must furnish copies of any or all records to the department upon request.
- (10) A copy of these rules must be maintained at the facility premises.

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

NEW SUBCHAPTER 12: SAFETY MEASURES FOR CHLORINE GAS AND CARBON DIOXIDE

RULE LXXXI CHLORINE GAS STORAGE AND OPERATIONS (1) Gas chlorine may be used as a disinfectant only when the pump is operated and vacuumed with a booster pump.

(2) When compressed chlorine gas is used, whether by an existing pool or spa or on a pool, spa, or other water feature constructed after [the effective date], the provisions of (3) through (6) must also be complied with.

(3) The chlorine and chlorinating equipment shall be in a separate, locked, well-ventilated room. Such rooms shall not be below ground level and shall provide positive air pressure with vents near the floor which terminate out-of-doors. The door of the room shall not be open to the swimming pool, but shall open to the outside.

(4) Chlorine cylinders, whether full or empty, shall be anchored to prevent them from falling over. A valve stem wrench shall be present on the chlorine

cylinder so that the chlorine supply can be shut off quickly in case of an emergency. A valve protection hood shall be kept in place except when the cylinder is connected.

(5) The chlorine feeding device shall be designed so that in the event of accidents or during interruption of the water supply any leaking chlorine gas will be conducted to the outdoors.

(6) Chemicals must be stored in accordance with the manufacturer's instructions.

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

RULE LXXXII CHLORINE GAS SAFETY EQUIPMENT AND TRAINING

(1) A gas mask designed for use in a chlorine atmosphere and of a type approved by the Mine Safety and Health Administration (MSHA) or the National Institute of Occupational Safety and Health (NIOSH) shall be provided at any pool, spa, or other water feature that uses or stores chlorine gas. In addition, replacement canisters shall be provided and a record shall be kept of gas mask usage to ensure that the mask will be serviceable when needed. The gas mask shall be kept in a closed cabinet, accessible without a key, located outside of the room in which the chlorinator is maintained.

(2) Chlorination equipment shall be installed and operated by and under the supervision of personnel experienced with installation and operation of such equipment.

(3) All users of chlorine gas shall purchase at least one copy of each available safety pamphlet related to chlorine safety produced by the Chlorine Institute, Inc., 1300 Wilson Blvd, Arlington, VA 22209, (703)741-5760 including, but not limited to:

- (a) #1 Chlorine Manual;
- (b) #65 Personal Protective Equipment;
- (c) #82 Recommendations for using 100 pound and 150 pound cylinders;

and

- (d) #97 Safety Guidelines for Swimming Pool Applications.

(4) All pool operators who use chlorine gas shall maintain records and documentation of the use, and of safety training pertaining to the use of chlorine gas.

The training documentation must include records identifying when copies of safety pamphlets were given to each staff person working in or having access to the separate room in which compressed chlorine gas is stored and used. The documentation must also identify which specific safety pamphlets were provided.

(5) All operators using chlorine gas shall maintain records demonstrating that they have conducted drills with emergency responders and that the emergency responders are properly prepared for a chlorine gas emergency.

(6) Any improper use or storage of chlorine gas or inadequate training of facility staff or failure to provide training to emergency responders that requires and is cause for immediate closure of the pool, spa, or other water feature constitutes a safety violation until it is corrected under [RULE LXXXI].

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

RULE LXXXIII CARBON DIOXIDE USE AND STORAGE (1) Where carbon dioxide is used at a pool, spa, or other water feature to adjust pH, the following requirements must be met:

- (a) carbon dioxide cannot be stored below grade level;
- (b) carbon dioxide must be stored in well ventilated rooms to prevent the accumulation of a high concentration of carbon dioxide that could reduce the oxygen level in the air to less than 19.5 percent;
- (c) carbon dioxide must be used according to the safety requirements in the material safety data sheets provided by the supplier for carbon dioxide, including providing and using all recommended safety equipment;
- (d) carbon dioxide tanks must be thoroughly secured to prevent any tipping or rolling cylinders;
- (e) only authorized personnel who have been trained with the material safety data sheets provided by the manufacturer may have access to the carbon dioxide storage rooms; and
- (f) only personnel trained in the handling of carbon dioxide shall be allowed to adjust or replace carbon dioxide tanks.

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

NEW SUBCHAPTER 13: WATER TESTING

RULE LXXXIV TEST KITS (1) No chemical or other agent may be used in the water of any public pool, spa, or other water feature unless a recognized and approved test kit is available on the market to test the use of the chemical or other agent and which can identify and quantify the amounts of the chemical or other agent in the water.

- (2) Water testing shall measure the following parameters:
 - (a) free chlorine (range 0-5 ppm) and/or bromine (0-10 ppm);
 - (b) total chlorine (minimum of .2 ppm);
 - (c) pH (range 6.8-8.2);
 - (d) total alkalinity (at least 10 ppm titration calibration ability);
 - (e) cyanuric acid (0-100 ppm); and
 - (f) calcium hardness (at least 10 ppm titration calibration ability).
- (3) An approved Diethyl-p-phenylenediamine (DPD) titration method test kit must be used to test chlorine level in the water when chlorine is used as the water sanitizer.
- (4) An approved DPD type kit shall be used to test bromine levels when bromine is used as the sanitizer.
- (5) Test strips are not an approved method of accurate testing, but may be used for a quick reading between regular testing intervals to see if adjustments are needed.

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

RULE LXXXV FREQUENCY OF WATER TESTING (1) Water testing shall be conducted and recorded daily at the following times:

- (a) before opening a public pool, spa, or other water feature;
- (b) every four hours after opening; and
- (c) at closing.

(2) The test taken before opening must be a manual test. If the pool, spa, or other water feature has an Oxidation Reduction Potential (ORP) meter installed, that may be used for the other two tests.

(3) Adjustments shall be made to the water treatments as needed to maintain the water chemistry within established parameters or to return water chemistry to within established parameters.

(4) The department may require more frequent water testing based on occupancy loads.

(5) The following shall be tested and recorded every time the water is tested:

- (a) free chlorine;
- (b) total chlorine or bromine;
- (c) combined chlorine shall be determined by subtracting the free chlorine from the total chlorine reading;

(d) pH; and

(e) water temperature (if over 95°F).

(6) Total alkalinity and cyanuric acid shall be tested and recorded once every week.

(7) Calcium hardness readings shall be taken and recorded at least weekly to determine water chemical balance.

(8) Chemical balance, as determined by the saturation index, must be tested at a minimum of once per week. The department may require more frequent testing where indicated, based upon occupancy loads or test results of the pool, spa, or other water feature.

(9) Operators who use isocyanurates or stabilized chlorine products must be able to perform the alkalinity adjustments required because of the low pH and high acid concentrations in the water.

(10) Pool operators must properly dilute pool testing samples for chlorine, bromine, or cyanuric acid as needed if high levels of these are suspected, in order to be able to obtain accurate test results.

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

RULE LXXXVI OXIDATION REDUCTION POTENTIAL (ORP) READING

(1) An operator of any pool, spa, or other water feature that has installed an ORP meter shall use the ORP as an indicator of disinfectant level.

(2) An ORP meter must be properly maintained in compliance with the manufacturer's recommendations for the routine periodic maintenance of the ORP sensor.

(3) ORP readouts may be used as an indicator of disinfectant level following

the manual water testing prior to opening.

(4) Daily record logs must include manual water testing results before opening and ORP reading every four hours after opening and at closing every day.

(5) The water in the pool, spa, or other water feature shall be closed if the ORP is less than 700 mV as measured by the controller or by the ORP measuring equipment, regardless of the chlorine residual measurement and it shall remain closed until the ORP is at least 700 mV.

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

RULE LXXXVII BACTERIOLOGICAL QUALITY (1) Pools, spas, and other water features shall be free from harmful levels of disease producing organisms, toxic chemicals, or adverse physical conditions.

(2) The water in pools, spas, and other water features shall meet the following standards of bacteriological quality:

(a) heterotrophic plate counts may not exceed 200 bacteria per milliliter in two consecutive tests;

(b) total coliforms or E. coli may not exceed an average of one coliform per sample of 100 milliliters in two consecutive tests when using the membrane filter test; and

(c) total coliforms or E. coli may not exceed 2.2 bacteria per sample of 100 milliliters of water in two consecutive samples when using the most probable number (MPN) method.

(3) Upon request by the department, the pool operator of a pool, spa, or other water feature must collect water samples for bacteriological or other testing for public health investigations. The department may also require that test samples be taken and analyzed by an independent laboratory with the results transmitted to the department from the independent laboratory.

(4) Water samples must be:

(a) collected, dechlorinated, transported, and analyzed in compliance with the procedures outlined in the twentieth edition of Standard Methods for the Examination of Water and Wastewater (published jointly by the American Public Health Association, Water Environment Federation, and the American Water Works Association); and

(b) analyzed at a laboratory approved by the department.

(5) Not more than two consecutive samples in a one month period may exceed the levels set in these rules.

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

RULE LXXXVIII DISINFECTANT USE (1) The physical and chemical conditions in the water of the pool, spa, or other water feature shall be maintained within the ranges specified in these rules. Chemicals added to the water shall not cause irritation to the eyes, skin, or mucous membranes of the bathers.

(2) All pools, spas, and other water features when open or in use must be

continuously disinfected by a chemical that imparts a residual effect and must maintain an alkaline pH. Dispersal of the disinfectant agent must occur by mechanical means.

(3) In pools, spas, and other water features using chlorine as a disinfectant, breakpoint chlorination ("super chlorination" or "shocking") is required when the combined chlorine reading reaches 0.3 ppm or greater.

(4) To super chlorinate or shock a pool, spa, or other water feature that has a combined chlorine reading of 0.3 ppm or higher, the operator must, at one time, add free chlorine equivalent in an amount that will bring the free chlorine reading to a level at least ten times greater than the combined chlorine reading.

(5) Super chlorination or shocking cannot be undertaken while any bather is in the pool, spa, or other water feature. The pool, spa, or other water feature may not be reopened for any user until the level of chlorination falls within the parameters set in [RULE LXXVI].

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

RULE LXXXIX WATER CHEMISTRY PARAMETERS (1) Water chemistry, temperature, and clarity measurements must fall within the parameters set forth in Table 7:

Table 7.

| Parameter | Acceptable range | Ideal range | Maximum |
|---|--|--|---|
| Chlorine | 2-8ppm | 3-5ppm | 8ppm |
| Combined chlorine | 0.2 | 0.0 | 0.2ppm |
| Bromine | 2-10ppm | 2-8ppm | 10ppm |
| Total Alkalinity | 60-180ppm (varies by chemical type and pool surface) | 80-100ppm for Cal Hypo, lithium hypo, and sodium hypochlorite; 100-120ppm for Sodium dichlor, trichlor, chlorine gas and bromine compounds | 180ppm If total alkalinity is too high: -cloudy water -increased scaling potential -pH tends to be too high |
| Oxygen Reduction Potential (ORP or HRR, which stands for High Resolution Reduction) | 700 minimum millivolts (mV) | 700 minimum millivolts (mV) | no maximum |
| pH | 7.2-7.8 | 7.4-7.6 | 7.2-7.8 |
| Cyanuric Acid (allowed only in | 10-30ppm | 25ppm | 50ppm |

| | | | |
|------------------|---|--|---|
| outdoor pools) | | | |
| Calcium Hardness | Pools 150-1,000ppm | Pools 200-400ppm; Spas 150-250ppm | Pools 1,000ppm Spas 800ppm |
| Temperature | Varies | Varies | Spas 104°F Pools 100°F EXCEPTION: flow through hot spring pools and spas, which may have a maximum temperature of 106°F |
| Clarity | In the deepest part of the pool, spa, or other water feature, the main drain shall be clearly visible and sharply defined. NTUs must be in the range of 0.0-1.0 | In the deepest part of the pool, spa, or other water feature, the main drain shall be clearly visible and sharply defined. NTUs must be less than .5 | NTUs up to 1.0 |

(2) If total alkalinity is too low, it will result in pH bounce and a tendency to cause corrosion. If total alkalinity is too high, it will result in cloudy water increased scaling potential and a tendency for pH to be too high.

(3) Whenever isocyanurates or cyanuric acid (CYA) are used in a pool, spa, or other water feature, the concentrations of CYA shall not exceed 50 ppm. Recommended levels of CYA are 25-30 ppm. After [the effective date of this rule], isocyanurates or cyanuric acid shall not be used in newly constructed or renovated indoor pools, indoor spas, or other indoor water features or when a chlorinator is replaced. Licenseholders of indoor pools, spas, or other water features currently using isocyanurates or cyanuric acid shall have one year from [the effective date of this rule] to convert to a nonstabilized type of disinfectant.

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

RULE XC CLOSURE OF POOL BASED ON WATER CHEMISTRY

READINGS (1) A pool, spa, or other water feature shall be closed immediately whenever a reading falls into one or more of the following categories:

- (a) the chlorine or bromine reading is outside the minimum and maximum reading levels set in [RULE LXXXIX], Table 7;
- (b) water temperature exceeds the maximum set in [RULE LXXXIX], Table 7;
- (c) pool clarity fails to meet the parameters set in [RULE LXXXIX], Table 7; or
- (d) chlorine or bromine readings exceed the maximum set in [RULE LXXXIX], Table 7.

(2) When a pool, spa, or other water feature is closed based on water chemistry readings, the operator shall document the closure and the reason for the closure and shall maintain the documentation in its files with other required records.

(3) When the critical water quality parameters are brought within the acceptable range set out in [RULE LXXXIX], Table 7, the pool may be reopened with the approval of the department.

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

RULE XCI ALTERNATIVE DISINFECTANT METHODS (1) The department may approve alternative disinfection methods when the license holder or facility operator has demonstrated that the alternative method:

- (a) provides a readily measurable residual;
- (b) is equally effective in disinfecting water as the chlorine or bromine concentrations set in these rules;
- (c) has been shown to not be dangerous to public health; and
- (d) is approved for use as a disinfectant by the Environmental Protection Agency (EPA).

(2) Department approval must be obtained prior to using any other such disinfectant method.

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

RULE XCII CHEMICALS USED TO CONTROL ALGAE (1) No chemicals used in controlling algae growth shall pose a risk to public health or contribute toxic properties to the water.

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

RULE XCIII SATURATION INDEX (1) The following equation and [RULE XCIV], Table 8 shall be used to calculate the saturation index: the saturation index equals pH plus temperature factor (TF) plus calcium factor (CF), plus alkalinity factor (AF) minus 12.1. ($SI = (pH + TF + CF + AF) - 12.1$.)

(2) Saturation index values shall be calculated weekly. Perfectly balanced water has a saturation index value of 0.0. A saturation index value below -0.5 shows corrosive water and a saturation index value higher than +0.5 shows scale forming water.

(3) The saturation index value should be maintained between -.5 and +.5. Ideal values are -.2 to +.2 on the saturation index.

(4) If the reading falls outside the range of -.5 and +.5 the licenseholder/operator shall initiate the saturation index adjustments to the pool water within 24 hours.

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

RULE XCIV SATURATION INDEX TABLE (1) The following is the saturation index table.

Table 8.

| Temperature (F°) | Temp Factor (TF) | Calcium Hardness as ppm | Calcium Factor (CF) | Total Alkalinity | Alkalinity Factor (AF) |
|------------------|------------------|-------------------------|---------------------|------------------|------------------------|
| 32 | 0.0 | 5 | 0.3 | 5 | 0.7 |
| 37 | 0.1 | 25 | 1.0 | 25 | 1.4 |
| 46 | 0.2 | 50 | 1.3 | 50 | 1.7 |
| 53 | 0.3 | 75 | 1.5 | 75 | 1.9 |
| 60 | 0.4 | 100 | 1.6 | 100 | 2.0 |
| 66 | 0.5 | 150 | 1.8 | 150 | 2.2 |
| 76 | 0.6 | 200 | 1.9 | 200 | 2.3 |
| 84 | 1.7 | 300 | 2.1 | 300 | 2.5 |
| 94 | 0.8 | 400 | 2.2 | 400 | 2.6 |
| 105 | 0.9 | 800 | 2.5 | 800 | 2.9 |
| 128 | 1.0 | 1000 | 2.6 | 1000 | 3.0 |

(2) If a spa does not meet the total alkalinity (TA) level requirements for saturation index and chemical balance, the spa owner must either chemically correct the water chemistry or the spa water must be completely exchanged with fresh make-up water according to one of the following frequency standards:

- (a) weekly; or
- (b) when the total dissolved solids (TDS) reach 1500 ppm higher than the water supply's base TDS; or
- (c) when required by using the following formula: number of spa gallons divided by 3 divided by the number of bathers in a 24 hour period = number of days the spa can be used before draining and refilling with fresh make-up water.

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

RULE XCV WATER CLARITY (1) Acceptable water clarity of a swimming pool, spa, or other water feature shall be maintained at all times. It shall be determined by one of the following methods:

- (a) when standing anywhere on the perimeter or deck of the pool, spa, or other water feature, the grates on the main drain(s) at the deepest portion of the pool floor must be clearly visible and sharply defined at all times; or
- (b) a two-inch diameter black and red plastic disk must be visible through 15 feet of water.

(2) A hot springs pool, spa, or other water feature may alternatively demonstrate sufficient clarity by the following method:

(a) water must, at all times, have sufficient clarity so that a black disc, six inches in diameter, and placed on a white background in the deepest point of the pool, spa, or other water feature, must be clearly visible and sharply defined when viewed from any point on the deck within five feet of any pool edge.

(3) When the licenseholder or operator disputes the department's determination that a pool, spa, or other water feature does not meet clarity requirement as defined in (1) or (2), the department may use an NTU reading to make its final determination. A pool will be determined to have sufficient clarity only where the NTU reading is 1.0 NTU or less.

(4) Clarity readings shall be marked daily on the log sheets for the facility. Clarity readings are defined by the following terms:

(a) "excellent" means that the water is sparkling clear or it has an NTU reading <.5;

(b) "good" means that the water is clear to very clear or it has an NTU reading of 0.5-1.0; and

(c) "poor" means the water clarity is significantly deteriorated so that the main drain cannot be seen clearly or the bottom of the pool is obscured, or the water has an NTU reading in excess of 1.0.

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

NEW SUBCHAPTER 14: SAFETY SIGNS

RULE XCVI TYPES OF SIGNS REQUIRED (1) Every pool, spa, or other water feature shall conspicuously post signs which meet the requirements of this subchapter and which address the following categories of safety issues:

(a) signs identifying prohibited conduct;

(b) signs providing warnings of medical or safety hazards;

(c) signs identifying potential disease hazards;

(d) signs that notify the patrons of the supervision that is or is not provided by the facility; and

(e) signs pertaining to diving.

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

RULE XCVII GENERAL POOL SIGN REQUIREMENT (1) All pools, spas, and other water features that are not required to provide lifeguards under these rules and which do not provide lifeguards shall post a sign that states "NO LIFEGUARD ON DUTY" in clearly legible letters at least four inches high. No other wording may be on this sign.

(2) All pools, spas, and other water features shall post the following sign in letters at least two inches high: "THE MAIN DRAINS MUST BE CLEARLY VISIBLE AND SHARPLY DEFINED FROM ANY POINT ON THE SIDE OF THE POOL. ANYTHING ELSE REQUIRES THE MANAGEMENT TO CLOSE THE POOL".

(3) Pools and other water features must post signs with the following wording

or substantially similar wording:

- (a) "Take a cleansing shower before using the pool or the deck area";
 - (b) "Please do not use the pool if you have had diarrhea or any other disease communicable by water in the past two weeks";
 - (c) "Do not bring food, drink, gum, or tobacco into the pool or onto the deck area";
 - (d) "Nonswimmers and children under age 14 shall not use the pool without a responsible adult in attendance";
 - (e) "Swimmers who are not toilet trained must wear a swim diaper with waterproof pants with elastic opening for legs and waist";
 - (f) "Do not change diapers near the pool, or on the deck";
 - (g) "No running or rough play";
 - (h) "No glass or other breakable material allowed in the pool or deck area";
 - (i) "No animals in the pool or deck area except as required under the Americans With Disabilities Act";
 - (j) "Offensive or unsanitary behavior is prohibited"; and
 - (k) "Capacity of the pool is _____".
- (4) Pools shall post a "NO DIVING" sign in any area where diving is prohibited.
- (5) The facility shall fill in the capacity of the pool as approved in its license in the sign posted under (3)(k).
- (6) The department may, as a licensing requirement, require additional notices to be posted if necessary to protect public health or safety based upon the layout of the particular facility.

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

RULE XCVIII SPA SIGNS (1) The following rules shall be posted adjacent to the spa. The wording shall be in the following language or substantially similar language:

- (a) "Take a cleansing shower before using the pool";
 - (b) "Please do not use the spa if you have had diarrhea or any disease communicable by water in the past two weeks";
 - (c) "No person under the influence of drugs and/or alcohol may use the spa";
 - (d) "Warning - people using prescription medications and/or having the following medical conditions should consult with their physician before entering the spa: pregnancy, heart disease, diabetes, high blood pressure, or other serious medical condition"; and
 - (e) "Heat stroke warning - Users limited to 15 minutes in spa".
- (2) All spas must have a sign in letters not less than one inch high stating: "Children age 5 and under are not allowed in the spa".
- (3) All spas must have a sign adjacent to the spa which identifies spa capacity with the following language: "Capacity of the spa is _____".
- (4) The facility shall fill in the capacity of the spa as set in its license on the sign posted under (3).

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

RULE XCIX SIGNS FOR WATER SLIDES (1) One or more signs with the following language or substantially similar language shall be posted adjacent to the water slide:

- (a) "One rider at a time. Wait until the landing area is clear before starting down the slide";
 - (b) "Slide in a sitting position or feet first on the back only";
 - (c) "Do not attempt to stop on the slide";
 - (d) "Leave plunge area immediately";
 - (e) "WARNING: Water depth is _____ feet"; and
 - (f) "Nonswimmers not permitted if landing area water depth is over five feet".
- (2) The facility shall fill in the depth of the portion of the pool in which the water slide terminates on the sign posted under (1)(e).

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

RULE C SIGNS FOR FLUME WATER SLIDES (1) One or more signs with the following language or substantially similar language shall be posted adjacent to the flume water slide:

- (a) "Do not use this slide while under the influence of alcohol and/or drugs";
- (b) "Follow the instructions of the flume attendant";
- (c) "No running, standing, kneeling, rotating, tumbling, or stopping in the flume";
- (d) "Only one person at a time";
- (e) "Keep your hands inside the flume";
- (f) "No diving from the flume"; and
- (g) "Leave the flume pool promptly after entering".

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

RULE CI SPRAY POOL SIGNS (1) One or more signs with the following language or substantially similar language shall be posted adjacent to the spray pool:

- (a) Spray hours must be listed and the sign must then state, "Spray pool use at any other time is prohibited";
- (b) "Anyone who has had diarrhea or any other disease communicable by water in the last two weeks may not use the spray pool";
- (c) In two inch letters: "Spray features use recirculated water. DO NOT DRINK THE WATER";
- (d) "Children who are not toilet trained must wear swim diapers covered with waterproof pants with elasticized openings for the waist and legs";
- (e) "Do not change diapers at or near the spray pool"; and
- (f) "No animals allowed on or near the spray pool".

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

NEW SUBCHAPTER 15: POOL SAFETY REQUIREMENTS

RULE CII SAFETY EQUIPMENT (1) Every pool, spa, and other water feature involving pooled water must have the following equipment readily available on-site:

(a) either a rescue tube or, in the alternative, one or more ring buoys having a maximum of 15 to 16 inches inside diameter with one quarter inch manila-line or nylon rope at least equal in length to the maximum width of the swimming pool attached securely to the ring buoy and kept in good repair; and

(b) a shepherd's crook or reaching pole.

(2) In small pools not exceeding 15 feet in width, the ring buoy with a minimum length of 14 feet of manila line or nylon rope throwing line attached may be substituted for a shepherd's crook or a reaching pole.

(3) Safety equipment must be accessible for immediate use in the area of the pool, spa, or other water feature.

(4) When a lifeguard is required or provided at a pool or other water feature, an elevated seat for the lifeguard must be provided in areas where water depth is deeper than five feet. The lifeguard chair must be located within two feet of the edge of the swimming pool and must be high enough to give the lifeguard a complete and unobstructed view of the area of the pool that the lifeguard is responsible for patrolling.

(5) Lifeguards shall be equipped with a rescue tube and must be attired so that they are readily identifiable as members of the lifeguard staff.

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

RULE CIII ROPES, FLOAT LINES, AND MARKING LINES (1) Unless otherwise provided in this rule, a rope and float line with floats spaced no more than five feet apart shall separate the shallow portion of the pool from the deep portion of the pool. It shall be strung across the pool at one linear foot from the five foot depth level, toward the shallow end of the pool.

(a) The rope and float line shall be securely fastened to wall anchors of corrosion-resistant materials which shall be recessed or have no projection that will constitute a hazard when the line is removed. The line shall be of sufficient size and strength to offer a good handhold and to support loads normally imposed by users.

(b) A rope and float line must be in place at all times except when the pool use is restricted to lap swimming by competent swimmers, during water exercise classes, or during supervised swim instruction by a swimming instructor.

(2) In pools with uniform slopes not exceeding one foot of drop in twelve feet of run from the shallow end to the deep end a safety float line is not required, but a marking line must be installed or painted across the bottom of the pool at the five foot depth in at least a four inch wide marking in a color contrasting with the color of

the floor of the pool.

(3) A rope and float line must be provided between pools that are interconnected if one of the pools is or has a portion that is deeper than five feet.

(4) A rope and float line must be provided to separate water slide catch pools from other swimming areas. On all new pools constructed after [the effective date of this rule], a marking line on the bottom of the pool must be installed in a color contrasting with the color of the floor and must be at least four inches wide to designate the location of each rope and float line required by this rule in order to provide an additional designation showing a change in pool depth or pool type.

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

RULE CIV FIRST AID KIT (1) A first aid kit containing at least the following items and quantities shall be readily accessible at all times:

- (a) 1" x 3" fabric bandages, 16;
- (b) 1" x 3" adhesive plastic bandages, 32;
- (c) 32 sq. in. absorbent gauze compress, box;
- (d) 3" compress bandage, off center, 2;
- (e) triangular sling/bandage, 1;
- (f) 3" x 3" gauze dressing pads, 4;
- (g) antiseptic cleansing wipes (sting free), 10;
- (h) povidone-iodine infection control wipes, 10;
- (i) 1/2" x 2.5 yd. adhesive tape, 2;
- (j) Exam quality gloves, 2 pr;
- (k) burn relief packs, 6;
- (l) 4" x 5" instant cold compress, 1;
- (m) 2 sterile eye pads;
- (n) 1 oz. eye wash;
- (o) 1/2" x 5 yd. first aid tape roll; and
- (p) 96 pg. AMA First Aid guide booklet.

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

RULE CV TELEPHONE REQUIRED (1) A telephone with an attached handset shall be affixed to the wall near the pool, spa, or other water feature for the purpose of contacting emergency medical services.

(2) Emergency supplies required in [RULE CV] must be located in a place where the person making a call for emergency medical services can conveniently render assistance after making the call or while on the telephone with emergency services.

(3) Instructions regarding emergency calls shall be prominently posted next to the telephone and must include the following:

(a) how to notify the appropriate EMS personnel. For example, the sign should:

- (i) list the numbers needed to contact EMS personnel, such as 911; or

- (ii) if an outside line is required, such as needing to dial "9" or "8" before dialing 911; or
- (iii) in a location without 911 services, the direct emergency line to EMS must be provided;
 - (b) the name and telephone number for the management of the facility;
 - (c) the name, location, and address of the facility in which the pool, spa, or other water feature is located;
 - (d) directions on how to find the facility and on how to find the location of the telephone from which the call is being made; and
 - (e) the location of first aid and life saving equipment.

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

NEW SUBCHAPTER 16: LIFEGUARDS

RULE CVI WHEN LIFEGUARDS ARE REQUIRED (1) Lifeguards are required to be present and on duty during the operation of any municipally owned or operated swimming pool, spa, or other water feature except spray park and wading pools.

(2) Lifeguards are required for all water slides and flume slides 11 feet high or higher as measured from the deck.

(3) Lifeguards are required for all wave pools and all vortex pools.

(4) When lifeguards are required, the facility must have certified or licensed lifeguards who are authorized and assigned to enforce and ensure compliance with all safety rules at the pool, spa, or other water features and surrounding deck area.

(5) When lifeguards are provided voluntarily, all lifeguard requirements must be met.

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

RULE CVII WHEN LIFEGUARDS ARE NOT REQUIRED (1) Except as provided in [RULE CVII], privately owned public pools, spas, and other water features, are not required to have a lifeguard on duty if:

(a) a sign is prominently displayed adjacent to the swimming pool, spa, or other water feature, in letters at least four inches high that states: "NO LIFEGUARD ON DUTY"; and

(b) one individual per shift is on the premises and has ready access to the pool and is currently certified as competent in cardiopulmonary resuscitation (CPR) by either the American Red Cross or the American Heart Association.

(2) A tourist home providing a pool, spa, or other water feature to its guests must post a sign as required in (1)(a), but is exempt from the requirements of (1)(b).

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

RULE CVIII CERTIFICATION OF LIFEGUARDS (1) A "certified lifeguard" means an individual who holds current certification in a course sponsored by one of the following courses:

- (a) American Red Cross Lifeguard Training;
- (b) YMCA Lifeguarding;
- (c) Boy Scouts of America Lifeguard;
- (d) International Lifeguard Training Program (ILTP) of Jeff Ellis and Associates; or
- (e) another program that is substantially equivalent to the above programs and which is approved by the department.

(2) "Licensed lifeguard" means an individual who holds a current license from the National Pool and Waterpark Lifeguard Training Program in one of the following programs:

- (a) National Pool and Waterpark Pool Lifeguard;
 - (b) National Pool and Waterpark Lifeguard Training; or
 - (c) National Pool and Waterpark Deep Water Lifeguard.
- (3) In addition to holding a current certification or license from one of the agencies listed in (1) or (2), each lifeguard must also hold current certification:
- (a) by the American Red Cross or the American Heart Association in infant, child, and adult cardiopulmonary resuscitation (CPR); and
 - (b) by the American Heart Association in standard first aid or an equivalent first-aid course.
- (4) Each lifeguard must meet the minimum age requirement set by the certifying or licensing agency as listed in (1) or (2).

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

RULE CIX NUMBERS OF LIFEGUARDS AND LIFEGUARD PLACEMENT

(1) When required by these rules or when provided voluntarily, at least one lifeguard shall be on duty at all times per 2000 square feet of pool area or fraction thereof, except:

- (a) during organized swim lessons with certified lifeguards as instructors for no more than ten swimmers each, a lifeguard must be on duty for the first 2000 square feet of pool area with an additional lifeguard for each additional 4000 square feet of pool area; or
- (b) a pool facility may temporarily reduce the number of lifeguards required by closing an appropriately sized portion of the pool.

(2) Lifeguards must be stationed in a position which gives the lifeguard an unobstructed view of the area of the pool the lifeguard is responsible to patrol to ensure that the lifeguard is able to recognize a person in distress and provide for a rescue if needed.

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

NEW SUBCHAPTER 17: CLEANING

RULE CX POOL CARE (1) All public swimming pools, spas, and other water features and related facilities shall be maintained in a clean and sanitary condition at all times.

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

RULE CXI DECK CARE (1) Decks shall be cleaned daily or as necessary. When cleaned with a spray, care must be taken to prevent deck wash material from draining back into any pool, spa, or other water feature.

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

RULE CXII FOOD, DRINK, TOBACCO USE (1) Eating, drinking, and use of tobacco shall not be permitted in the swimming pool, spa, or other water feature or in other areas designed for bathers, with the exception of water in nonbreakable containers.

(2) Eating and drinking may be allowed in areas adjacent to the pool or spa areas if designed by the management for this use, unless the pool is intended for use for accredited competitive aquatic events by sanctioning groups such as the La Federation Internationale De Natation Amateur (FINA), the National Collegiate Athletic Association (NCAA), or the National Federation of State High School Associations (NFSHSA).

(3) Any food or drink served or consumed in areas adjacent to any pool that are designed for consumption of food or drinks must be in unbreakable containers.

(4) Trash containers must be provided in areas designed for food consumption.

(5) Smoking is prohibited in all indoor public facilities. Tobacco products including, but not limited to, cigarettes, cigars, pipe tobacco or spit or chew tobacco shall not be permitted in an area adjacent to an outdoor pool, spa, or other water feature, unless the area is specifically designed and authorized by the management for this use.

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

RULE CXIII NO ANIMALS PERMITTED IN OR NEAR POOLS (1) Except as provided in (2), no animals shall be permitted in any pool, spa, or other water features or in the vicinity of any pool, spa, or other water feature.

(2) Service animals shall be permitted only on the deck area of a pool, spa, or other water feature, if needed, but may not be closer than five feet to the water. However, no animal, whether service animal or not, may be permitted within the fence surrounding a spray pad.

(3) A service animal may be excluded from the facility or portions of the facility whenever its behavior or health poses a direct threat to the health or safety of

others.

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

NEW SUBCHAPTER 18: SPECIFIC REQUIREMENTS FOR SPECIAL PURPOSE POOLS AND OTHER WATER FEATURES

RULE CXIV REVIEW OF NONCONFORMING SPECIALTY POOLS AND WATER FEATURES (1) The department may approve specialty water pools and water features not specifically addressed in these rules if, upon its plan review, the department determines that the design complies with all substantive requirements of these rules and presents no public health and safety concerns.

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

RULE CXV WATER SLIDES GENERALLY (1) When a water slide is provided in conjunction with a pool, the slide must:

- (a) be installed according to the manufacturer's instructions;
- (b) be approved by the manufacturer for commercial use whether installed in a public or privately owned public swimming pool;
- (c) meet all applicable building codes;
- (d) meet the requirement of 16 CFR, part 1207;
- (e) water slides that are 11 feet or greater in height must provide a lifeguard at the bottom of the slide and an attendant at the top of the slide; and
- (f) one attendant may monitor two slides if the entrances to the slides are less than ten feet apart.

(2) The support structure for a water slide and for any access stairs or ramps shall be designed and constructed to withstand the anticipated structural load, both static and dynamic, including wind forces.

(3) A stairway providing access to the top of a water slide shall be at least two feet wide. Stair surfaces shall be slip-resistant and easily cleanable.

(4) The stairway shall comply with the applicable requirements of state and local building codes, and requirements set by the Occupational Safety and Health Administration.

(5) The plans for slide structures must be approved and stamped by a licensed structural engineer.

(6) Water slides must be operated in accordance with the slide manufacturer's guidelines.

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

RULE CXVI CHILDREN'S ACTIVITY SLIDE (1) Children's activity slides are small slides with a low exit velocity designed by the manufacturer for use by small children at pools. They must be designated by the manufacturer for use in 24 inches

or less of water and must be installed according to the manufacturer's directions.

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

RULE CXVII DROP WATER SLIDES (1) Drop water slides are slides which discharge to a pool with a drop of more than two inches to the water surface. Drop water slides shall comply with other applicable provisions of these rules and the following:

(a) The drop slide catch pool must extend five feet on either side of the center line of the slide and must extend to 20 feet in front of the slide.

(b) The drop slide catch pool must be clearly designated by float ropes.

(c) The terminus of the slide chute must extend beyond the pool wall into the pool and must be oriented so that the safety area in front of the slide does not interfere with the safety area of another slide or other pool equipment.

(d) The area from the slide terminus outward six feet in front of the slide terminus must have a depth as established from Table 9. The slide must be constructed so the rider enters the water in this six foot area. If the depth of the catch pool is five feet or less, the bottom of the catch pool must have a maximum slope of one inch in 12 inches (1:12), and the slide must be located at least five feet from any change to steeper slopes of the pool bottom.

(2) The deck around a water slide plunge pool shall be at least four feet wide, except on the side where the flume enters the pool. A walkway which is at least four feet wide and meets the requirements of a deck shall be provided between the plunge pool and the slide steps.

(3) If the water slide flume ends in a swimming pool, the water level shall not be lowered more than one inch when the flume pump is operating.

Table 9.

| Maximum Slide Exit Height Above the Water | Required Minimum Water Depth from the Slide Terminus to Six Feet in Front of the Terminus |
|---|---|
| 12 inches | 4 feet minimum |
| 42 inches | 8 feet minimum |

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

RULE CXVIII FLUME WATER SLIDES (1) Flume water slides shall comply with all other applicable provisions of these rules and the following:

(a) A water slide flume shall comply with the following construction requirements:

(i) the last ten feet of flume shall be straight no closer than five feet to the plunge or swimming pool wall;

(ii) the flume shall be sloped no more than one foot vertical for ten feet horizontal for at least the last ten feet before the end of the flume;

(iii) the flume shall terminate between six inches below and two inches above the design water level in the plunge pool or swimming pool;

(iv) at the level the flume approaches the water, it shall be at least five feet away from any sides of the plunge pool or swimming pool and adjacent flumes shall be at least ten feet apart on center at the exit point;

(v) the inside surface of a flume shall be smooth and continuous; and

(vi) the flume shall be designed so that users cannot be thrown out of the flume and to minimize user collisions with the sides of the flume.

(b) The landing area for a water slide flume shall comply with the following:

(i) there shall be at least 20 feet between the end of the flume and any barrier or steps; and

(ii) if the water slide flume ends in a swimming pool, the landing area shall be divided from the rest of the swimming pool by a float line.

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

RULE CXIX SPEED SLIDES (1) Speed slides shall comply with all other applicable provisions of these rules.

(2) A speed slide shall provide for the safe deceleration of the user. A run-out system or a special plunge pool entry system shall control the body position of the user relative to the slide to provide for a safe exit from the ride.

(3) The slide must be installed according to manufacturer's instructions.

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

RULE CXX CRITERIA FOR WATER SLIDES ENTRAPMENT PREVENTION

(1) If a flume pump intake is in a plunge pool or in a swimming pool, it shall be located away from normal water slide user traffic areas. To prevent suction entrapment at the flume pump intake, one of the following designs shall be used:

(a) Multiple intakes may be used. Intakes shall be at least three feet apart. The intakes shall be covered with grates or other protective covers designed to prevent user entrapment. Water velocity through the intake covers shall not exceed one and one-half feet per second; or

(b) The pump intake for the water slide shall have an area of at least 342 square inches.

(2) An intake cover shall be designed to prevent user entrapment. It shall be in place at all times and it shall be securely fastened to the pool or to the intake pipe so it cannot be removed without specific tools.

(3) Water slide pump intakes must meet the requirements of the Virginia Graeme Baker Act, 15 USC 8001-8005 and ASME A112.19.8 (2007).

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

RULE CXXI ZERO DEPTH ENTRY TO POOL (1) Zero depth entry to

swimming pools shall comply with all other applicable sections of [new subchapters 1 through 22], and with (2) through (4).

(2) There shall be an overflow drain or weir installed across the full width of the zero depth end of the swimming pool.

(a) The drain shall be covered with a grate designed to prevent entrapment and designed so that it is not removable without a specific tool; and

(b) The drain and its associated piping shall be designed to convey at least 50 percent of the recirculation flow rate.

(3) The deck above the overflow drain at the zero depth end of the pool may slope to the overflow drain for a distance no greater than 15 feet. The deck slope shall be no greater than one foot vertical in 12 feet horizontal.

(4) A perimeter overflow gutter shall be provided. The gutter around the perimeter of the rest of the pool may be interrupted in the area where the water is less than one foot deep, provided that the length of the perimeter overflow gutter and the overflow drain shall be at least 60 percent of the total pool perimeter.

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

RULE CXXII MULTISECTION RECREATIONAL POOLS (1) A multisection recreational pool shall comply with all other applicable provisions of the rules. In addition:

(a) the minimum recirculation flow rate for a multisection recreational pool shall be determined by computing the recirculation flow rate for each section of the pool in accordance with other applicable sections of [new subchapters 1 through 22] and adding the flow rates together;

(b) the treated water distribution system shall be designed to return treated water to the sections of the pool in proportion to the flow rates determined in (1)(a); and

(c) each section of a multisection recreational pool shall be separated from the other sections by a float line or marking line meeting the requirements of [RULE CIII].

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

RULE CXXIII ZERO DEPTH SPRAY POOLS - WATER RECIRCULATION

(1) Spray pools may be constructed so that the water drains immediately to a waste water system. Such pools must use water from an approved water supply. The water that is drained to a waste water system shall be disposed of in a manner approved by the Department of Environmental Quality.

(2) If the water from a spray pool does not drain immediately to a waste water system, then a chlorination system and filtration system must be in place that meets the requirements of these rules.

(3) A recirculation system consisting of pumps, piping, filters, water conditioning and disinfectant equipment and other accessory equipment which meet the requirements of these rules shall be provided which will clarify, chemically

balance, and disinfect the water. The spray pool's treatment tank filtration circulation and chemical disinfectant equipment must operate 24 hours a day.

(4) Water may be used one time and immediately drained to waste water or it may be recirculated and disinfected. Existing zero depth spray pools that recirculate water must recirculate the entire volume of water through an approved treatment system every thirty minutes or less. Zero depth spray pools constructed after [the effective date of this rule] must recirculate the entire volume of water through an approved treatment system every thirty minutes or less.

(5) A surge tank constructed or installed after [the effective date] for the spray pool must hold a minimum of 4000 gallons. The surge tank capacity must also be at least three times the combined flow rates of all attraction features and recirculation pumps based upon a minimum flow of five gallons per minute.

(6) An automatic water level controller shall be provided for the spray pool treatment tank.

(7) A screen or similar device shall be provided through which all water from the spray pool shall pass before entering the spray pool recirculation tank. In the alternative, the spray park may use another method or process that is approved by the department and provides for the removal of debris on the surface layer of the water in the recirculation tank.

(8) Sufficient numbers of filtered or treated water inlets shall be provided and located to ensure complete mixing and circulation of treated water within the spray pool recirculation tank.

(9) At least one main drain suction outlet that supplies water to the spray pool recirculation tank filtration system shall be provided at the deepest point in the spray pool recirculation tank.

(10) The pipers, fittings, and valves of the recirculation system shall be sized so that velocities of water in the piping does not exceed six feet per second under suction, ten feet per second under pressure, or three feet per second in gravity flow. The water velocity limits may be exceeded when hydraulic computations indicate that use of higher velocities will not adversely affect the spray pool recirculation system.

(11) A means of continuously measuring the rate of water flow shall be provided in the recirculation system.

(12) An automatic feeder which is easily adjustable shall be provided for the application of disinfectant.

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

RULE CXXIV ZERO DEPTH SPRAY POOL - GENERAL REQUIREMENTS

(1) Each zero depth spray pool shall have:

(a) surfaces with nonslip finishes that are impervious to water and easily cleanable; and

(b) uniform pool floor slopes not exceeding 1/2 inch per foot of horizontal floor length and which are sloped to drain to prevent water from collecting on the pad.

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

RULE CXXV ZERO DEPTH SPRAY POOL - DRAIN SYSTEMS (1) Outlets must be located at the low point of the spray pool.

(2) Spray pools must have two or more main drains located a minimum of three feet apart.

(3) Drain covers must meet the following requirements:

(a) outlet drains to each spray pool recirculation pump must have drain covers that measure 12 inches x 12 inches or greater in size;

(b) the maximum width of any opening in the main drain cover must not exceed 1/2 inch; and

(c) drain covers must withstand the anticipated force of users and must be removable only with specific tools.

(4) Flow through the drains to the treatment tank shall be gravity flow only. Direct suction outlets from the spray pool are prohibited.

(5) In any zero depth spray pool that recirculates the water after sanitizing it, the cleaning drains that drain directly to waste water must be located around the perimeter of the pad at a sufficient number of locations to drain water used to clean the pad so that it does not enter a main drain to be recirculated. The slope of the spray pad must change around the perimeter to slope toward the cleaning drains.

(6) Spray or play features must drain completely at night with no water left standing on the surface.

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

RULE CXXVI ZERO DEPTH SPRAY POOLS - RESTROOM REQUIREMENTS (1) General use recirculating spray pool facilities shall provide separate restroom facilities for each gender containing at least one toilet and hand washing sink and diaper changing area. Toilet facilities and lavatories shall be maintained and conveniently located at a spray pool. All facilities shall be provided with liquid soap, paper towels or electrical hand drying units, and covered waste receptacles.

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

RULE CXXVII ZERO DEPTH SPRAY POOLS - CLEANING REQUIREMENTS (1) Hose bibs with anti-siphonage devices shall be provided around spray pool decks at a maximum spacing of one hundred fifty feet. At the beginning of each day prior to use and at other times when needed, the spray pool must be adequately cleaned and flushed to remove any materials or contaminants on the surface area of the spray pool. The water must be flushed to the waste water system and not discharged into the spray pool recirculation tank.

(2) The spray pool recirculator tank must be designed to provide ready access for cleaning and must be capable of draining. An overflow pipe to convey

excess water to an approved wastewater discharge system must be provided.

(3) The spray pool recirculation tank shall be completely drained and cleaned whenever needed to maintain water quality parameters set by these rules, including but not limited to the parameters for alkalinity, pH, and chlorine.

(4) The spray pool recirculation tank shall be completely drained and cleaned whenever needed to maintain water quality parameters set by these rules, including but not limited to the parameters for alkalinity, pH, and chlorine.

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

RULE CXXVIII SPAS TEMPERATURE (1) Spas must comply with all other applicable provisions of these rules.

(2) Spas that are not a hot springs or flow-through hot springs spa must be operated at a water temperature not exceeding 104°F as determined by the use of an inline thermometer. A spa that is a hot springs or a flow-through hot springs may not operate at a temperature above 106°F.

(a) An inline thermometer is required for all spas and the spa operator shall also have an accurate portable thermometer and shall manually check the water temperature as required by these rules to help ensure that the temperature does not exceed the maximum allowable temperature.

(b) The operators shall verify the accuracy of their manual thermometers periodically in an ice bath. The temperature of an ice bath should read 32°F.

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

RULE CXXIX SPA RECIRCULATION REQUIREMENTS (1) Spas must meet the following recirculation system requirements:

(a) A minimum of two hydraulically balanced main drains shall be provided for each pump in the suction outlet system, separated by a minimum of three feet or located on two different planes such as one on the bottom of the spa and one located on the vertical wall of the spa. These suction outlets shall be plumbed so that water is drawn through them in a hydraulically balanced manner through a common line to the pump;

(b) Spa suction outlets shall have a cover installed that has been tested and accepted by a nationally recognized testing laboratory and that complies with ASME A112.19.8-2007;

(c) At least one surface skimmer shall be installed for each one hundred fifty square feet or fraction thereof of spa water surface area. Skimmers shall be located to optimize skimming action over the surface of the spa;

(d) The number of required return inlets shall be based on a minimum of one return inlet per 300 square feet of water surface area or fraction thereof. A minimum of two recirculation inlets are required regardless of spa size;

(e) A cleanable strainer or screen shall be provided upstream of the circulation pump for all pressure filter systems to remove solids, hair, lint, or other debris;

- (f) An adequately sized NSF-approved pump capable of producing a turnover of 100 percent of the spa water in 30 minutes or less, must be installed;
- (g) An adequately sized NSF-approved filter capable of filtering the entire contents of the spa in no more than 30 minutes or less must be installed;
- (h) A spa circulation system must include a flow indicator to measure the gallons per minute (GPM) flowing through the spa; and
- (i) A spa circulation system must include a means of backwashing or draining the spa into an approved waste water disposal system.

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

RULE CXXX SPA SANITATION REQUIREMENTS (1) All disinfectant equipment shall be approved by the NSF International and shall be capable of introducing a sufficient quantity of sanitizer to maintain the minimum required levels of sanitizer under all conditions of intended use.

(2) Chlorine generator (salt) disinfectant systems may not be used in spas.

(3) Disinfectant levels for spas shall be 2-8 ppm for chlorine or 2-10 ppm bromine at all times.

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

RULE CXXXI SPA CLEANING REQUIREMENTS (1) Spa operators must drain, thoroughly clean, and disinfect the spa:

(a) weekly; or

(b) when the total dissolved solids reach 1500 ppm above the levels in the potable water supply used for the spa; or

(c) when required as determined by using the following formula: number of spa gallons divided by three divided by the number of bathers in a 24 hour period equal number of days before draining, cleaning, and disinfecting the spa is required.

(2) The operator must document the date the spa was drained and cleaned and whether the spa is drained and cleaned weekly or based upon the criteria in (1)(b) or (c). If the spa is drained and cleaned based upon total dissolved solids, that reading must be documented. If the spa is drained and cleaned based upon the size of the spa and the number of users, the licensee must maintain records showing the number of users in each 24 hour period.

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

RULE CXXXII EXTERNAL SPA EQUIPMENT REQUIREMENTS

(1) Control switches for the spa jets must be located outside of the spa so that the bathers must physically get out of the spa to turn the jets on or off. Jet timers allow a maximum of 15 minutes of spa operation at a time.

(2) Every spa must have a clock visible from the spa so that bathers can monitor the time they have spent in the spa.

(3) After [the effective date of this rule] all new spa installations shall have a master shutoff switch that shuts off the power to all components of the spa, including the main drain, jet pumps, and the circulation pumps. The master shutoff switch must be adjacent to the spa, easily accessible, and clearly visible in case of an emergency.

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

RULE CXXXIII SPA DEPTH (1) The maximum water depth shall be four feet measured from the design waterline except for spas that are designed for special purposes such as therapy and are approved by the department for those purposes.

(2) Spas shall have permanent depth markers plainly and conspicuously visible from all obvious points of entry.

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

RULE CXXXIV SPA SEATING (1) Multi-level seating may be provided, but the maximum water depth of any seat or sitting bench shall be twenty-eight inches measured from the design waterline.

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

RULE CXXXV SPA DECK REQUIREMENTS (1) A minimum four foot wide continuous, unobstructed deck shall be provided around at least fifty percent of the spa.

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

RULE CXXXVI SPA ENTRY REQUIREMENTS (1) Spa steps that meet the requirements of these rules must be provided when the spa is more that two feet deep.

(2) A spa must be equipped with at least one handrail at each point of entry and exit.

(3) The surfaces within the spa intended to provide footing for users shall be made of slip resistant surfaces. The texture of such surfaces shall not cause injury or discomfort during normal use.

(4) The spa shall be provided with a handhold around the perimeter in areas where water depths exceed three feet six inches.

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

RULE CXXXVII WADING POOLS (1) Wading pools must comply with all other applicable provisions of these rules.

(2) After December 31, 2011, fill and drain wading pools are prohibited.

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

RULE CXXXVIII WADING POOLS - CIRCULATION AND DISINFECTANT SYSTEM REQUIREMENTS (1) A wading pool shall be a separate pool with an independent circulation and disinfectant system independent from any other adjacent pool and shall be physically separated from all other pools.

(2) Wading pools must have a recirculation and disinfectant system of its own that is capable of a 30 minute turnover rate.

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

RULE CXXXIX WADING POOLS - BARRIER REQUIREMENTS

(1) Wading pools for children shall be physically separated from swimming pools by means of at least a 4-foot high barrier. A barrier shall be provided on the outside of the deck area of all outdoor wading pools and shall meet the following requirements:

(a) Barriers shall not allow passage of a 4-inch or greater diameter sphere through the barrier;

(b) The maximum clearance at the bottom of the barrier shall not exceed four inches;

(c) Barriers shall be located beyond the minimum deck space requirements, but shall be located so that the area intended for waders can be isolated from other pools;

(d) The wading pool shall be visible through the barrier;

(e) Barriers shall be equipped with self-closing gates or doors with self-latching closers and locking mechanisms and shall be constructed so that all gates or doors in the barrier open out from the wading pool; and

(f) Barriers shall be impenetrable for small children and must not offer any external handholds or footholds.

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

RULE CXL WADING POOLS - DEPTH AND SLOPE (1) Wading pools shall have a maximum water depth of 24 inches.

(2) Floors of wading pools shall be uniform and sloped to drain completely with a maximum slope of one foot in 12 feet; and the floors must have a slip-resistant finish.

(3) The maximum distance from the top of the deck to the design waterline shall not exceed six inches, unless seven inches is required under manufacturer specifications.

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

RULE CXLII WADING POOL ATTENDANT REQUIREMENTS (1) Publicly owned wading pools must have at least one attendant present at all times during operation hours and the attendant must be in complete charge of the wading pool facility and have the authority to enforce all safety rules.

(2) Each attendant must be currently certified by either the American Red Cross or the American Heart Association in methods of infant, child, and adult cardiopulmonary resuscitation (CPR) and must be certified by the American Red Cross in at least standard first aid.

(3) Each attendant must be at least 15 years of age.

(4) The attendant must be on duty at all times when a wading pool is open for use by bathers.

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

RULE CXLIII WADING POOL RESTROOM AND CHANGING TABLE REQUIREMENTS (1) Changing and toilet facilities must be provided. They must provide the minimum required fixtures set in [RULE LIX], Table 5.

(2) Each restroom shall provide at least one changing table station and a waste disposal facility for used diapers.

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

RULE CXLIII HOT SPRINGS POOLS AND SPAS AND FLOW-THROUGH HOT SPRINGS POOLS AND SPAS - GENERALLY (1) Hot springs pools and other than a flow-through hot springs pool, must comply with all other provisions of these rules, except for the following:

(a) the pH of pool water in a hot springs or a flow-through hot spring pool must be maintained at no less than 7.2 and no greater than 9.4;

(b) the temperature of a hot spring pool or spa or a flow-through hot spring pool or spa may not exceed 106°F in a pool or spa primarily used for soaking and may not exceed 106°F in a pool used primarily for swimming; and

(c) the turnover rate of a flow-through hot spring pool may not exceed eight hours.

(2) All hot springs pools and spas including flow-through pools and spas, must meet the following requirements:

(a) Every hot springs pool or spa or flow-through hot spring pool or spa must be equipped with an accurate flow indicator to measure the turnover rate, except that the department may approve the use of an alternate method of establishing an accurate flow rate. To demonstrate that an alternative means of measurement is accurate, the applicant must submit a written application for approval to use that alternative method. The application must demonstrate that the alternative method

accurately measures the water volume exchange to produce an 8-hour turnover of the entire volume of pool water to waste water discharge.

(b) Every hot springs pool or spa or flow-through hot springs pool or spa must have an inline thermometer installed to monitor the temperature of the pool. The department may allow an alternative method of monitoring pool temperature upon a showing by an applicant who demonstrates that the water temperature can be accurately measured by the alternative method and that the use of the alternative method does not have the potential to cause adverse public health effects. When an alternative method is used to monitor pool temperature, the licensee is responsible for recording the pool temperatures a minimum of twice a day or more frequently as needed to demonstrate that the temperature is being regulated. The reading shall be recorded and maintained on forms approved by the department.

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

RULE CXLIV HOT SPRINGS POOLS AND SPAS AND FLOW-THROUGH HOT SPRINGS POOLS AND SPAS - CLEANING REQUIREMENTS (1) If the pH of a hot springs pool or spa exceeds a pH of 8.5, a sign must be posted adjacent to the pool or spa notifying users that a pH higher than 8.5 may cause skin irritation and indicating the pH of the water for that date of operation.

(2) Each hot springs pool or spa or flow-through hot springs pool or spa must be maintained to prevent corrosion, algae growth, and other mineral accumulation on the pool wall, floor, and equipment.

(3) Each hot springs pool or spa or flow-through hot springs pool or spa that does not use a chemical disinfectant must be drained, cleaned, and sanitized every 72 hours, along with all surfaces that flow into the pool. Records of the cleaning must be maintained in accordance with the record keeping requirements of these rules.

(4) If the hot springs pool or spa or the flow-through hot springs pool or spa is not chemically disinfected, a sign must be conspicuously posted at pool side that states the following in the same words or words of substantially the same meaning: "State law does not require chemical disinfection of this pool (or spa) if it is completely drained and sanitized every 72 hours. No one with any disease communicable by water is allowed in the pool or spa."

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

RULE CXLV OTHER SPECIAL PURPOSE POOLS (1) Special purpose pools including, but not limited to, wave action pools, rafting rides, wave surf rides, activity pools, catch pools, leisure rivers, vortex pools, interactive play attraction pools, amusement park attraction features, and therapy pools shall meet all requirements of these rules.

(2) Any specialty pool or attraction must install and operate all features in

compliance with the manufacturer's recommendations.

(3) An engineer or architect must oversee plans for all specialty attractions.

(4) The department may set additional requirements for specialty attractions in the following areas as needed to protect public health and safety:

- (a) lifeguards;
- (b) minimum times required between users beginning the ride;
- (c) minimum and maximum water velocities;
- (d) water turnover time; and
- (e) required use of Coast Guard approved personal flotation devices.

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

NEW SUBCHAPTER 19: ANNUAL LICENSING AND FEES

RULE CXLVI ANNUAL LICENSING AND FEES (1) No public swimming pool, spa, or other water feature or related facilities as defined in this chapter shall operate without a license.

(2) A license must be obtained for each separate public swimming pool, spa, or other water feature. A public swimming pool is considered separate if:

- (a) its water does not commingle with water from any other public swimming pool; or
- (b) it is serviced by a separate water filtration system.

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

RULE CXLVII LICENSE TO BE RENEWED ANNUALLY (1) Licenses must be obtained annually.

(2) License fees are due on or before January 1 of the license year.

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

RULE CXLVIII LICENSE EXPIRATION; CONTINUATION OF LICENSE DURING RENEWAL PROCESS (1) A license expires on December 31 of the year of issuance. However, when a licensee has timely applied for renewal of the license and has submitted the fee and any other documents required, the existing license will continue in effect until the department has completed review of the application for renewal and has determined whether to grant or deny the renewal.

(2) Except as provided in (3), if the department denies the application for renewal of the license or newly limits the license, the license will continue in effect until the last day available for seeking review of the agency order or until a later date fixed by order of a reviewing court.

(3) If grounds exist to order emergency closure of a swimming pool, spa, or other water feature, the department may do so in compliance with these rules even though the licensee or license applicant is in the process of challenging the denial or

renewal of the license.

AUTH: 50-53-103, MCA

IMP: 2-4-631, 50-53-204, MCA

RULE CXLIX GRANDFATHER CLAUSE (1) Any existing currently licensed and regularly operating swimming pool, spa, or other water feature is entitled to a grandfather clause exemption from any requirement to upgrade to new design and construction standards set in [new subchapters 1 through 22], except as otherwise specifically provided in [new subchapters 1 through 22], until one or more of the following occurs:

(a) the swimming pool, spa, or other water feature undergoes reconstruction, remodeling, or renovation;

(b) the swimming pool, spa, or other water feature fails for any reason to be operating and open to the public at least 60 days in the calendar year of the license;

(c) the license is allowed to lapse or is not timely renewed after notice of renewal has been sent to the licensee;

(d) the license has been suspended for 90 days or longer as a penalty for violation of a provision of Title 50, chapter 53, MCA or these rules and the order of suspension is final; or

(e) the license has been cancelled and the order of cancellation is final.

(2) Where some aspect of a currently licensed pool, spa, or other water feature, such as the physical plant or circulation system, is reconstructed, remodeled, or renovated, it loses its grandfather protection with regard to the area or aspect of the pool, spa, or other water feature being modified.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-104, 50-53-204, 50-53-216, MCA

RULE CL APPLICATION AND FEE FOR LICENSE OR FOR LICENSE RENEWAL (1) An application for either an original or a renewal license to operate a public swimming pool, spa, or other water feature must be made to the department, must contain the information required by the department, and must be accompanied by the following license fees:

(a) \$200 for any swimming pool or other water feature; or

(b) \$75 for a spa or wading pool with a total water capacity not exceeding 4000 gallons; and

(c) a late renewal fee of \$25 for each calendar month past the license renewal due date that the license fee is not paid. The pool, spa, or other water feature may not operate until the license fee or late renewal fee are both paid in full.

(2) Licenses are only valid if signed by an authorized representative of the department.

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

RULE CLI LICENSE NOT TRANSFERRABLE (1) A license for a pool, spa,

or other water feature is nontransferrable. When a new owner purchases a swimming pool, spa, or other water feature, a new license application must be submitted to the department and any new license fees must be paid.

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

RULE CLII LICENSE TO BE DISPLAYED (1) The license shall be prominently displayed at the public swimming pool, spa, or other water feature.

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

RULE CLIII RETURN OF LICENSE (1) The licensee shall return any license that has been cancelled to the department for destruction of the license and deletion of the listing of the swimming pool, spa, or other water feature at issue.

(2) Cancellation of a license by the department is effective even if the licensee fails to return the license to the department.

AUTH: 50-53-103, MCA

IMP: 50-53-214, MCA

RULE CLIV WHEN LICENSE NOT REQUIRED (1) Licenses are not required for the following:

- (a) natural or recreational bodies of water;
- (b) swimming pools located on private property, including owner-occupied condominium developments, and which are used for swimming or bathing only by the owner, members of the owner's family, or their invited guests;
- (c) swimming pools located in a private apartment complex with fewer than ten apartments and which are used for swimming or bathing only by the tenants or their invited guests;
- (d) hot water baths for single use;
- (e) single unit tourist home pools or spas if they are not used by the parties renting or leasing the home or if the spa is completely drained, cleaned, and refilled between guests;
- (f) spa pools in individual hotel or motel rooms or in individual cabins that are completely drained, cleaned, and refilled between patron use;
- (g) pools or spas at condominium units that are leased for periods of one month or greater; and
- (h) spray pools that drain immediately to waste.

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

NEW SUBCHAPTER 20: INSPECTIONS

RULE CLV INSPECTIONS (1) Any agent of the department or any other

regulatory authority that has jurisdiction over an aspect of the operation of a swimming pool, spa, or other water feature may, after showing proper identification, enter any facilities associated with the operation of the public swimming pool, spa, or other water feature at any time the facility has staff present or is operating, and may conduct an inspection to determine compliance with the requirements of these or other applicable rules. The inspecting agent shall be permitted to examine any records pertaining to the operation, maintenance, or personnel employed at the facility and collect water samples.

(2) Whenever an inspection of a public swimming pool, spa, or other water feature or related facility is made to determine compliance with these rules, the findings shall be recorded on an inspection form provided by the department.

(3) If the inspecting agent determines that one or more violations exist, the inspection form shall be marked to designate the violation the inspector has identified, any correction which needs to be made, and the date by which the correction must be made.

(4) A copy of the completed inspection report form shall be furnished to the person in charge of the swimming pool, spa, or other water feature at the conclusion of the inspection. Except for portions of a completed inspection form, which implicate an individual right of privacy, the completed inspection form is a public document that shall be available for public review or distribution to any person upon request and upon payment of a reasonable copying fee.

(5) The department may close any public swimming pool, spa, or other water feature not operating in conformity with these rules.

AUTH: 50-53-103, MCA

IMP: 50-53-104, 50-53-105, 50-53-107, 50-53-108, MCA

RULE CLVI INSPECTIONS BY LOCAL HEALTH OFFICERS (1) A local board of health may enter into a cooperative agreement with the department to conduct inspections and enforce statutes and rules applicable to swimming pools, spas, and other water features.

(2) A local board of health that has entered into a cooperative agreement may have its trained sanitarian conduct the inspections.

(3) The local sanitarian must be trained by the department in swimming pool inspection techniques. The department shall periodically make such training available.

(4) Upon request of the department, a local board of health acting under a cooperative agreement shall ensure that its trained sanitarian conducts a precicensing inspection pursuant to [RULE CLVI].

(5) A local board of health acting under a cooperative agreement shall ensure that its trained sanitarian conducts the following annual inspections:

(a) at least one full facility inspection and one critical point inspection of each swimming pool, spa, or other water feature that is open and operating on a year round basis; and

(b) at least one full facility inspection of each swimming pool, spa, or other water feature that is operated on a seasonal basis.

AUTH: 50-53-103, MCA

IMP: 50-53-104, 50-53-105, 50-53-107, 50-53-108, 50-53-209, MCA

RULE CLVII VALIDATION OF LICENSE (1) If a local board of health has entered into a cooperative agreement with the department to conduct its own inspections and enforcement activities, a license issued by the department is not valid until it is signed by the local health officer of the jurisdiction in which the swimming pool, spa, or other water feature is located.

(2) Within 15 days of receiving the license from the department, the local health officer shall validate or refuse to validate the license.

(3) A local health officer may refuse to validate a license if it has not met the requirements of Title 50, chapter 53, MCA, or these rules.

(4) If a local health officer refuses to validate a license, the officer shall notify the license applicant and the department within five days of the officer's decision. The notice must state the grounds for the refusal.

(5) The license applicant may appeal a decision by a local health officer to refuse to validate the license to the local board of health within 30 days after the officer's refusal or within 30 days after the period for the officer's decision has expired, whichever is first.

(6) A license applicant who has filed a notice of appeal with the local board of health is entitled to a hearing before that board to determine the applicant's eligibility for the license. The hearing shall be conducted as a contested case hearing under the Montana Administrative Procedure Act.

(7) If the local board of health determines that the applicant is entitled to a validated license, the presiding officer of the board shall validate the license by signing the license.

(8) Validation is not required if there is no cooperative agreement between the department and the local board of health providing for the local board of health to act as agents of the department to conduct inspections and to enforce applicable statutes and rules relating to swimming pools, spas, and other water features.

AUTH: 50-53-103, MCA

IMP: 50-53-206, 50-53-207, MCA

NEW SUBCHAPTER 21: ENFORCEMENT

RULE CLVIII NOTICE OF VIOLATION (1) When an inspector has determined that a violation of Title 50, chapter 53, MCA, or these rules has occurred, the inspector shall provide a written notice of violation to the on-site operator of the facility which:

(a) identifies the factual basis for the alleged violation;

(b) identifies any specific statute or administrative rule alleged to have been violated;

(c) notifies the licensee or license applicant if the department is ordering the suspension of the license or the emergency closure of the swimming pool, spa, or other water feature;

(d) notifies the licensee or license applicant or operator of any corrective

action the department is ordering as necessary to remedy any violation identified in the notice;

(e) notifies the licensee or license applicant of the right to submit a corrective action plan within ten days; and

(f) notifies the licensee or license applicant of the right to request a fair hearing to dispute any suspension or cancellation of the license or emergency closure of the swimming pool, spa, or other water feature or to dispute any corrective action ordered by the department.

(2) In a notice of violation, the department may also order the license applicant or licensee to appear before the department within a time specified by the department to show cause why the department should not deny, suspend, or cancel the license or otherwise order compliance with Title 50, chapter 53, MCA, and these rules.

(3) The suspension of a license or order of emergency closure or any order by the department for corrective action becomes final ten days after it is served upon the licensee or license applicant, unless the licensee or license applicant:

(a) requests a fair hearing; or

(b) submits a corrective action plan that meets the requirement of 50-53-213, MCA, and [RULE CLX].

(4) The written notice of violation may be provided by hand delivery to the licensee, the license applicant, or the facility's on-site operator, by facsimile, or by other electronic means, including, but not limited to, a scan of the notice form sent as an attachment to e-mail. The written notice of violation shall also be mailed by U.S. mail, postage prepaid, to the licensee or the license applicant at the address provided in the license application. The service of the notice is complete upon mailing.

(5) The department may amend its notice of violation at any time up to seven working days prior to any hearing requested as a result of the notice of violation. A licensee, license applicant, or operator may request a reasonable delay in any hearing proceedings if the notice of violation is amended within 30 days of the date set for hearing and the nature of the amendment means that the licensee, license applicant, or operator reasonably needs additional time to prepare for the hearing.

AUTH: 50-53-103, MCA

IMP: 2-4-631; 50-53-212, MCA

RULE CLIX IMMEDIATE SUSPENSION OF LICENSE; EMERGENCY CLOSURE OF POOL, SPA, OR OTHER WATER FEATURE (1) The department may order immediate suspension of any license or may order emergency closure of any swimming pool, spa, or other water feature or both if an inspector determines that an operator has refused or failed to immediately close the swimming pool, spa, or other water feature after occurrence of any health or safety violation identified in [RULE V]. Any violation of [RULE V] constitutes an imperative risk to public health, safety, or welfare that requires immediate closure of the swimming pool, spa, or other water feature.

(2) The department may order immediate suspension of the license or may order emergency closure of any swimming pool, spa, or other water feature or both if

there is any combination of the violations listed in [RULE V] which the inspector determines, taken together in the specific circumstances, present an imperative risk to public health, safety, or welfare requiring immediate closure of the pool, spa, or other water feature.

(3) The department may order immediate closure of any swimming pool, spa, or other water feature that is operating without a valid license.

(4) If there are other swimming pools, spas, or other water features on the premises, their operation must cease unless the department issues a written determination that:

(a) identifies which of the other swimming pools, spas, and other water features are not affected by the violation that is the basis for the emergency closure order; and

(b) identifies which of the other swimming pools, spas, and other water features may continue to operate.

(5) Where the department has issued an order for immediate suspension of a license or emergency closure of a swimming pool, spa, or other water feature or both, the department shall immediately proceed under [RULE CLXIV] to order the licensee, license applicant, or operator to appear and show cause why the department should not deny, suspend, or cancel the license or otherwise order compliance with Title 50, chapter 53, MCA, and these rules.

AUTH: 50-53-103, MCA

IMP: 2-4-631; 50-53-201; 50-53-211; 50-53-212, MCA

RULE CLX CORRECTIVE ACTION PLAN (1) An operator of a swimming pool, spa, or other water feature may submit a plan of correction to the department within ten days of receiving any notice of violation.

(2) Submission of a plan of correction will bar any further administrative enforcement action by the department against the operator if:

(a) the department approves the plan in writing, including the time proposed by the operator to correct the violation; and

(b) the operator complies with the corrective action plan within the time period prescribed by the department.

AUTH: 50-53-103, MCA

IMP: 50-53-212, 50-53-213, MCA

RULE CLXI REOPENING AFTER EMERGENCY CLOSURE (1) If the license of a swimming pool, spa, or other water feature was suspended and an emergency closure ordered, the department may require an in-person inspection of the facility to verify that the problem has been corrected. Alternatively, depending upon the circumstances and the nature of the violation, the department may choose to accept other forms of documentation to support reopening the pool, including, but not limited to, such things as faxes or scans of water quality test results, test results provided to the department by an independent laboratory, photographs, or video footage.

(2) If the department determines that an in-person inspection is needed to

verify that the problem has been corrected, that shall occur within five working days after the department has received written notification from the licensee, license applicant or facility operator that the problem has been resolved. The department may request that a local health department that has entered into a cooperative agreement with the department for inspection of pools have one of its qualified inspectors conduct the in-person inspection.

AUTH: 50-53-103, MCA

IMP: 50-53-104, 50-53-212, 50-53-213, MCA

RULE CLXII OTHER ENFORCEMENT ACTIONS, RECOVERY OF COSTS BY THE DEPARTMENT (1) The submission of a plan of correction by a licensee, license applicant, or operator of a swimming pool, spa, or other water feature does not bar the department from pursuing any other remedies available in Title 50, chapter 53, MCA, including, but not limited to, seeking:

- (a) criminal misdemeanor prosecution; or
- (b) civil penalties; or
- (c) injunctive relief; or
- (d) an order for summary abatement of a public nuisance.

(2) Where the department pursues civil or criminal action to enforce Title 50, chapter 53, MCA, or [new subchapters 1 through 22] or any condition of a license or to assess civil penalties, the court may assess the licensee, the license applicant, or the operator the costs of investigation and the costs of the criminal or civil action, including reasonable attorney fees.

AUTH: 50-53-103, MCA

IMP: 50-53-104, 50-53-109, 50-53-216, 50-53-217, MCA

NEW SUBCHAPTER 22: RIGHT TO HEARING, HEARING PROCEDURES

RULE CLXIII REQUEST FOR FAIR HEARING (1) A licensee or license applicant may request a fair hearing to contest any denial, suspension, or cancellation of a license or any corrective action ordered by the department.

(2) A request for fair hearing must be in writing and must specify the alleged mistakes in facts or law relied upon by the department.

(3) Hearing requests must be mailed or delivered to the department's Office of Fair Hearings, P.O. Box 202953, 2401 Colonial Drive, 3rd Floor, Helena, MT 59620-2953.

(4) A request for fair hearing to contest an order for suspension or cancellation of a license or to contest corrective action ordered by the department must be received by the Office of Fair Hearings within ten days after the department serves the written notice of violation upon the licensee, license applicant, or on-site operator of the swimming pool, spa, or other water feature.

(5) Fair hearings are held pursuant to the contested case procedures of the Montana Administrative Procedure Act (MAPA) and the applicable provisions of ARM Title 37, chapter 5, subchapter 3.

(6) Hearing shall be held in Helena, Montana, unless the department agrees

that it is necessary for the hearing examiner to conduct an on-site visit of the facility in which the swimming pool, spa, or other water feature is located. In that case, the hearing or a portion of the hearing may be held in a location convenient to where the swimming pool, spa, or other water feature is located.

AUTH: 50-53-103, MCA

IMP: 2-4-631, 50-53-213, MCA

RULE CLXIV SHOW CAUSE HEARING (1) The department may set a show cause hearing requiring a licensee, license applicant, or operator to appear and show cause why the department should not deny, suspend, or cancel a license or otherwise require compliance with Title 50, chapter 53, MCA, and [new subchapters 1 through 22].

(2) Show cause hearings are held pursuant to the contested case procedures of the Montana Administrative Act and the applicable provisions of ARM Title 37, chapter 5, subchapter 3.

(3) The department may initiate a show cause hearing by including in a notice of violation an order for the licensee, license applicant, or operator to appear before the department within ten days to show cause why the license should not be denied, suspended, cancelled, or why other compliance with Title 50, chapter 53, MCA, and [new subchapters 1 through 22] should not be ordered.

(4) The notice of violation containing the show cause order may be hand delivered to the licensee, license applicant, or operator, but shall also be served by U.S. mail, postage prepaid, by internal departmental mail, or by facsimile, or other electronic means followed by a hard copy. Service of the request for a show cause hearing is complete upon mailing or electronic delivery.

(5) Hearing shall be held in Helena, Montana, unless the department agrees that it is necessary for the hearing examiner to conduct an on-site visit of the facility in which the swimming pool, spa, or other water feature is located. In that case, the hearing or a portion of the hearing may be held in a location convenient to where the swimming pool, spa, or other water feature is located.

AUTH: 50-53-103, MCA

IMP: 2-4-631, 50-53-212, 50-53-213, MCA

RULE CLXV PREHEARING PROCEDURES (1) Upon receipt of a request for fair hearing or a notice of violation containing an order to appear and show cause, the Office of Fair Hearings shall appoint a hearing examiner.

(2) The hearing examiner shall set a scheduling conference to be held by telephone within ten days after the request for hearing or the notice of violation containing the order to show cause is received by the Office of Fair Hearing. The licensee, license applicant, or operator of the swimming pool, spa, or other water feature may agree to set the scheduling conference at a later date.

(3) At the telephone scheduling conference, the hearing examiner shall:

(a) set the date, time, and physical location for the hearing;

(b) set deadlines for any discovery requested by the parties;

(c) set deadlines for exchange of witness lists and exchange of exhibits; and

(d) set a date by which any prehearing order required by the hearing examiner shall be filed by the parties.

(4) Following the scheduling conference, the hearing examiner shall issue a written order that:

- (a) sets out its rulings on the issues listed in (3);
- (b) notifies the parties that the proceedings are a contested case proceeding under the Montana Administrative Procedure Act;
- (c) notifies the parties that formal proceedings may be waived under 2-4-603, MCA;
- (d) provides the legal authority and jurisdiction of the hearing examiner;
- (e) a reference to the particular sections of the statutes and rules involved;
- (f) a short plain statement of the matters asserted; and
- (g) a statement that a formal proceeding may be waived pursuant to 2-4-603, MCA.

(5) The hearing examiner may require the parties to submit a prehearing order signed by the representatives or both parties which includes such things as: the parties' contentions, any agreed facts or other stipulations, the issues of fact and law, witnesses, expert witnesses, exhibits, and any relevant statutes and rules, and the anticipated length of hearing. The parties may use electronic signatures to sign and submit the prehearing order.

(6) If a swimming pool, spa, or other water feature has been closed, the hearing examiner shall expedite the proceedings to the extent possible while still providing the parties reasonable time for discovery.

AUTH: 50-53-103, MCA

IMP: 2-4-601, 2-4-602, 2-4-631, MCA

RULE CLXVI HEARING, ORDER OF PRESENTATION, BURDENS OF PROOF

(1) In a hearing concerning adverse action or proposed adverse action against an existing license, the department shall present its case-in-chief first during the hearing to establish the background facts and the basis for the action or proposed action. The department shall have the burden to establish by a preponderance of the evidence that there is a reasonable basis for the department to take the adverse action. The licensee shall then have the opportunity to present its case-in-chief. The licensee has the burden of persuasion to establish that there is not a reasonable basis for the adverse action or proposed adverse action against the existing license. The department shall have the opportunity to present rebuttal evidence.

(2) In a hearing concerning the denial or proposed denial of a license, the department shall open the hearing by providing evidence to establish the background facts and any reasons relied upon by the department for the denial of the license or the proposed denial of the license. The license applicant or operator shall then present its case-in-chief. The license applicant has the burden of proof to establish by a preponderance of the evidence that the denial of the license has no reasonable basis and that all requirements of Title 50, chapter 53, MCA, and [new subchapters 1 through 22] have been met and the license applicant is therefore entitled to the license. The department shall then have an opportunity to present its

case-in-chief. The department has the burden of persuasion to show that there is some reasonable basis for denial of the license or that the license applicant has not met all requirements of Title 50, chapter 53, MCA, and [new subchapters 1 through 22]. The license applicant or operator shall have the opportunity to present rebuttal evidence.

(3) If the department has established by a preponderance of the evidence that there have been violations of Title 50, chapter 53, MCA, or [new subchapters 1 through 22], the department's exercise of discretion in deciding the level of negative licensing action to take must be upheld unless the hearing examiner finds that in light of all the circumstances, the penalty the department has imposed or proposed to impose is so disproportionate or excessive as to be arbitrary and capricious.

AUTH: 50-53-103, MCA

IMP: 2-4-611, 2-4-612, 2-4-614, 2-4-631, 26-1-401, MCA

RULE CLXVII LIMITS ON CONSIDERATION OF PRIOR VIOLATIONS

(1) Except as provided in (2) and (3), the hearing examiner may not consider any prior violations that were included on a notice of violation delivered to the licensee, license applicant, or operator of a swimming pool, spa, or other water feature if satisfactory corrective action was taken and accepted by the department or if the licensee, license applicant, or operator requested a fair hearing to challenge the notice of violation and prevailed.

(2) The hearing examiner may consider any related prior violations or any history of a pattern of unrelated prior violations to support the violations that are the basis for the request for the order to show cause if satisfactory corrective action was not taken and accepted by the department and if the licensee, license applicant, or operator did not timely request and prevail at a fair hearing. Any previous violation cited at the swimming pool, spa, or other water feature is deemed admitted unless it was timely contested.

(3) The hearing examiner may consider any history of corrective action that was taken in response to a notice of violation and that was accepted by the department only for the limited purpose of determining whether the history of past violations taken together with the current violations supports a penalty as severe as the level of adverse action imposed by or requested by the department or whether the department's imposition of the penalty or proposed penalty is so severe as to be arbitrary and capricious. In considering any such prior violations, the hearing examiner shall weigh the frequency and the seriousness of the prior violations and the willingness and ability the licensee has demonstrated in the past to take corrective action that prevented reoccurrence of violations.

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

RULE CLXVIII RECORD, TRANSCRIPT, COSTS OF TRANSCRIPTION

(1) The hearing examiner shall maintain the record as provided in 2-4-214, MCA, including all pleadings, all evidence submitted, all prehearing rulings, and

either an audio recorded or stenographic transcription of the hearing.

(2) A party who requests that a court reporter attend the hearing to provide a record must pay the costs of the court reporter's time spent at the hearing. If more than one party requests a court reporter, any fee for the court reporter's time spent at hearing shall be split among the requesting parties.

(3) The stenographic record of oral proceedings or any part of the stenographic record must be transcribed on request of any party.

(4) The cost of transcription of any portion of the record, whether transcribed from an audio recording or from a court reporter's electronic or other notes, must be paid by the party requesting that portion of the record. If both parties request copies of a transcript, the transcription costs, including the costs of a transcript to be provided to the hearing examiner or to a court on judicial review, will be split between the parties and each party shall pay for its own copy of the transcript.

(5) The court reporter shall submit an invoice with the transcript when it is furnished. The court reporter may withhold delivery of the transcript until the transcription fee is paid or satisfactory arrangements have been made for payment of the transcript.

AUTH: 50-53-103, MCA

IMP: 2-4-614, 3-5-604, MCA.

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

37.5.117 CERTAIN TITLE 50 PROGRAMS AND OTHER PROGRAMS FOR WHICH NO PROCEDURE IS OTHERWISE SPECIFIED: APPLICABLE HEARING PROCEDURES (1) through (1)(e) remain the same.

(f) licensure and enforcement of public swimming pools, spas and other water features and bathing place licensure and enforcement under Title 50, chapter 53, MCA;

(g) through (1)(v) remain the same.

AUTH: 50-1-202, 53-2-201, 53-6-113, MCA

IMP: 41-3-1103, 41-3-1142, 42-10-104, 50-1-202, 50-4-612, 50-5-103, 50-6-103, 50-6-402, 50-15-102, 50-15-103, 50-15-121, 50-15-122, 50-31-104, 50-52-102, 50-53-103, 52-2-111, 53-2-201, 53-4-1004, 53-6-101, 53-6-111, 53-6-113, 53-6-402, 53-20-305, 53-24-208, MCA

37.5.304 DEFINITIONS For purposes of this subchapter, unless the context requires otherwise, the following definitions apply:

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

(n) a department's substantiation determination of a report of child abuse, neglect, or exploitation under ARM Title 37, chapter 47, subchapter 6; ~~or~~

(o) a determination by the department regarding a pharmaceutical manufacturer's rebate due under ARM Title 37, chapter 86, subchapter 11; ~~or~~

(p) an action by the department to:

(i) deny, suspend or cancel a license for a swimming pool, spa, or other

water feature;

(ii) issue an order immediately closing the swimming pool, spa, or other water feature; or

(iii) order corrective action to be taken at a swimming pool, spa, other water feature.

(2) through (12) remain the same.

AUTH: 2-4-201, 41-3-208, 41-3-1142, 52-2-111, 52-2-112, 52-2-403, 52-2-704, 52-3-304, 52-3-804, 53-2-201, 53-2-606, 53-2-803, 53-3-102, 53-3-107, 53-4-111, 53-4-212, 53-4-403, 53-4-503, 53-5-304, 53-5-504, 53-6-111, 53-6-113, 53-7-102, 53-20-305, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.95.127 DAY 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 ~~37.95.227~~ [new subchapters 1 through 22].

(2) Portable wading pools, as defined in ARM ~~37.95.102~~ [new subchapters 1 through 22], 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 111, subchapter 11~~ [new subchapters 1 through 22] 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: SWIMMING POOLS, AND SPAS, AND OTHER WATER FEATURES (1) The construction and operation of any ~~swimming area, swimming pool, spa, or other water feature, hot springs pool, or spa~~ which serves a retirement home must comply with the licensing procedures and requirements of Title 50, chapter 53, MCA, and ARM ~~Title 37, chapter 111, subchapters 10 and 11. [RULE I through RULE CLXVIII]~~.

AUTH: 50-53-103, MCA

IMP: 50-53-103, 50-5-214, MCA

37.111.104 PRECONSTRUCTION REVIEW (1) through (1)(e) remain the same.

(f) specifications for a swimming pool, or spa, facility or other water feature to serve the establishment unless the swimming pool or spa, facility or other water

feature has been previously approved by the department;
(g) through (3) remain the same.

AUTH: 50-51-103, MCA
IMP: 50-51-103, MCA

37.111.123 SWIMMING AND BATHING AREAS POOLS, SPAS, AND OTHER FEATURES (1) The department hereby adopts and incorporates by reference ~~ARM Title 16, chapter 10, subchapter 12 and Title 37, chapter 111, subchapter 10, [RULE I through RULE CLXVIII]~~ stating construction and operating requirements for swimming pools and swimming areas, spas, and other water features. A copy of ~~ARM Title 16, chapter 10, subchapter 12 and Title 37, chapter 111, subchapter 10 [RULE I through RULE CLXVIII]~~ may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951.

(2) The construction and operation of any swimming pool, ~~hot bath, mineral bath, or public swimming place~~ spa, or other water feature which serves an establishment shall be in accordance with Title 50, chapter 53, MCA, and ~~ARM Title 16, chapter 10, subchapter 12 and Title 37, chapter 111, subchapter 10 [RULE I through RULE CLXVIII]~~.

AUTH: 50-51-103, MCA
IMP: 50-51-103, MCA

37.111.305 PRELICENSURE REVIEW AND APPROVAL (1) through (2)(d) remain the same.

(e) specifications for a swimming pool, spa, or other water feature ~~or spa facility~~ to serve the establishment unless the swimming pool, spa, or other water feature ~~or spa facility~~ has been previously approved by the department;

(f) through (l) remain the same.

AUTH: 50-51-103, 50-51-108, MCA
IMP: 50-51-103, MCA

37.111.339 SWIMMING POOLS, SPAS, AND OTHER WATER FEATURES AND BATHING AREAS (1) Any swimming pool, spa, ~~or public swimming place~~ other water feature that exists in a bed and breakfast establishment for guest use must be constructed and operated in compliance with Title 50, chapter 53, MCA, and ~~ARM Title 37, chapter 111, subchapters 10 and 11 [RULE I through RULE CLXVIII]~~.

(2) and (3) remain the same.

(4) Copies of ~~ARM Title 37, chapter 111, subchapters 10 and 11 [RULE I through RULE CLXVIII]~~ may be obtained from the Department of Public Health and Human Services, Food and Consumer Safety Section, P.O. Box 202951, Helena, MT 59620-2951.

AUTH: 50-51-103, 50-51-108, MCA

IMP: 50-51-103, MCA

37.111.504 PRECONSTRUCTION REVIEW (1) Before commencement of construction of a new youth camp or of an addition to or alteration of an existing youth camp, plans for its construction must be submitted to the department for review to determine if the standards in this subchapter are met; such plans must include whichever of the following are applicable:

(a) Scaled plan of the camp, including location of boundary lines, all buildings, sewage systems, water supplies, natural and manmade hazards, any swimming facilities, pools, spas, or other water features, all toilet facilities, streams, lakes, and any other physical feature pertinent to this subchapter;

(b) through (f) remain the same.

(g) Specifications for a swimming or spa facility pool, spa, or other water feature to serve the youth camp unless that facility has been previously approved by the department;

(h) through (4) remain the same.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.523 SWIMMING AND BATHING AREAS POOLS, SPAS, AND OTHER WATER FEATURES (1) The construction and operation of any swimming pool, spa, or other ~~swimming area~~ 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 ~~Title 37, chapter 110, subchapters 10 (swimming areas) or 11 (swimming pools and spas)~~ of the Administrative Rules of Montana [RULE I through RULE CLXVIII].

(2) The department hereby adopts and incorporates by reference the rules in ~~ARM Title 37, chapter 110, subchapters 10 and 11, [RULE I through RULE CLXVIII]~~ which establish construction, equipment, and operation standards for swimming areas and swimming pools and spas, respectively. Copies of ~~Title 37, chapter 110, subchapters 10 or 11 [RULE I through RULE CLXVIII]~~ may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

5. The department proposes to repeal the following rules:

37.111.1001 DEFINITIONS, is found at page 37-27991 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-102, 50-53-103, MCA

37.111.1002 PRECONSTRUCTION REVIEW, is found at page 37-27991 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-103, MCA

37.111.1003 PRELIMINARY INSPECTION, is found at page 37-27991 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-103, MCA

37.111.1010 WATER SUPPLY, is found at page 37-27997 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-103, MCA

37.111.1011 GARBAGE: STORAGE AND DISPOSAL, is found at page 37-27997 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-103, MCA

37.111.1012 TOILET FACILITIES, is found at page 37-27997 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-103, MCA

37.111.1013 BATHHOUSE, is found at page 37-27998 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-103, MCA

37.111.1021 SAFETY REQUIREMENTS, is found at page 37-28807 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-103, 50-53-107, MCA

37.111.1022 DIVING BOARD AND AREA, is found at page 37-28008 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-103, 50-53-107, MCA

37.111.1023 OPERATING REQUIREMENTS, is found at page 37-28009 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-103, MCA

37.111.1024 INSPECTIONS, is found at page 28009 of the Administrative Rules of Montana.

AUTH: 50-53-103, 50-53-218, MCA
IMP: 50-53-103, 50-53-209, 50-53-218, MCA

37.111.1025 MINIMUM PERFORMANCE REQUIREMENTS FOR LOCAL REGULATORY AUTHORITIES, is found at page 37-28010 of the Administrative Rules of Montana.

AUTH: 50-53-103, 50-53-218, MCA
IMP: 50-53-103, 50-53-218, MCA

37.111.1101 PURPOSE: APPLICABILITY, is found at page 37-28031 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-106, 50-53-107, 50-53-108, MCA

37.111.1102 DEFINITIONS, is found at page 37-28031 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-106, 50-53-107, 50-53-115, MCA

37.111.1105 REVIEW OF PLANS, is found at page 37-28035 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1112 WATER SUPPLY, is found at page 37-28045 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-106, 50-53-107, MCA

37.111.1113 SEWAGE, is found at page 37-28045 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-106, 50-53-107, MCA

37.111.1114 CONSTRUCTION AND DESIGN, is found at page 37-28046 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-103, 50-53-107, MCA

37.111.1115 AREA REQUIREMENTS, DECK AREA, HANDHOLDS, is found at page 37-28050 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1130 OVERFLOW GUTTERS, is found at page 37-28081 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1131 SKIMMERS, is found at page 37-28082 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1132 STEPS, LADDERS AND HANDRAILS, is found at page 37-28083 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1133 HOSE CONNECTIONS, is found at page 37-28084 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1138 RECIRCULATION SYSTEM, is found at page 37-28091 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1139 DISINFECTANT AND CHEMICAL FEEDERS, is found at page 37-28093 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1140 FILTRATION EQUIPMENT, is found at page 37-28094 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1141 CROSS-CONNECTIONS, is found at page 37-28095 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1142 PIPING SYSTEM, is found at page 37-28096 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1143 EQUIPMENT ROOM, is found at page 37-28096 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1147 WATER TESTING AND TESTING EQUIPMENT, is found at page 37-28101 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, 50-53-115, MCA

37.111.1148 VENTILATION AND LIGHTING, is found at page 37-28101 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1149 DRESSING ROOMS, TOILETS AND SHOWER AREAS, is found at page 37-28102 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1150 WASTE DISPOSAL, is found at page 37-28103 of the

Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1151 BACTERIOLOGICAL AND CHEMICAL QUALITY, is found at page 37-28104 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1152 OPERATION, CLEANING AND MAINTENANCE, is found at page 37-28115 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-106, 50-53-107, MCA

37.111.1153 SAFETY, is found at page 37-28116 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, 50-53-115, MCA

37.111.1154 EQUIPMENT AND PERSONNEL, is found at page 37-28117 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1155 DISEASE CONTROL, is found at page 37-28119 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1156 HOT SPRINGS POOLS AND FLOW-THROUGH HOT SPRINGS POOLS, is found at page 37-28119 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, 50-53-115, MCA

37.111.1158 WADING POOLS, is found at page 37-28125 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1159 INSPECTIONS, is found at page 37-28126 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-103, 50-53-106, MCA

37.111.1160 MISCELLANEOUS, is found at page 37-28126 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA
IMP: 50-53-107, MCA

37.111.1161 MINIMUM PERFORMANCE REQUIREMENTS FOR LOCAL HEALTH AUTHORITIES, is found at page 37-28127 of the Administrative Rules of Montana.

AUTH: 50-53-103, 50-53-218, MCA
IMP: 50-53-103, 50-53-218, MCA

6. The department is repealing its existing swimming pool rules because they are outdated and no longer reflect industry standards. Most of the existing rules were adopted in 1985. In the nearly twenty-five years since they went into effect, the industry has begun to develop numerous new water features at water parks and in individual swimming pools available for public use, including such features as water slides, lazy rivers, and wave pools. Additionally, new designs, construction materials, disinfectants, circulation systems and the like have been developed.

New subchapters 1 through 22 are provided to update to current industry standards and to address new features to ensure that public health and safety concerns are addressed in the design, construction, and operation of swimming pools, spas, and other water features.

The department is also repealing old rules which addressed swimming areas in natural bodies of water. Under the old rules, the term "public bathing place" was interpreted broadly enough to encompass natural bodies of water. However, under Montana's Constitution and recreational use statutes, all navigable waters of the state, including streams, rivers, ponds, and lakes, belong to the public and are available for access to the high water mark by any member of the public. The Legislature has enacted recreational use statutes to encourage access and use of Montana's natural resources, including its waters. Where that is the case, it is not possible as a practical matter to regulate owners of adjacent property who allow swimming in an area off their property since they do not own it and they cannot exercise absolute control over the property. The Legislature has expressly addressed such recreational use in such statutes as 23-2-302, MCA and 70-16-302, MCA. Given the inability of any adjacent landowner to control the conditions of any swimming area in a natural body of water and given the Legislature's actions in

defining the circumstances under which a landowner has immunity from liability for injuries resulting from recreational use of property, as well as the circumstances under which liability may be imposed, the department will no longer attempt to regulate such use of natural recreational waters.

NEW SUBCHAPTER 1: PURPOSE, APPLICABILITY, AND DEFINITIONS

RULE I PURPOSE AND APPLICABILITY

New Rule I defines which categories of pools are covered by these rules and sets out the intent of the rules to ensure that pools are operated safely and with sanitary conditions. The rule is needed to explain the scope of the rules.

RULE II REQUIRED UPGRADING TO EXISTING FACILITIES AND OPERATIONS

New Rule II explains: (1) which portions of the new rules allow existing pools, spas, and other water features and their related facilities to continue operation without upgrading existing facilities; (2) which provisions in the new rules will require an upgrade to an existing pool, spa, or other water feature or related facilities and the dates by which those changes must be made; and (3) that all licensed pools, spas, or other water features will need to meet the operating requirements of the rules, with the exception that currently licensed operations will have until January 1, 2011, for its operator(s) to meet certification requirements set in new RULE CXLVI.

This rule is needed to place currently licensed operators of pools, spas, and other water features on notice of what upgrades must be undertaken and when they need to be completed and to place them on notice of the need to continue compliance with the requirements set out in new RULE CXLIX in order to maintain their "grandfather status" with regard to other upgrades in design and construction standards set out in the new rules. The changes that are required to existing licensed pools, spas, and other water features and their related facilities are needed to protect public health and safety. They include: (1) a phase out of any pools with a slope that exceeds 1:3 in a deep end or diving well; (2) the need to comply with barrier requirements to prevent unauthorized persons from accessing the pool; (3) existing permanent structure drain and fill wading pools will not be licensed after December 31, 2009, unless the pool is modified to provide a circulatory system for ongoing distribution of disinfectant; (4) diving boards may not be used in existing facilities after the effective date of new subchapters 1 through 22 unless they meet the requirements of ANSI I 1991 (RULES LIII through LVII); (5) indoor pools, spas, or other water features that currently use isocyanurates or cyanuric acid as a disinfectant must convert to another disinfectant system no later than one year after the effective date of the rules, since the use of a cyanuric acid disinfectant system can present a safety threat in an indoor setting if inadvertently misused; and (6) existing pools and spas must comply with the provisions of the federal Virginia Graeme Baker Pool and Spa Safety Act by taking steps to prevent entrapment in a pool or spa drain.

Steep drop-offs provide a drowning hazard. This rule should affect only a handful of pools currently licensed in the state. Pools designed or constructed since the late 1970s do not have drop-offs that exceed a slope of 1:3. The specific requirements pertaining to pool slope, are found in new RULE XXVIII. The rule is needed to eliminate a drowning hazard.

New Rule II puts operators of pools, spas, and other water features on notice that they will need to comply with barrier or fencing requirements by January 1, 2010, unless otherwise specified. The rule is needed to prevent unauthorized access to the pool, spa, or other water feature to prevent drownings. The rule will primarily affect a number of facilities that operate pools, spas, or other water features that were not contemplated at the time the existing rules were adopted in 1985, so the existing rules did not encompass them. This rule addresses bed and breakfast homes, tourist homes, and other such facilities. Many of those operators already provide some sort of fence or other barrier to prevent unauthorized access to the pool, spa, or other water feature. The rule will affect only those that do not currently have barriers in place. Specific barrier requirements are contained in new Subchapter 6.

The old rules did not limit the use of drain and fill wading pools. Drain and fill wading pools have been identified both as water hazards and as potential sources of fecal contamination, leading to transmission of enteric pathogens such as *Cryptosporidium* and *Escherichia coli* (*E. coli*). Several other disease-causing agents, including *Giardia* and *Shigella* are efficiently transmitted in wading pools. All of these agents can cause severe illness in children. Drain and fill wading pools do not have a circulation and water treatment system in place to prevent transmission of these pathogens. Because of the health hazard presented with drain and fill wading pools, they will not be licensed after December 31, 2010. Substantive requirements pertaining to wading pools are set out in proposed new Rule LXIV. There are currently only a handful of fill and drain wading pools licensed in the State of Montana that will be affected by these rule changes. Those pools will no longer be licensed after December 31, 2009, unless modified to provide a circulation and sanitation system. The rule is intended to prevent the spread of enteric pathogens that can cause severe illness outbreaks.

New Rule II provides that no existing operator of a pool, spa, or other water feature may allow a diving board to be used in any existing pool until the pool and diving board meets currently recognized safety standards. The rule is intended to prevent diving accidents. This rule will have minimal impact on pool operators since most Montana pool operators have already either taken diving boards out of use or have installed the diving boards they are currently using since 1991 in compliance with the manufacturer's recommendations.

The rule requires the phase out of cyanuric acid based disinfectants for indoor pools. Cyanuric acid can create a safety hazard if accidentally mishandled or inadvertently misused. The cyanide gas created is a much more serious hazard in an indoor setting. The rule allows existing facilities a year to switch to a less hazardous

method of disinfecting an indoor pool, spa, or other water feature.

Finally, new Rule II provides currently licensed facilities until January 1, 2011, to have on-site operators who meet the qualifications set in new RULE LXXIX. This will allow them time to send their operators to training courses to become certified pool operators.

Any fiscal impacts of this proposed rule will be addressed in the context of the specific substantive rules below which address pool slopes, wading pools, and barrier requirements.

RULE III - DEFINITIONS

This new rule provides definitions commonly used within the industry. The current rule also has a definition section. The definitions have expanded from 21 definitions to 171 definitions to reflect the changes in the industry, including the many new types and concepts of pools and water features that were not contemplated or known when the existing rules were adopted in 1985. The current definition rule is inadequate to address issues in the industry.

This rule will not have any direct monetary impact on licensed pools, spas, or other water features.

NEW SUBCHAPTER 2: ENGINEERING STANDARDS

RULE IV – ADOPTION OF ANSI/NSPI STANDARDS

New Rule IV incorporates by reference current national standards pertaining to design, construction, and operation of pools, spas, and other water features. The listed standards will apply throughout the rules unless a different standard is specifically set out in a particular rule. This is a new rule with no comparable rule in the current pool rules. The ANSI/NSPI standards are incorporated by reference in order to avoid repetitive and very lengthy rules and to allow ready updating of the applicable standards as industry standards change. This also allows pool designers, contractors, and operators to rely upon the available and prevailing industry standards. The cost of this rule cannot be determined. Adoption of the current ANSI standards will affect all parties involved in design and construction of new pools, spas, or other water features or involved in any remodeling or renovation of existing pools, spas, or other water features.

NEW SUBCHAPTER 3: POOL CLOSURES AND OTHER CORRECTIVE ACTION FOR SAFETY VIOLATIONS

RULE V – CRITICAL HEALTH AND SAFETY VIOLATIONS THAT REQUIRE IMMEDIATE CLOSURE

This new rule requires that when the specific health and safety violations listed in the

rule are violated, the operator must immediately close the pool, spa, or other water feature until the safety violation has been resolved and must then prepare and maintain a report documenting the safety violation. The identified health and safety violations are considered critical health or safety issues and include poor clarity, no filtration, no sanitizer, loose, broken or cracked main drain and suction covers, fecal accidents, poor lighting, or an inadequate number of lifeguards in circumstances where lifeguards are required.

This is a new rule with no comparable existing rule. The rule is necessary to clearly define under what conditions that an operator is required to immediately close a pool, spa, or other water feature due to an imminent public health or safety issue. The current rules require clarification to identify to operators the situations in which such action must be taken. The rule will affect all licensed pool operators, but will have a fiscal impact on only those who must close a pool, spa, or other water feature to address a critical health or safety issue. The fiscal impact will depend upon the cause of the health or safety issue and the measures the operator must take to resolve the problem.

RULE VI – HEALTH AND SAFETY VIOLATIONS THAT MAY REQUIRE IMMEDIATE POOL CLOSURE

This new rule identifies conditions that affect health or safety and which are sufficiently serious in combination that the department may require immediate closure of the pool, spa, or other water feature until the health or safety issue is resolved. The conditions identified in the rule include instances in which pH is high at the same time that required levels of disinfectant are low, instances in which the alkalinity of the water falls outside the recommended ranges, where no person with CPR certification is present in the facility as required in the law, or where safety equipment is not available as required by rule.

This is a new rule with no comparable existing current rule. The changes are necessary to ensure that the public is not put at risk due to violations of health or safety standards and so that operators are aware of the specific violations which may result in an immediate closure of the pool, spa, or other water feature by the department. The rule will affect all licensed pool operators, but will have a fiscal impact on only the operator whose pool, spa, or other water feature is closed until a health or safety violation is resolved. The costs will depend upon the nature and cause of the specific violation and the measures the operator must take to resolve the health or safety issue.

RULE VII – REQUIRED INSTALLATION OF ULTRAVIOLET DISINFECTANT SYSTEM

This rule provides that the department may require a facility to install an ultraviolet light system as a secondary disinfection system to address a disease outbreak that has not been brought under control by other corrective action undertaken by the licensee. This is a new rule with no comparable existing rule. As certain emerging

pathogens become more prevalent, a secondary system of disinfection may become necessary to control the outbreaks in a community. This rule will affect only the operators whose facilities have actually been the site of a disease outbreak that the operator has not been able to bring under control through a corrective action plan and to operators of new splash deck parks, which may pose a higher risk of disease outbreaks from pathogens.

The cost of an ultraviolet disinfectant system is several thousand dollars to up to \$30,000 for a major water park with numerous attractions. The rule will affect only licensees who have had a disease outbreak that has not been brought under control using other remedial methods. The alternative would be to require that the facility close.

NEW SUBCHAPTER 4: PLAN REVIEW

RULES VIII - XXII - PLAN REVIEWS

New Rules VIII through XXIX set out the general requirements that pool designers, contractors, and owners must meet for the department to review plans for new or renovated pools, spas, and water features in a timely manner to approve the construction and for the department to review the construction at various stages to ensure that the approved plans are complied with. The rules identify where plan review documents can be obtained, provide timeline of when plans should be submitted before construction begins and what information and documentation must be submitted for the review. The rules also set out the qualifications required for persons preparing plans for review, identify what the department's scope of review for the plans will be and provide that the department may contract with an outside engineer for review of technically complex calculations that may be beyond the scope of expertise of department personnel. The rules also set fees for review of plans by the department, including passing on any costs charged by an outside engineer for an engineering review.

New subchapters 1 through 22 will have some monetary impact that is different from the current rules, because the department is setting fees to review the plans. However, the department already requires plan review and larger facility plans are already designed by engineers or architects. With the exception of the plan review fees, no additional costs should be incurred.

New Rule XIV is a table that summarizes Rules XV, XVI, XVII and XX. It sets out base fees for review, depending upon the type of pool and its size. It also includes fees that may be charged if an application is complete and the department needs to repeatedly request additional information that should have been provided with the initial application; fees for interim reviews during construction of large or complex projects; fees for engineering reviews the department may need to contract for; and fees for additional inspections that may be needed to determine if previously identified deficiencies in complying with the plan have been corrected.

The rules on review fees are new with no comparable rule in the existing pool rules. The Legislature passed HB 148 in the 2007 session, and it was signed by the Governor. HB 148 raised the fees on pool licenses and allowed for plan review fees to be adopted by the department, and this rule is in response to that legislation.

The department has developed a set of plan review fees based on costs to the department, along with anticipated engineering fees for plan review. Small single pool plan reviews would cost about \$175, a medium size pool would be \$385, and a large pool would be about \$625. A larger complex with multiple pools would have a plan review fee for each pool, so the total fee could be over \$1,000.

The department currently averages about 25 plan reviews a year. Usually about two of those are large complexes. The typical plan submittal is a motel with a small pool and spa, with an average plan review fee of about \$450. The average large complex such as the current Helena pool remodel and new water slides features may have a department review fee of about \$1,000. In addition to that, outside engineering review fees on that pool complex may be about \$2,000. These kinds of pools typically have design engineering and architectural fees well over \$100,000, with total project costs of \$5-10 million. Based on the above fees, the department expects to generate about \$15,000 to \$18,000 a year in fees.

There are currently about six companies in Montana that design and build pools, and therefore routinely submit plans and specifications for new pool projects. In addition, there is a small number of engineering firms (estimated to be about five) that deal with swimming pool design in Montana, and some firms are hired from out-of-state from time to time to design projects. Most of the reviews involve pools for new motels, with one or two municipal projects per year.

Other alternatives considered were a flat rate fee and fee structures from other states. The flat rate fee was not considered practical because of the complexity of design of different kinds of pools, and some designs are much larger than others. The department feels that the fees should be based on the complexity of the design and the size of the pool. The fees proposed are the department's best estimate of cost involved with the plan review for each type of pool.

New Rule XVI will also allow the department to contract with outside civil engineering firms to do that portion of plan review that is beyond the expertise of the staff of the department. This has to do with complex pipe velocity calculations and other safety items critical to proper plan review. This was deemed important since the department does not have an engineer on staff. This is a new rule with no comparable existing rule. The changes are necessary so that the department can conduct a thorough review of certain technical aspects of a review. In complex cases this will help the department determine compliance with the federal Pool & Spa Safety Act of 2007. To accomplish the detailed review necessary the department would have to hire an engineer, but the work load would not be sufficient to justify a full time employee, so in the interests of the department mission, it was decided to outsource certain technical aspects of plan review. The costs associated

with this rule may range from several hundred dollars to several thousand dollars. This would only apply to new permits and construction, so the number of persons affected is impossible to determine.

New Rule XVII explains when review fees must be paid and sets out the amounts. Rule XVIII sets the amount of time a license applicant has to initiate construction once plans are approved and provides for submission of a request for an extension of that time.

The current pool rules do not have any kind of timeline for how long the approval is valid, nor any extensions, or a timeline for when construction must be completed. This rule was added because the department has experienced a number of projects where review is initiated, only to have the project put on hold, then resubmitted some time much later, requiring another review.

As an alternative to this rule, the department considered continuing with existing rules which do not clearly define what is required after plan review is approved. However, that creates a number of issues that then need to be addressed, especially when safety standards change. The costs of this requirement is difficult to estimate, but should be negligible. Most projects are built as soon as approval is granted.

New Rule XIX requires periodic inspections during construction, interim inspections when necessary, and a final pre-opening inspection. It also requires that any deficiencies be corrected before the pool is licensed for operation.

This is a new rule, so there are no comparable rules in the existing pool rules.

The department feels that this rule is necessary to clarify the construction phase of projects once they have been approved. It also stipulates that the pool may not open until any deficiencies have been corrected. It is difficult to correct such items once the pool has opened.

Based on 25 projects constructed per year, pre-opening inspection fees are expected to generate about \$7,500 per year. Larger, more complex pools requiring interim inspections should occur in a few instances each year, and would generate about \$1,000 per year.

NEW RULE XX – CERTIFICATION AND DEVIATIONS FROM APPROVED PLAN

This rule requires that a project be built according to the plans as approved unless the department has approved a modification in writing. The rule reflects the reality of construction projects, which often require changes to plans at some phase of the project. It also provides that the contractor must certify that the project was built according to plans or which identifies and documents any changes made and still imposes the requirements that any changes still must meet all requirements of the rules.

This is a new rule, so there are no comparable rules in the existing pool rules. This rule is proposed so that the department is assured that the project is built according to the plans submitted and approved or that any changes still meet all requirements. This provides a means to ensure that substandard components or design changes are not used. It also reflects the reality of the practice in the construction trade is a common practice to require "as-built" in other types of building code. The costs of this rule are difficult to estimate, but should be small.

New Rule XXI requires that contractors and subcontractors supply construction plans and operating instructions for the installed equipment to the owner or operator of the facility, and provide whatever training is called for by the equipment suppliers. This is a new rule, so there are no comparable rules in the existing pool rules. The department feels that this rule was necessary so that pool licensees or operators are supplied with the proper information to operate their facility correctly. This has not always been the case in the past. Other alternatives were not considered because of past problems the department has experienced in the field. The costs of this requirement should be minimal.

Finally, Rule XXII, UNAPPROVED CONSTRUCTION OR INSTALLATION, states that any construction that takes place without plan review or approval violates new subchapters 1 through 22. It also states that any construction that takes place before plan review is approved must cease, that a pool, spa, or other water feature must not operate until plan review is approved, and that if any components do not meet the pool rules that the facility must not operate until those components do meet the rules. This rule states that no member of the public may use such a facility until it is approved and licensed.

This is a new rule, so there are no comparable rules in the existing pool rules. This rule is necessary to encourage substantial compliance with plan review provisions in the pool rules, both existing and proposed. Proper, timely, and comprehensive plan review is important to such federal laws as the Virginia Graeme Baker Pool and Spa Safety Act of 2007. This rule was considered necessary to clarify to license applicants the consequences of proceeding without complying with plan review requirements set out in statute and new subchapters 1 through 22. No other course actions were contemplated as being practical.

NEW SUBCHAPTER 5: DESIGN AND CONSTRUCTION

RULE XXIII – POOL CLASSIFICATION

New Rule XXIII describes the different classifications of pools contained in the national ANSI standards the department is adopting. The classifications include categories pertaining to size, purpose of the pool, and the type of features the pool has. Pools may fall into more than one category if, for example, a pool of a certain size also has a diving board or a water slide with a catch pool or has a sand bottom or interactive play attractions. This is a new rule with no comparable existing rule.

The changes are necessary for proper classification purpose so that the department can equitably determine the proper license fee for each kind of pool and what rules apply to it for construction and design standards. There are no costs associated with this rule.

NEW RULE XXIV – LOCATION OF SWIMMING POOL, SPA, AND OTHER WATER FEATURES

New Rule XXIV requires that outdoor pools, spas, and other water features should be located where they are not subject to dust or other materials which might be hazardous to human health.

This rule is substantially the same as an existing pool rule. No changes were made except that the department has replaced the term "pool" with "pool, spa, and other water feature" throughout the new rules to include all sorts of water features that are being licensed and that term is used here to conform to the rest of the new rules. No costs are associated with this rule.

NEW RULE XXV – MATERIALS

This new rule provides that pools, spas, and other water features should be constructed from materials which are inert, stable, nontoxic, watertight, and enduring, and it specifies that wooden spas are not allowed.

This rule is substantially the same as an existing pool rule. No changes were made except that the department has replaced the term "pool" with "pool, spa, and other water feature" throughout the new rules to include all sorts of water features that are being licensed and that term is used here to conform to the rest of the new rules. No costs are associated with this rule.

NEW RULE XXVI – SURFACES

This new rule specifies requirements for the inside surfaces of a pool, spa, or other water feature, including the nature of the surfaces, that they be readily cleanable and slip-resistant and that colors, patterns, or finishes not obscure objects or surfaces in the pool. The rule also prohibits use of earthen floors and allows sand floors only where they are installed over impervious surfaces.

This rule is substantially the same as an existing pool rule. No changes were made except that the department has replaced the term "pool" with "pool, spa, and other water feature" throughout the new rules to include all sorts of water features that are being licensed and that term is used here to conform to the rest of the new rules. No costs are associated with this rule.

NEW RULE XXVII – SHAPE

This new rule indicates a pool must be designed and constructed so that the shape of the pool does not impair adequate circulation of the water to meet proper sanitation requirements and so that it does not impair the ability of a lifeguard to adequately supervise swimmers. This rule is substantially the same as an existing pool rule. No changes were made except to define why a good shape is necessary to the design of the pool, spa, or other water feature. No costs are associated with this rule.

NEW RULE XXVIII – SLOPE

This new rule limits the steepness of the slope in various portions of a pool and requires that pool walls be vertical to at least a depth of two feet, nine inches from the surface. This rule is substantially the same as an existing pool rule, except that it defines vertical as being less than 11°, rather than 45°. No costs are associated with this rule since it will apply only to new construction or substantial modifications of existing pools.

NEW RULE XXIX – LEDGES AND BENCHES

This rule defines how underwater rest ledges and seating benches shall be constructed. It is substantially the same as part of an existing rule. This rule is more narrowly defined in a separate rule so that it is easier for designers and operators to locate it. No costs are associated with this rule.

NEW RULE XXX – DRAINS AND SUCTION OUTLETS

This rule defines the placement and number of main drains, that the drain covers must meet national safety standards, and that the drains, covers, fittings, and hardware must be designed to prevent entrapment hazards. This rule better defines what is already a common industry design. It also requires dual main drains on all new construction after the effective date of the rule.

The rule is necessary to better define what is necessary to prevent accidents from entrapment hazards. The "Virginia Graeme Baker Pool and Spa Safety Act", a federal law that went into effect on December 31, 2007, has already required dual main drains on all pools after December 31, 2008. This rule incorporates that requirement.

No other alternatives were considered practical as this rule defines the minimum to prevent entrapment hazards.

This rule will have minimal cost impact in new construction. While there may be a cost impact to existing pools and spas to meet the requirements of the Virginia Graeme Baker Pool and Spa Safety Act, those costs will be incurred under the federal requirement. This rule does not set any requirements that are in addition to the federal requirements and will result in no additional costs. At this time, most pool and spa owners have already begun to make the needed modifications in order to

comply with the federal legislation and in order to reduce potential liability for an injury that could result in multimillion dollar damages.

NEW RULE XXXI – DEPTH MARKERS

This rule is similar to the existing rule, but better explains exactly where the markers must be placed in order to eliminate ambiguity. This rule also better defines what can be used for marking when newer pool wall designs preclude standard 4-inch lettering.

Minimal costs are associated with this rule as markers are sometimes plastic stick-on numbers or painted numbers.

NEW RULE XXXII – WATER DEPTHS IN SHALLOW END OF POOL

This rule defines the minimum water depths allowable for various types of pools. No changes were made in this rule from the existing rule. This rule is necessary to protect the public health and safety. There are no anticipated cost impacts that will result from this rule.

NEW RULE XXXIII - VENTILATION

This rule includes the existing requirement that adequate ventilation be provided to prevent the buildup of odors, excessive condensation, and chloramines. It provides specific measures of temperature, relative humidity, and frequency of air turnover to assist licensees in ensuring that the ventilation will do that. It also requires that ventilation systems installed in pools built after the effective date of new subchapters 1 through 22 meet the applicable code, which will also assist in ensuring adequate ventilation. There are no anticipated cost impacts that will result from this rule, since the license applicant for a new pool will need to comply with the building code in the jurisdiction or would install a ventilation system that meets industry standards.

NEW RULE XXXIV - LIGHTING

This new rule is needed to prevent drownings. If a pool, spa, or other water feature is insufficiently lighted, it is possible for someone to drown in a shadowy area without being seen and rescued right away. There may be some costs to some facilities to add additional lights in order to remain open when the light is too low to adequately see the bottom of the pool, but the pool will then be able to remain open later.

NEW RULE XXXV – MAXIMUM FACILITY OCCUPANCY LIMIT

This rule provides a table that identifies the minimum square footage of surface area per user required for each kind of pool. The existing rule defined these requirements in text form. This rule is in a format that is easier to use which will make it easier to refer to the appropriate square footage when designing a pool or during an inspection. It also makes it easier for operators to calculate the capacity of their

pools. National standard footage requirements were added for wading pools and diving areas.

No additional costs are associated with this rule.

NEW RULES XXXVI through XXXIX - DECK AREAS, SURFACES, DRAINS, AND HOSE CONNECTIONS

These four rules: (1) describe the minimum requirements for deck areas around pools, spas, and other water features; (2) define the characteristics of materials that are required or permitted in decks; (3) define how the deck must drain; and (4) specify that properly protected hose connections must be installed around the deck areas to provide sufficient volume and water pressure to properly clean the deck. The rules are similar to existing requirements for decks, but have been framed as separate rules for ease of locating pertinent information. No additional costs are anticipated with this rule.

NEW RULES XL and XLI – WATER SUPPLY AND SEWAGE SYSTEM AND SOLID WASTE

These new rules require that enough potable water for the needs of the facility must be provided from an approved water source and that waste water be disposed of in accordance with Montana law. The rules update references to the current Montana statutes and administrative rules pertaining to water supplies. There are no financial impacts resulting from these rule updates since the facilities are already required to meet these requirements.

NEW SUBCHAPTER 6: BARRIERS

NEW RULES XLII through XLVI - BARRIERS

These new rules require barriers around outdoor pools, spas, and other water features, specify certain dimensions for the barriers depending upon the particular water features involved and provide a grace period to March 1, 2010, for existing facilities to retrofit the facility to meet the barrier requirements. The rules on barriers are needed to prevent accidental drownings that can occur when unauthorized persons gain access to a pool. They are also needed to prevent animals such as dogs from accessing pools or splash decks and transmitting diseases such as E. coli and Cryptosporidium. These new rules update current rules to include guidelines from the federal Consumer Product Safety Commission on the height of barriers. The language is also broad enough to extend to bed and breakfast operations and tourist homes that have spas, which were not specifically addressed in the existing rules.

The number of operators affected by this rule or the costs cannot be determined at this time. The impacts are expected to be minimal, as most pools, spas, and water features are already protected by barriers. The department is aware that a few

existing motel facilities have unprotected pool areas. An unknown number of facilities may be required to upgrade current barriers or to install barriers where none currently exist in order to meet the requirements of this rule. Costs for new or modified barriers will depend upon the current barriers that exist at the facility and the types of pools, spas, or other water features located there. Because costs must be determined on an individual basis, the department cannot determine an overall cost for upgrades or for installing new barriers.

NEW SUBCHAPTER 7: STEPS, LADDERS, TREADS, HANDHOLDS, AND HANDRAILS

NEW RULES XLVII through LII – STEPS, LADDERS, TREADS, HANDHOLDS, AND HANDRAILS

This set of rules describes the requirements for steps, ladders, treads, handrails, and handholds. Each is addressed in a separate rule for ease in locating the information sought. The rules are based upon existing rule language, but also include language to address newer designs in pools and allowing a sloping or "zero entry" pool, which was permitted under the existing rule language. New Rule XLV also changes the maximum height of steps to 12 inches which more closely aligns with generally accepted industry standards that have been in use for a number of years. New Rule LI, HANDHOLDS, includes a new requirement that the handholds be provided all around the perimeter of the pool and that they be slip-resistant and no more than four inches in thickness.

The rules on handholds and handrails are substantively the same, but have been rewritten to clarify the existing requirements. For example, they clarify that materials used should be corrosion resistant, that the handrails be securely attached and that the handrail should be within 18 inches of the bottom step face, so it can be easily reached. These changes are included to ensure that they are readily cleanable to maintain sanitation and so the handrail is sturdy and can be easily reached, to prevent slips and falls.

There should be only minimal costs, if any, associated with implementation of any of these new rules and, in some instances, such as ladder specifications of 12 inch steps instead of 10 inch steps, there may be lower costs where pre-manufactured pools would be allowed that do not meet current state standards. New handhold requirements should not increase costs in new construction. Existing pools are not required to meet this standard, though many do already.

NEW SUBCHAPTER 8: DIVING BOARDS

NEW RULES LIII through LVII - DIVING BOARDS

These five rules set out the specific requirements for diving board installation, placement, and water depths for the diving envelope. They clarify what length of boards may be used and the heights they can be used above the water. The rules

also require that existing diving boards meet the standards by January 1, 2010, or not be used until they do. The rules also make a change in the diving envelope figure to correct a previous omission and they clarify other dimensions around the diving envelope. Finally, they break the existing rule apart into sections that are separately labeled, so that information can be more readily located.

The changes were necessary to better clarify exactly what is required for diving board installation and use. Detailed requirements are necessary because of the severity of injury that may occur with improper use or placement of boards. There may be some costs associated with this rule since there may be a few diving boards in the state that are currently nonconforming. The aggregate costs are not expected to be excessive, as the number of boards in the state is very low. The number of facilities expected to have to upgrade their diving boards should be fewer than ten.

NEW SUBCHAPTER 9: POOL FACILITIES

NEW RULES LVIII through LXII – POOL FACILITIES

These five rules set out the requirements for the pool facilities. They identify the requirements for dressing rooms, showers, and toilet room areas, provide a table showing the number of fixtures required in a facility in Montana under the International Building Code (IBC), and identify requirements for showers and baby changing tables. New Rule LIX exempts existing pools at hotels or motels from having dressing rooms and bathrooms adjacent to the pool area. Existing rules have been expanded to clarify requirements or to update requirements imposed by other government regulations, such as the International Building Code (IBC) requirements for numbers of fixtures.

The requirement for baby changing tables in pool dressing rooms is new. It addresses a need and will not have significant cost impact since most facilities already provide that amenity as a matter of customer service. The requirement protects public health by providing a location other than poolside for changing a baby's soiled diapers.

These new rules are needed to ensure that there are adequate provisions for dressing areas, toilets and showers, and for baby changing tables to maintain sanitation at the facilities and to prevent disease. The main changes from existing requirements are to increase the numbers of fixtures required to comply with the IBC and to require baby changing tables in dressing rooms. New facilities or substantially modified facilities will be required to meet the IBC codes even if this requirement were not included in these new rules, so there should be no increased costs involved. The cost of installing baby changing tables in each dressing room is minimal and is necessary to prevent transmission of disease.

NEW SUBCHAPTER 10: CIRCULATION SYSTEMS

NEW RULES LXIII through LXXVIII – CIRCULATION SYSTEMS

New Rules LXIII through LXXVIII describe the requirements for pool recirculations systems, including required turnover rates, how the circulation system is to be installed and operated, pump requirements, and inlet and outlet requirements. They also cover overflow gutters, skimmers and vacuum equipment and filtration equipment. Finally, they address disinfectant and chemical feeders that are part of a pool or spa circulation system, requirements pertaining to use of chlorine gas as a disinfectant agent (including safety requirements for storage and the training that staff using the chlorine gas must have) and requirements that prevent unsafe cross-connections between the potable water supply, the chemical feeder or the sewage or waste water system. New Rule LXXIV addresses pipe system requirements, including marking of pipes to designate the various piping systems. New Rule LXXVIII addresses safety requirements for the equipment room.

Most parts of these new rules do not make substantial changes from existing rules but are written in separate rules addressing individual topics to make it easier to locate information. There may be some additional costs in meeting these standards, but the additional costs will only apply to new construction or complete upgrade of a pool or spa circulation system, so only a few pool operators will be affected each year. The changes that were made are:

Rule LXIV, TURNOVER RATES, requires quicker turnover of water through the recirculation systems. This requirement is needed to protect the public from diseases that can be transmitted through the water.

Rule LXV, OPERATION OF CIRCULATION SYSTEM, is more detailed than the existing rules and sets maximum velocity for circulating water. It changes the requirement for 50 percent of the water to be recirculated from skimmers or gutters to 70 percent, thereby reducing the amount that can be recirculated from the main drain, except during nonoperational hours. The changes are necessary to protect the public against unnecessary entrapment hazards, and also to provide better circulation in the water. This change should not increase costs in new construction.

Rule LXVI, PUMPS, is a new rule with no comparable section in the current rules. This rule is needed to define exactly how pumps are sized, how they shall be maintained, and that they must comply with nationally recognized standards for pool equipment. Proper pump size is very important to preventing suction entrapment, as required by the Virginia Graeme Baker Pool and Spa Safety Act of 2007. This should have minimal impact or costs as most pool facilities comply with this provision already.

Rule LXVII, INLETS, changes the existing rule only to require additional inlets based on square footage of the pool. It is needed since pools are now being built with much greater square footage than those constructed at the time the current rules were adopted. This rule should affect few, if any, current licensees since it reflects industry standards that have generally been followed even where they were not specifically required by rule.

Rule LXVIII, OUTLETS, details the maximum size of openings on outlet covers and requires that after the effective date of this rule all pools must be built with multiple outlets that are hydraulically balanced, that outlets meet nationally recognized standards, and that pools, spas, and other water features meet the requirements of the federal Virginia Graeme Baker Pool and Spa Safety Act. The rule is an extensive expansion of the current rule, which indicated only that outlets minimize safety hazards. However, it reflects what has been the industry standard for about 20 years. It therefore should not result in increased costs in construction. This rule is necessary to protect the public health and safety. This rule seeks to eliminate entrapment hazards which are some of the most dangerous and highly publicized problems with pool safety. No specific costs can be estimated for this rule. Existing pools, spas, and other water features will not need to meet this standard unless substantial modifications to the existing circulation system occur. Existing pools, spas, and other water features are already required under the Virginia Graeme Baker Pool and Spa Safety Act to meet the federal standards to prevent entrapment problems. This rule will not impose any costs in excess of what is incurred to meet the federal requirements.

Rule LXIX, OVERFLOW GUTTERS, changes the requirement that gutters be capable of handling 50 percent of the recirculation flow to a requirement that they be capable of handling 100 percent of the flow. Modern pool design criteria dictate a higher capacity of flow in the gutter system. This requirement will apply only to new construction and to a substantial modification of the pool's existing circulation system or to the pool's structure. It is not possible to estimate specific costs of this requirement, but it should not be a significant increase in initial construction costs. Costs to meet this requirement where the existing circulation system is being modified will vary depending upon the existing overflow gutters and the work being done on the existing system.

Rule LXX, SKIMMERS, changes the current rule to require that new skimmers handle 100 percent of the flow, versus 80 percent in the current rule. The change was made to update and modernize the rules to current industry standards. This requirement will apply only to new construction and to a substantial modification of the pool's existing circulation system or to the pool's structure. It is not possible to estimate specific costs of this requirement, but it should not be a significant increase in initial construction costs. Costs to meet this requirement where the existing circulation system is being modified will vary depending upon the existing overflow gutters and the work being done on the existing system.

Rule LXXI, VACUUM EQUIPMENT, is a new rule with no comparable existing rule. The rule is needed to regulate this small but important part of pool operation in order to prevent entrapment hazards. Minimal costs are associated with this rule.

Rule LXXII, FILTRATION EQUIPMENT, updates the current rule by referencing the current standard of the National Sanitation Foundation, which limits the application rate of filters to the nationally accepted commercial rate and which specifies exact

placement of flow meters to get the most accurate reading. The changes are needed to direct the licensee to the applicable standards. Costs for any persons affected by this rule should be minimal.

Rule LXXIII, CROSS CONNECTIONS AND FILL LINES, prohibits direct connections between the water supply of the pool, spa, or other water feature and its chemical feeders and it prohibits any connection that would allow sewage or waste water to connect with the recirculation system or its water source. Some changes to the wording of the existing rule were made to clarify the language of the rule. There should be minimal expense resulting from adoption of this rule, since it simply clarifies the existing rule. Few persons will be affected by this rule.

Rule LXXIV, PIPING SYSTEM, provides a table showing the color code system for piping systems in pool facilities. The rule is the same as the existing rule, except that the acceptable coding colors are laid out in a chart form for clarity. No costs are associated with this rule.

Rules LXXV, DISINFECTANT AND CHEMICAL FEEDERS and LXXVI, HAND DOSING OF DISINFECTANT NOT PERMITTED, requires that chemical feeders and disinfectants be used in compliance with the requirements of various certifying agencies such as the EPA, the National Sanitation Foundation and, where applicable, the Chlorine Institute. The main changes in the first rule are to: (1) add a requirement for automatic controllers for all new pools and spas; (2) to limit use of chlorine salt generators to situations in which there is not extremely heavy use of the pool, spa, or other water feature, since salt generators are not capable of meeting peak chlorine demand; and (3) to specify precisely how much chlorine equivalent must be supplied. The changes involved in this rule are necessary to keep up with new advances in pool chemistry and equipment and to ensure that the water is sufficiently disinfected to prevent transmittal of disease. The second rule requires that disinfectants be introduced into the water using a chemical feeder to ensure that the required doses are thoroughly mixed into the water. The cost of installing a new chemical feeder is several hundred dollars.

RULE LXXVII, SALT GENERATORS, sets out the requirement that where salt generators are used for generating chlorine, they produce adequate chlorine to meet anticipated or actual bather load and if they do not, a backup disinfectant system must be provided. This is a new rule. Use of salt generators is a relatively new method of generating chlorine. Salt generators cannot provide sufficient chlorine for very heavy bather loads. The rule is needed to protect public health and safety.

Rule LXXVIII, EQUIPMENT ROOM, has only a minor change from the existing rule. The new rule adds a requirement for floor drains in the equipment room. The drains are needed to prevent backup of water or chemicals on the floor and to eliminate damp areas or puddles that could result in mildew or mold or could serve as breeding areas for insects. The requirement is to protect public health. Few, if any, existing facilities do not have a drain in the equipment room, so this rule will have little, if any, financial impact on existing operations and should have minimal

additional cost in any new construction.

NEW SUBCHAPTER 11: FACILITY OPERATIONS

NEW RULE LXXIX – OPERATOR QUALIFICATIONS

This rule establishes the new requirement that all facilities operating pools, spas, or other water features have qualified operators who have been certified as a pool operator. It identifies the certification options and sets a deadline of January 1, 2011, for currently licensed pools to comply and requires any facility that will be newly licensed to comply immediately. Operator certifications are generally valid for five years. Certification costs approximately \$300. Each facility would need only one operator since the operator is not required to be present at all times. In some instances one person could be employed as the operator for several facilities.

Currently, more than 20 states and several municipalities now require certified operators, including Wyoming. Inspectional experience has shown that certified operators generally do a much better job of operating their facility, and have a much better understanding of how to properly operate their facility to prevent public health and safety issues from arising.

This rule will affect all licensed facilities in Montana, which is currently about 900 different establishments. The department believes that about 20 percent of currently licensed facilities have operators who are already certified. Cumulative costs, if all other facilities were to start with new operators, would be about \$216,000.

NEW RULE LXXX – RECORD KEEPING

This rule details the records and training materials that must be maintained at the facility and which certifications must be publicly displayed. This rule is substantially expanded from the previous rule. Additional record keeping is required for accidents and for various incidents including lifeguard saves, fecal accidents, and vomit accidents. This rule also requires all reports be kept for three or five years (depending on the type of incident), which is an increase from the current 12 months. That increase is needed so that records remain available in the event a lawsuit is filed over some accident or incident. The forms for documenting the required information will be made available by the department and will allow most documentation for a month to occur on one piece of paper. Accident and incident reports will be generated only after an accident or an incident and may be maintained in a separate file folder.

The changes are necessary to better facilitate the inspection process and also to allow facility operators to better evaluate repeated deviations from required standards and to identify the nature of various accidents and incidents at the facility and possibly reduce or eliminate them. It is also important that operators maintain Material Safety Data Sheets (MSDS) at the facility and that staff that use or apply various chemicals be trained on use and storage of the chemicals. Many of the

sanitizing chemicals used in the pool industry are considered pesticides by the EPA.

This rule is proposed to protect the public health and safety. Minimal costs are expected from this rule.

NEW SUBCHAPTER 12: SAFETY MEASURES FOR CHLORINE GAS AND CARBON DIOXIDE

Rules LXXXI through LXXXIII address use of chlorine gas, and carbon dioxide as disinfectants and they detail the requirements for safe storage and use of the chemicals used with these systems or for other purposes at the facility. The current rules have almost no specific requirements for safe use of chlorine gas and no mention of the use of carbon dioxide or other chemicals. There have been a number of safety violations related to chlorine gas use over the years. The changes are necessary to ensure that operators are aware of the steps that must be taken to ensure that these hazardous chemicals are used in a safe manner to protect the pool operators and staff, patrons, and the community, at large. Improper use or storage could cause serious injury or death. Costs of complying with the new requirements for safe storage of chlorine gas or carbon dioxide could be several hundred dollars for the users of chlorine and carbon dioxide gases, however it should not be an increased cost since compliance is already required by federal law. The department estimates that there are 20 or fewer facilities in Montana that still use chlorine gas as a disinfectant, so the rule will not affect a great number of operators. The requirements for safe storage and use of these chemicals apply to all pools, spas, and other water features, whether the chemicals were used prior to the effective date of these new rules or were put into use after that date.

NEW SUBCHAPTER 13: WATER TESTING

Rules LXXXIV through XCV address water testing requirements for pools, spas, and other water features. They establish the parameters that must be tested to determine water quality, when water testing must occur, when Oxidation Reduction Potential (ORP) readings may be relied upon to establish water quality, what the maximum bacteriological contaminations may be, how disinfectant may be used, the circumstances under which a pool must be closed as a result of water chemistry readings, a means by which an operator may seek department approval of an alternative disinfectant method, a saturation index table that may be used to maintain water balance, and how water clarity may be tested. The new rules also break up requirements in the existing rules into individual specific rules, which allows the reader to more easily locate needed information.

Changes to these new rules were needed as part of the general updating of the pool rules and to more fully explain what is required for good pool maintenance. Costs associated with these rules should be minimal and the rules should affect very few operators since most facilities are already following these practices. However, in some facilities, minimal and poorly conducted tests have become a problem; therefore, the department is clarifying and expanding the current testing

requirements to protect the public health.

The substantive changes addressed in these water quality rules are:

Rule LXXXIV, TEST KITS, requires titration method test kits to test chlorine levels. New titration kits are generally about \$60, but many operations already have and use such kits. This is a more accurate testing method and is needed to ensure water quality that will protect public health and safety.

Rule LXXXIX, WATER CHEMISTRY PARAMETERS, provides the acceptable parameters for water chemistry in a table form and it also regulates use of cyanuric acid by limiting its use to outdoor pools and by lowering the maximum concentration allowed. The rule also limits use of stabilized chlorine disinfectants in indoor pools. New construction or renovated pools or pools replacing a chlorinator may not use isocyanurates or cyanuric acid in indoor pools, spas, or other water features at all. Use of isocyanurates or cyanuric acid in existing indoor facilities will be phased out one year after the effective date of these new rules. The rule is needed to ensure public health due to the safety hazard presented by use of these chemicals in enclosed facilities. The rule may affect 50 to 100 operators. The costs associated with the change will be the cost of changing the chlorinators where the same system cannot be utilized for a different chemical. Although not every system will have to be changed to accommodate the requirements of this rule, some will have to be, at a cost of about \$50-\$100 each.

RULE XCV, WATER CLARITY, This rule now better defines how an operator can determine if the clarity of the water in a pool, spa, or other water feature is sufficient to allow ready observation of any person or object on the bottom in order to prevent pool drownings. This rule now allows the use of any of three methods to assess clarity, rather than one, including the more objective test method of clarity assessment by using NTU testing. No costs are associated with this rule.

NEW SUBCHAPTER 14: SAFETY SIGNS

Rules XCVI through CI identify and clarify the requirements for safety signs at the facility and in the vicinity of pools, spas, and other water features. The rules identify the specific types of signs required for each type of water feature, including the wording that must be included. The rules are needed to address public health and safety issues presented by use of new types of pools such as water slides, spray parks, lazy rivers, and wave pools. The rules are also needed to address emerging concerns arising from the use of a pool or spa by a person who has recently been ill with a disease that can be transmitted by water or which could be contaminated by cryptosporidium or other animal borne diseases. The rules include, for example, a requirement to notify users that water in spray parks (some of which recirculate water without sanitizing it) to not ingest the water.

The changes are necessary to have signage requirements in place for new types of pools being constructed and regulated and to meet the public health concerns

regarding emerging pathogens such as E. coli, cryptosporidium and giardia.

Current signage requirements are vague or nonexistent, which makes it difficult for operators of facilities to know what signs should be in place. These sign requirements will affect most all of the licensed pool facilities in some respect, some more than others. Costs of complying are unknown, but the department is aware of at least one national pool sign company that makes signs specific to each state's requirements, so once these rules are in place they will be readily commercially available. In many instances, a larger facility will need to add several signs and perhaps modify an existing sign or two.

NEW SUBCHAPTER 15: POOL SAFETY REQUIREMENTS

Rules CII through CV identify the safety items that must be available in close proximity to a pool, spa, or other water feature. These new rules should assist facility operators in making sure that safety measures are in place to both prevent accidental drownings and to allow rescuers to be readily identifiable and to react quickly in the case of an accident or near drowning.

Costs should be minimal for implementation of these new rules since most facilities already have this equipment. The rules will serve as a checklist for operators to ensure that all needed safety items are in place. The number of people affected is unknown.

NEW SUBCHAPTER 16: LIFEGUARDS

Rules CVI through CIX identify the situations in which certified lifeguards are required, the situations in which lifeguards are not required, how a lifeguard can obtain certification, and the number and placement of lifeguards at a facility when they are required or provided. Rule CVI establishes a new requirement that a pool with a water slide and that wave pools and vortex pools have a lifeguard on duty. These types of water features are not addressed under current rule. The change is needed to prevent accidents and accidental drownings by having sufficient supervision at water features that provide greater risk to the users because of the nature of the feature. Rule CIX allows fewer lifeguards at a pool facility where lifeguards are required in situations where a portion of the pool is closed off and during organized swim lessons with certified lifeguards as instructors with no more than ten swimmers each.

Most facilities with water slides already provide lifeguards. A few facilities around the state with water slides 11 feet or higher will need to begin providing lifeguards. There is only one wave pool in Montana and it already provides lifeguards. The cost of implementing these new rules should be a substantial additional cost above current requirements.

NEW SUBCHAPTER 17: CLEANING

Rules CX through CXIII set out the requirements for maintaining the cleanliness of the pool, spa, or other water feature and the deck area surrounding it. To assist in maintaining cleanliness, the rules limit food and drink to areas adjacent to a pool or spa that have been designed for consumption of food and drink, prohibit smoking in indoor pool facilities and limit use of tobacco to designated areas specifically designed and authorized by the facility management. Animals are not allowed in the vicinity of any pool, spa, or other water feature with the exception of service animals, which may not be allowed closer than five feet to the water and which are not allowed on spray pads.

These new rules are clarifications of existing rules and are needed to ensure that facilities maintain sufficient cleanliness of the facilities to prevent transmission of disease. The rules will affect all licensed facilities. There are no specific costs associated with implementation of these new rules.

NEW SUBCHAPTER 18: SPECIFIC REQUIREMENTS FOR SPECIAL PURPOSE POOLS AND OTHER WATER FEATURES

NEW RULE CXIV – REVIEW OF NONCONFORMING SPECIALTY POOLS AND WATER FEATURES

This short rule allows the department to require additional review of certain special purpose pools to address potential health and safety issues.

The changes are necessary to allow the department to consider additional safety considerations in design and construction of special pools. Such safety considerations may not always be apparent as technology in the industry is changing so rapidly. This rule will allow the department to conduct a more thorough review of water features and special feature pools to determine if the design must be changed to address public health or safety concerns.

This will affect only new construction involving water slides and specialized pool designs. It is not known what costs will be involved, but generally review costs are a very small percentage of total design and construction costs.

NEW RULES CXV through CXX - WATER SLIDES

Rules CXV through CXX set out the specific requirements for each type of water slide or specialized pool. These new rules are needed to protect public health and safety. Currently, the existing rules do not define or address these types of features since the features were not designs in use at the time the existing rules were adopted in 1985. Each type of slide or specialized water feature is addressed in a separate rule for ease of operators in knowing specifically what is required. These rules will be helpful to operators by identifying the existing codes (both state and federal) that the operator must comply with in installing and operating the slide or specialized pool so that it does not pose a safety hazard to users or to others in the pool.

This group of six rules addresses various construction and design issues involved with water slides of various types, and safety issues related to them. These new rules define each type of slide, and how they should be constructed. They also require attendants and lifeguards for water slides greater than 11 feet in height.

The current rule simply states that slides must be constructed and operated according to manufacturer instructions. The new rules are much more comprehensive and inclusive. They include specific depths and dimensions of catch pools for slides, structures and stairways for slides, specific design criteria for flume water slides including levels of the water, smooth inner surfaces for the slides, and specific criteria for speed slide deceleration. This will make it easier for operators to design and construct pools that minimize safety hazards.

Rule CXV applies to all water slides and will require a small number of current water slide operators to add lifeguard staff and attendants for water slides 11 feet or higher, if they do not currently have lifeguards. In such instances, there will be a cost to the individual operator for the wages.

Rule CXX provides specific criteria for water slide flume pump intakes in order to prevent entrapment hazards.

NEW RULES CXXI through CXXVII - ZERO DEPTH POOLS

These new rules provide standards to ensure that there is sufficient water circulation to provide adequate sanitization of the water in zero depth entry pools, multisection recreational pools, and in zero depth spray pools.

Rule CXXI also provides for specific construction details for zero depth entry pools, a relatively new kind of pool. It specifies drain placement and sizes, and deck size and slope. This is a new rule not previously covered in existing rules. The changes are necessary to cover design and construction of this class of pool that is being designed and built more frequently in recent years.

Rule CXXII also provides for separation of each section of a multisectional pool by a float line, so that users are aware that the depth may change or a different use is occurring that may require the swimmer to be alert for different potential hazards. This requirement is to prevent accidents and enhance safety in such pools.

Rules CXXIII through CXXVII address zero depth pools or spray pools. These water features were not addressed in existing rules since they are a new design. The rules apply applicable standards from the rules specifically to this type of water feature, including surface finish, drain locations which will be adequate to drain the area but not cause an entrapment hazard, availability of restroom and hand washing facilities, and cleaning requirements. There should be no special costs associated with this type of facility since spray parks are normally built to known national standards. However, in one or two instances, existing spray pools may need to

modify an existing operation to provide an approved means of disinfecting water that is recirculated for use or to modify the facility to drain the used water straight to waste water. Some facilities may also need to upgrade to meet certain requirements such as restrooms for the facility, if they do not already have some type of restroom facility available. Costs for such upgrades will depend upon the circumstances.

NEW RULES CXXVIII through CXXXVI - SPA REQUIREMENTS

These new rules contain the specialized requirements pertaining to spas. The rules set out specific requirements for temperature, how it is tested and how accuracy of the readings will be verified; recirculation requirements; sanitation requirements; cleaning requirements; maximum depth; markers to identify the depth of spas; location of spa controls and a clock to allow patrons to monitor their length of time in the hot water; seating requirements; deck requirements; and entry requirements, including handrail and footing requirements. These rules are needed to thoroughly explain and clarify what is needed to meet public health and safety requirements. The existing rules devote only six sentences to spas. These new rules address issues that will help to eliminate hazards from spending too much time in hot water, water that is too hot, unsafe entries into and out of spas, inadequate seating, inadequate circulation which can allow transmittal of disease, and insufficient deck space around spas (which can cause slipping hazards and which does not provide adequate space to perform emergency medical treatment when needed). It also puts patrons on notice of the spa depth, which should help to prevent drowning accidents.

The costs associated with this set of rules should be minimal. The costs of master shutoff switches used in new construction should be no more than a few hundred dollars. Any other costs associated with this set of rules should be minimal.

NEW RULES CXXXVII through CXLII - WADING POOLS

These six rules clarify that wading pools must comply with all pool rules, including ensuring that water quality is maintained within permissible ranges. The rules also specifically address barrier requirements for wading pools, (to prevent unauthorized access to wading pools), slopes (to prevent accidental drownings that could result from an unexpected and sudden change in depth), and the need for attendants (to prevent accidental drownings). Finally, the rules clarify that wading pools must provide restrooms with sufficient fixtures to meet the requirements of the International Building Code (IBC).

New subchapters 1 through 22 are needed to prevent accidental drownings and to prevent the spread of disease. They require closure of existing drain and fill wading pools by December 31, 2011, due to the risk of disease transmittal inherent in fill and drain wading pools.

The current rules on wading pools are only about six sentences long. The additions to the current requirements provide more detail. New additions to existing rule

include requiring a separate disinfection system with a turnover rate of 30 minutes or less, specific requirements for barriers around wading pools, and requiring pool attendants with CPR training. While current rule does not expressly require pool attendants, existing wading pools have provided them in response to a department legal opinion that they are necessary to ensure public health and safety. The costs of new subchapters 1 through 22 are hard to quantify. No direct costs are associated with it because attendants are already required. Facilities which choose to modify existing drain and fill pools to provide a circulation and disinfectant system will have costs that will depend upon the type of system installed. Many operators will simply close the drain and fill pools, however.

NEW RULES CXLIII and CXLIV - HOT SPRING POOLS AND FLOW-THROUGH HOT SPRINGS POOLS

These new rules detail how hot springs and flow-through pools must be operated to comply with new subchapters 1 through 22 and with state statutory requirements. State statute allows higher temperature and pH for hot spring pools and flow-through hot spring pools, including spas. State statute also allows a longer turnover time for these types of pools.

Rule CXLIII sets out the allowable ranges set in statute for pH, turnover, and temperatures for hot springs pools and flow-through pools (including spas), identifies record keeping requirements specific to such pools and identifies what other portions of new subchapters 1 through 22 these pools must comply with, while still making allowances for the special nature of hot springs and flow-through pools. The rule allows operators to demonstrate that the pool or spa meets temperature standards and turnover rate standards by using alternatives to the recording requirements that otherwise are required, if the operator submits an application demonstrating the accuracy of the alternative method of measuring the required standards. This rule is very similar to the existing rule except that the allowable pH has been changed in response to legislation approved in the 2007 Montana Legislature which allows a higher pH for hot springs or flow-through hot springs pools and spas. No additional costs are associated with implementation of this rule.

Rule CXLIV addresses cleaning requirements for hot springs and spas and flow-through hot springs and spas. The rule is needed to ensure that these pools and spas meet state statutory requirements setting the frequency that they must be drained and cleaned. It is also needed to inform users when the pool or spa is not disinfected and to put consumers on notice of when the water in a flow-through pool or spa has a pH reading higher than 8.5 and that water with a pH higher than 8.5 may cause skin irritation. These are health and safety issues that the users have a right to be informed of. Costs associated with this rule should be minimal since it will require posting only when pH is in excess of 8.5. Purchase of a whiteboard or a blackboard should be sufficient to meet the requirement.

NEW RULE CXLV - OTHER SPECIAL PURPOSE POOLS

This new rule requires that any special purpose pool not specifically described elsewhere in new subchapters 1 through 22 must still meet the requirements in new subchapters 1 through 22 for design, construction, and operation. The rule is needed to clarify that if a facility installs a new and not previously contemplated type of water feature, it must meet health and safety requirements.

NEW SUBCHAPTER 19: ANNUAL LICENSING AND FEES

NEW RULES CXLVI through CLIV

These new rules address licensing requirements and the licensing process for facilities that operate a pool, spa, or other water feature. The rules are needed to clearly explain to facility operators: which pools must be separately licensed; the application process and deadline for licensing or relicensing a pool, spa, or other water feature; that licenses are not transferable and must be displayed; and that a license can lapse through nonuse. New Rule CXLIX also provides grandfather protections to current licensees who continue to operate within its terms.

Some changes in the existing rules were necessitated by HB 148 (2007), which changed the fees and defined how separate pools are determined for licensing purposes. Otherwise, while the licensing process affects all licensed facilities, there are no substantive changes made by the rules which will require facility operators to do anything different than under the current rules. These new rules merely clarify language in existing rule and divide it into several rules with separate catch phrases to allow a reader to more easily locate information. There will be no costs associated with implementation of these new rules.

Rule CXLIX is a new rule which provides a grandfather clause that applies to upgrades to physical plants required under the new rules. It allows currently licensed pools, spas, and other water features to continue operation as long as the conditions of the grandfather clause are met. It is needed to protect current licensees from excessive costs to update their physical plants and operates much as any nonconforming use provision in zoning regulations.

RULE CLIV - LICENSE NOT REQUIRED

This new rule identifies the situations in which a license is not required for a pool, spa, or other water feature. This rule is necessary to delineate to owners of pools, spas, and other water features which types of pools are not regulated by the department and therefore do not need to be licensed. The rule includes new forms of pools, such as spray pools that drain immediately to waste, which are not addressed in existing rules. It also clarifies that spas and pools in limited use situations such as bed and breakfasts, private apartment complexes with fewer than ten apartments, and condominium unit pools that are used only by residents and their invited guests will not be regulated.

This rule also identifies that natural or recreational bodies of water will not be

licensed by the department. It is not possible for the State of Montana to ensure that a natural body of water is free from hazards and disease, is sufficiently clear, and is sufficiently free of dangerous currents or dangerous objects on the bottom to establish sufficient enforceable standards to license such "swimming holes". Recreational use of Montana waters falls within the provisions of Montana's recreational liability statute, 70-16-302, MCA.

This rule will not affect licensed facilities and has no costs to any facility owners. It may reduce department costs since it will reduce the amount of time the department spends in conducting inspections of the delineated pools, spas, and other water features. Savings cannot be quantified.

NEW SUBCHAPTER 20: INSPECTIONS

Rules CLV through CLVII set out the procedures for inspections of licensed facilities, identify how the rules will be enforced, and identify the range of penalties an operator may face for violations or repeated violations.

NEW RULE CLV - INSPECTIONS

This new rule details how inspections will be conducted, when they can be conducted, notifies an operator that the department has the authority to immediately close a pool, spa, or other water feature for identified violations that constitute an imminent risk to public health or safety. Wording was changed from the existing rule to better define when an inspection may be conducted (whenever staff is present), allows closure of the pool for nonconformance with the rules as listed throughout the chapter of rules, and details what comprises a critical point inspection.

The wording on when inspections may be permitted was changed from "any reasonable time" to "whenever the facility has staff present" or the facility is operating or would usually be operating. This provides clarification of the term "any reasonable time" in the current rule. It will facilitate the inspection process and better utilize department resources when inspecting in remote locations.

Other alternatives were not considered since the changes made, while minor in nature, were consistent with the total rule update. No additional costs are associated with this rule.

Rules CLVI and CLVII explain the role of local health officers in conducting inspections and in validating licenses and explain the right of appeal to the local county health board where a local health officer has not validated a license. It is needed to provide information to licensees and license applicants on the relationship between the department and local health officers and to inform the licensees and license applicants of their rights and how to appeal.

NEW SUBCHAPTER 21: ENFORCEMENT

Rules CLVIII through CLXII are new. The current rules do not explain to a licensee or license applicant the steps the department may take under the applicable provisions of the Montana Administrative Procedure Act (MAPA) and the department's statutes on swimming pools to require immediate closure of a pool, immediate suspension of a license, or other corrective action. The current rules also do not explain the steps a license applicant or licensee may take to correct a problem, what is required before a closed pool may be reopened and what other enforcement rights the department has under state law. These new rules are needed to ensure that the department's enforcement actions comply with all relevant statutes and to explain the procedures to license applicants and licensees so that they may protect their rights. There are no costs associated with implementation of these new rules.

NEW SUBCHAPTER 22: RIGHT TO HEARING AND HEARING PROCEDURES

Rules CLXIII through CLXVIII set out the procedures for requesting a fair hearing, for initiating a show cause hearing and then address prehearing procedures and hearing procedures. Current rules provide no information to a license applicant or a licensee on how to initiate a hearing process to challenge action by the department. They also do not explain to license applicants or licensees the procedures that will be followed by the department to initiate a show cause proceeding under its statutory authority and what then happens. The rules are needed to provide information on the hearing process to affected persons. There are no costs associated with implementation of these new rules.

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, MT 59604-4210; telephone (406)444-9503; fax (406)444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., June 11, 2009.

8. The Office of Legal Affairs, Department of Public Health and Human Services, has been designed 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 requests may be mailed or delivered to the contact person in 7 above or may be made by completing a request form at any rules hearing held by the department.

10. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the Notice conform to the official version

of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

11. The bill sponsor contact requirements of 2-4-302, MCA, apply to rules pertaining to fees for plan review and have been fulfilled. The primary bill sponsor was contacted by letter dated February 14, 2008, sent postage prepaid via USPS.

/s/ Kimberly Kradolfer
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State May 4, 2009.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)
2.59.1711 regarding continuing education) NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On February 26, 2009, the Department of Administration, Division of Banking and Financial Institutions, published MAR Notice No. 2-59-411 regarding the proposed amendment of the above-stated rule at page 159 of the 2009 Montana Administrative Register, issue number 4.

2. No comments were received.

3. The department has amended ARM 2.59.1711 exactly as proposed.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

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

Certified to the Secretary of State May 4, 2009.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.17.127 related to prevailing)
wage rates for public works projects -)
building construction services, heavy)
construction services, highway)
construction services, and)
nonconstruction services)

TO: All Concerned Persons

1. On February 26, 2009, the Department of Labor and Industry published MAR Notice No. 24-17-236 regarding the public hearing on the above stated rule on page 249 of the 2009 Montana Administrative Register, issue no. 4.

2. On March 20, 2009 a public hearing was held at which time members of the public made oral and written comments and submitted documents. Additional comments were received during the comment period.

3. The department has thoroughly considered the comments and testimony received from the public. The following is a summary of the public comments received and the department's response to those comments:

Comment 1: Charles Val, of IUEC Local 19, states the wage rates are correct, however, the nonconstruction services rates are a year behind.

Response 1: The commenter is correct, there is a lag period. The department is aware that there is an inherent delay caused by the survey process and rate setting process that is established in Montana law. As required by 18-2-401 (13)(a)(ii), MCA (2007), the survey asks that historical information be provided by employers to the department. ARM 24.17.121(5) states "nonconstruction services will be updated in odd-numbered years." Following the data collection period, the data is tabulated and processed to calculate the preliminary wage rates. After the preliminary wage rates have been calculated, the department then formally begins the administrative rulemaking process and seeks public comment.

The department notes that the enactment of Chapter 277, Laws of 2009 (Senate Bill 308) provides for annual surveys for nonconstruction services, which will decrease the lag period.

Comment 2: John Roeber, Boilermakers Local 11, noted that the union rate for fringe benefits did not prevail in all districts.

Response 2: The districts in which the union rate for Boilermakers did prevail were districts 2 and 8. The department received sufficient survey response to set fringe

benefit rates in districts 2 and 8 where the union fringe benefit rate did not prevail. A collectively bargained rate is used only if there is insufficient survey data upon which to set a rate. The fringe benefit rate for these districts was set pursuant to 18-2-401 (13)(a)(ii), MCA (2007), the "50 percent rule".

Comment 3: Mary Alice McMurray, Carpenters Local 557, asked why there is a discrepancy in the increases between districts 6 and 5.

Response 3: The data submitted from the survey (as supplemented by information provided during the public comment period) justify the difference. ARM 24.17.121(2)(a) through (f) provides for a specific methodology for rate setting which identifies the basis for rates being set on a district-by-district basis, and establishes a hierarchy for using the various data sources:

(a) If a minimum of five or more workers is reported for the occupation within the district, and 50 percent or more of those workers receive the same wage, that rate is the district prevailing wage rate, provided that the rate does not exceed the collectively bargained rate for that occupation in that district. As provided by 18-2-402, MCA, the prevailing wage rate cannot exceed the collectively bargained wage rate.

(b) If five or more workers are reported for the occupation within the district, but 50 percent of those workers are not paid the same rate, the weighted average wage rate, weighted by the number of workers, is the district prevailing wage rate, provided that the rate does not exceed the collectively bargained rate for that occupation in that district. As provided by 18-2-402, MCA, the prevailing wage rate cannot exceed the collectively bargained wage rate.

(c) If less than five workers are reported for the occupation within the district, the district prevailing wage rate is the collectively bargained rate for that occupation in that district.

(d) If a collective bargaining agreement does not exist for the occupation in that district, a weighted average wage rate for the district weighted by number of workers will be computed using data submitted from all contiguous districts. Districts and their contiguous districts are as follows:

[district listings (i) through (x) omitted]

(e) If contiguous district data do not sum to a minimum of five workers, a statewide weighted average wage rate will be calculated for the occupation.

(f) If a minimum of five workers is not reported for the occupation in the entire state, no rate will be established for that occupation.

Benefits are set using the same methodology. An increase or decrease in the wage or benefit and the percentage of that increase or decrease depends on the number of workers reported, the value of the wage or benefit reported for those workers and

the existence of a collective bargaining agreement in the event that survey response is insufficient to set the rate.

Comment 4: Dan Herzog, IBEW, notes that the electrician's new heavy agreement combines locals 768 and 44. General Decision No. MT0800001 Modification No. 8 adopted by the department for the 2009 heavy construction rates do not reflect this change. Therefore, the rates for lineman in Flathead, Lake, and Lincoln counties do not accurately represent the rates in the electrician's current heavy collective bargaining agreement. The commenter requests the new federal modification be adopted to reflect the merger of locals 768 and 44.

Response 4: The department has reviewed the proposed wage and fringe benefit rates contained in Modification Number 8 to General Decision Number MT080001 dated 12/12/2008. The department notes that the federal government issues modifications to Davis-Bacon Act rates applicable in Montana from time to time throughout the year, and may even issue multiple determinations for Montana in the course of a single year. The federal government is not required to go through a formal rulemaking process to adopt or change those rates. The department, on the other hand, is required by state law to undertake formal rulemaking to change prevailing wage rates. In order to timely update rates for 2009, the department decided to incorporate by reference the federal Davis-Bacon Act rates that were in effect on December 31, 2008. This date also coincides with the period covered for the survey of building construction and nonconstruction service wages.

The department concludes that it is reasonable to pick a cut-off date for the adoption by reference of federal Davis-Bacon Act rates, especially given that pursuant to ARM 24.17.121(5), the adoption is done annually. Accordingly, the department declines the request to adopt the new modification.

Comment 5: Keith Allen, IBEW Local 233, believes the equipment operator and the groundman occupations located under the heading of line construction under the Laborer's classifications in the highway construction wage rates section of the heavy – highway publication belong under the Electrician's classification.

Response 5: The department adopts the federal wage determinations for heavy and highway construction as proposed. Please also see response 4.

Comment 6: Keith Allen, IBEW Local 233, states the subsistence for Electricians in districts 4, 5, and 7 should be \$52.00 instead of \$50.00. The commenter also states there is no place on the survey form to list travel or per diem.

Response 6: The department will change the survey form to accommodate the need to add travel and per diem information. The department reviewed documents received from IBEW during the comment period and has reviewed the travel rates in question. The travel for Electricians in districts 4, 5, and 7 will be changed to \$52.00. The correction is also noted in paragraph 4.

Comment 7: Dave Warner, PNWRCC, requests review of the wage and benefit rates in districts 1, 2, 5, 6, 7, 8, and 9.

Response 7: The department has reviewed the wage and benefit rates in question, and has revised certain rates pursuant to ARM 24.17.121. Revised rates are identified in paragraph 4.

Comment 8: Dave Warner, PNWRCC, states the wage and benefit for district 7 and the travel for districts 1, 2, 4, 5, 6, 7, 8, 9, and 10 are incorrect. The commenter states the rates for districts 3, 4, and 10 are correct.

Response 8: In accordance with ARM 24.17.121 the travel rates were set with the collective bargaining agreement (CBA) submitted to the department by the commenter that references the survey period. The department has reviewed the rates set for Carpenters in districts 7. The wage in district 7 will be changed to \$15.50 and the benefit in district 7 will be changed to \$7.90. Revised rates are identified in paragraph 4.

Comment 9: Robert, SMACNA Local 103, questions the wage and benefits in districts 1 and 2 for Heating and Air Conditioning. The commenter also questions the travel in districts 3 through 10 for Heating and Air Conditioning.

Response 9: The department has reviewed the rates for districts 1 and 2, and travel in districts 3 through 10 for Heating and Air Conditioning. During the review the department found the CBA used to help set the rates where there was insufficient data was the incorrect one. The CBA used was that of the Plumbers. The correct CBA to reference is SMACNA's Local 103 CBA. As a result, wages in districts 7 through 10 were higher than the collectively bargained rate in that district which, according to 18-2-402(3), MCA (2007), is not allowed. The travel was also incorrect as a result of using the incorrect CBA. The department has revised certain rates pursuant to ARM 24.17.121. Revised rates are identified in paragraph 4.

Comment 10: Kim Rickard, Laborers Local 1686, questions the wage rate of \$10.00 set for Laborers Group 3 in district 4. The commenter believes the wage rate should be \$20.24 as outlined in a heavy wage and benefit addendum submitted to the department during the comment period.

Response 10: The department has reviewed the rates for Laborers Group 3 in district 4 and all documents submitted to it during the comment period. The department sets rates for building construction in accordance with ARM 24.17.121 with information relevant to building construction. Accordingly, the department declines the commenter's request to use the "heavy construction" CBA for use in setting "building construction" rates. However, after reviewing information submitted during the comment period the wage for Laborers Group 3 district 4 will be changed to \$17.30. The correction is also noted in paragraph 4.

Comment 11: Kim Rickard, Laborers Local 1686, requests that the Montana Department of Labor consider adopting the heavy construction wage rates the same as the U.S. Department of Labor does for federal Davis-Bacon Act purposes.

Response 11: Under current law, the department must follow the rulemaking provisions of the Montana Administrative Procedure Act (Title 2, chapter 4, MCA) to establish the prevailing wage and fringe benefit rates. Section 2-4-307, MCA, expressly prohibits (with a limited exception) state agencies from adopting any later amendments or editions of materials adopted by reference (including federal regulations) without going through the rulemaking process. As noted in response 4, the federal government changes its rates without having to go through rulemaking, and typically there is no advance notice of a federal rate change, which goes into effect on the date the rate change is announced. However, through discussions like ones held this past year with interested parties, the department remains committed to being open to all reasonable suggestions for changes in the rate setting process.

Comment 12: Kim Rickard, Laborers Local 1686, commented that the nonconstruction services occupation Forest Conservation Worker should be classified under Laborers Group 4 because this group of Laborers contains duties such as faller/sawyer. The commenter also requests the heavy wage addendum in comment 10 be used to set the rates for Forest Conservation Workers in all districts.

Response 12: The department is required by statute to survey those employers that provide the services described in 18-2-401(9), MCA (2007). The department obtains an unemployment insurance file from the department's research and analysis bureau to meet this requirement. Specifically, the department surveys the towns, cities, counties, conservation districts, and those employers under NAICS (North American Industry Classification System) 115310 (Support Activities for Forestry).

Additionally, ARM 24.17.501(4) defines heavy construction as "those projects that are not properly classified as either "building construction", or "highway construction." Given that Forest Conservation Worker is not a construction occupation and that the department does not use heavy construction wage addendums (please see response 10) to set rates for nonconstruction services occupations, the department respectfully declines the request to classify Forest Conservation Worker as part of a Laborer Group 4 occupation in any collectively bargained agreement for construction purposes.

Comment 13: Dennis Danake, PNWRCC, questions why the rates in district 2 for Carpenters has decreased and requests an audit of the information submitted to the department to set the rates whenever a decline in the rates occur.

Response 13: In regards as to why rates increase or decrease and by how much, please see response 3. The department does spot checks on survey information when the data appears to be questionable regarding the criteria requested.

Comment 14: Charles Val, Elevators Local 19, commented that the travel for the Elevators is absent in the nonconstruction services publication.

Response 14: The department has added the travel for the Elevators from the CBA that references the survey period. This correction is also noted in paragraph 5.

Comment 15: In an e-mail sent to the department during the comment period from Sharey Morris, Johnson Controls, states that she believes the electrical installers they employ fall under the wrong classification. The electrical installers of Johnson Controls currently fall under the Electricians classification. The e-mail also states that the electrical installers are not certified, nor do they have any special licensing, and that all work falls under 70 volts. In an attachment to the e-mail the work done by the electrical installers was outlined as:

"Install low voltage raceways, cables, and wiring for temperature controls to include: network cabling to meet local and/or national standards/code system requirements.";

"Mount; terminate low voltage or wiring temperature control equipment needed."; and

"Determine and validate low voltage final termination points to equipment interfaced w/installed system (i.e. chiller, boilers, roof top unit, etc.)".

The e-mail also stated that on federal jobs Johnson Controls fills out a request for authorization of additional classification and rate, and that this form is always accepted by the federal government.

Response 15: After reviewing the work of the electrical installers described above, the department has determined that the work done falls under the building automation control classification. The Electricians occupation includes building automation control regardless of the voltage required to automate a specific function of the building. Accordingly, the request for reclassification of electrical installers employed by Johnson Controls is declined.

Comment 16: Various individuals and entities submitted additional data or documents for inclusion in the rate setting process during the comment period.

Response 16: The department has reviewed the information submitted. The department has incorporated the data as appropriate and has revised certain rates in line with the rate-setting standards. Revised rates are identified below in paragraphs 4 and 5.

Comment 17: In a letter to the department representatives of the Carpenters union wish to review the surveys submitted to check for residential work being reported.

Response 17: The department does not object to the surveys being subject to review and has held a meeting with the representatives to review the accuracy of the results as they pertain to residential work being reported. The department has reviewed the rates for carpenters and the corrections are noted in paragraph 4.

Comment 18: Tom Tanner and Lonzo West, Ironworkers Locals 732 and 14, requested a description with some of the duties Ironworkers perform be added to the building construction publication and remove "reinforcing steel" from the occupational title and replace with "rebar placer". Documentation was presented at the public hearing with the requested language to be added to the publication.

Response 18: The department has reviewed the documents submitted during the public hearing. The exact language requested to be added was too lengthy to insert in the publication. Through conversations between Tom Tanner, Lonzo West and the prevailing wage compliance team the content of a duties include section was agreed upon. This does not change the definition of the Ironworkers adopted by the department through the SOC codes. The correction is noted in paragraph 4.

4. The rule has been amended exactly as proposed. The following rates in "The State of Montana Prevailing Wage Rates – Building Construction Services" publication incorporated by reference in the rule have been amended as follows, stricken matter interlined, new matter underlined.

Carpenters

| District | Wage | Benefit |
|----------|-----------------------------------|---------------------------------|
| 1 | \$19.92 <u>\$20.08</u> | \$5.32 <u>\$5.36</u> |
| 2 | \$18.32 <u>\$19.88</u> | \$8.85 |
| 5 | \$18.11 <u>\$18.36</u> | \$6.50 <u>\$7.03</u> |
| 6 | \$18.63 <u>\$18.94</u> | \$6.44 <u>\$6.81</u> |
| 7 | \$15.39 <u>\$15.50</u> | \$7.05 <u>\$7.90</u> |
| 8 | \$18.44 <u>\$19.60</u> | \$5.35 <u>\$5.64</u> |

Construction Equipment Operators Group 2

| District | Wage | Benefit |
|----------|-----------------------------------|---------------------------------|
| 1 | \$22.94 | \$6.05 <u>\$9.05</u> |
| 2 | \$19.09 <u>\$22.94</u> | \$5.36 <u>\$9.05</u> |
| 3 | \$19.58 <u>\$22.94</u> | \$6.16 <u>\$9.05</u> |
| 5 | \$21.48 <u>\$22.94</u> | \$6.60 <u>\$9.05</u> |
| 6 | \$22.70 <u>\$22.94</u> | \$6.44 <u>\$9.05</u> |
| 7 | \$15.50 <u>\$22.94</u> | \$3.65 <u>\$9.05</u> |
| 8 | \$20.19 <u>\$22.94</u> | \$6.70 <u>\$9.05</u> |
| 9 | \$21.63 <u>\$22.94</u> | \$1.53 <u>\$9.05</u> |

Construction Equipment Operators Group 3

| District | Wage | Benefit |
|----------|-----------------------------------|---------------------------------|
| 2 | \$20.81 <u>\$23.34</u> | \$9.05 |
| 3 | \$23.34 | \$8.00 <u>\$9.05</u> |
| 4 | \$23.31 <u>\$23.34</u> | \$8.00 <u>\$9.05</u> |
| 5 | \$23.31 <u>\$23.34</u> | \$8.00 <u>\$9.05</u> |

| | | | | |
|---|--------------------|----------------|-------------------|---------------|
| 6 | \$23.34 | | \$8.00 | <u>\$9.05</u> |
| 7 | \$22.00 | <u>\$23.34</u> | \$3.65 | <u>\$9.05</u> |
| 8 | \$20.51 | <u>\$23.34</u> | \$6.65 | <u>\$9.05</u> |

Construction Equipment Operators Group 4

| District | Wage | | Benefit | |
|----------|--------------------|----------------|-------------------|---------------|
| 3 | \$22.98 | <u>\$24.00</u> | \$8.00 | <u>\$9.05</u> |
| 5 | \$22.98 | <u>\$24.00</u> | \$8.00 | <u>\$9.05</u> |

Construction Equipment Operators

Travel: (All Groups and Districts)

0-30 mi. free zone

31-60 mi. base pay+ ~~\$3.30/hr.~~ \$3.50/hr.

60+ mi. base pay+ ~~\$5.30/hr.~~ \$5.50/hr.

Electricians

Travel:

Districts 4, 5, 7

0-8 mi. free zone

9-50 mi. Federal mileage rate/mi.

Per Diem:

Districts 4, 5, 7

0-50 mi. free zone

50+mi. ~~\$50.00/day~~ \$52.00/day

Floor Layer

| District | Wage | | Benefit | |
|----------|--------------------|----------------|-------------------|---------------|
| 2 | \$16.85 | | \$6.22 | <u>\$6.27</u> |
| 3 | \$16.75 | <u>\$20.00</u> | \$8.19 | <u>\$8.20</u> |
| 4 | \$16.85 | | \$6.22 | <u>\$6.27</u> |
| 5 | \$16.85 | | \$6.22 | <u>\$6.27</u> |
| 6 | \$16.85 | <u>\$20.00</u> | \$6.22 | <u>\$8.20</u> |
| 7 | \$16.85 | | \$6.22 | <u>\$6.27</u> |
| 8 | \$16.85 | <u>\$20.00</u> | \$6.22 | <u>\$8.20</u> |
| 9 | \$16.85 | | \$6.22 | <u>\$6.27</u> |
| 10 | \$16.85 | <u>\$20.00</u> | \$6.22 | <u>\$8.20</u> |

Travel:

~~Districts 1, 2, 4, 5, 6, 7, 8, 9, 10~~ Districts 1, 2, 4, 5, 7, 9

0-10 mi. free zone

10+mi. \$0.40/mi.

Per Diem:

~~Districts 1, 2, 4, 5, 6, 7, 8, 9, 10~~ Districts 1, 2, 4, 5, 7, 9

\$32.00/day

Travel:

~~District 3~~ Districts 3, 6, 8, 10

0-10 mi. free zone

10+ mi. ~~\$0.30/mi.~~ \$0.40/mi.

Per Diem:

~~District 3~~ Districts 3, 6, 8, 10

~~\$50.00/day~~ Employer pays for room

Glazier

| District | Wage | Benefit |
|----------|-----------------------------------|---------------------------------|
| 1 | \$16.85 | \$6.22 <u>\$6.27</u> |
| 2 | \$15.70 | \$6.22 <u>\$6.27</u> |
| 3 | \$16.75 <u>\$20.00</u> | \$8.19 <u>\$8.20</u> |
| 4 | \$11.80 | \$6.22 <u>\$6.27</u> |
| 6 | \$16.85 <u>\$20.00</u> | \$6.22 <u>\$8.20</u> |
| 7 | \$16.85 | \$6.22 <u>\$6.27</u> |
| 9 | \$16.85 | \$6.22 <u>\$6.27</u> |
| 10 | \$16.85 <u>\$20.00</u> | \$6.22 <u>\$8.20</u> |

Travel:

~~Districts 1, 2, 4, 5, 6, 7, 8, 9, 10~~ Districts 1, 2, 4, 5, 7, 9

0-10 mi. free zone

10+mi. \$0.40/mi.

Per Diem:

~~Districts 1, 2, 4, 5, 6, 7, 8, 9, 10~~ Districts 1, 2, 4, 5, 7, 9

~~\$32.00/day~~

Travel:

~~District 3~~ Districts 3, 6, 8, 10

0-10 mi. free zone

10+ mi. ~~\$0.30/mi.~~ \$0.40/mi.

Per Diem:

~~District 3~~ Districts 3, 6, 8, 10

~~\$50.00/day~~ Employer pays for room

Heating and Air Conditioning

| District | Wage | Benefit |
|----------|---------|-----------------------------------|
| 1 | \$17.17 | \$11.38 <u>\$13.07</u> |
| 2 | \$18.95 | \$11.38 <u>\$13.07</u> |
| 3 | \$25.09 | \$10.75 <u>\$13.07</u> |
| 4 | \$25.09 | \$10.75 <u>\$13.07</u> |
| 5 | \$25.09 | \$10.75 <u>\$13.07</u> |
| 6 | \$25.09 | \$10.75 <u>\$13.07</u> |

| | | | | |
|----|---------|----------------|---------|----------------|
| 7 | \$27.15 | <u>\$25.09</u> | \$13.05 | <u>\$13.07</u> |
| 8 | \$27.15 | <u>\$25.09</u> | \$10.64 | <u>\$12.95</u> |
| 9 | \$27.15 | <u>\$25.09</u> | \$13.05 | <u>\$13.07</u> |
| 10 | \$27.15 | <u>\$25.09</u> | \$13.05 | <u>\$13.07</u> |

Per Diem:

~~Districts 1 & 2~~
 0-30 mi. free zone
 31-50 mi. \$20.00/day
 51-75 mi. \$35.00/day
 75+ mi. \$70.00/day

Per Diem:

~~Districts 3, 3, 5, 6~~
 0-40 mi. free zone
 41-80 mi. \$30.00/day
 80+ mi. \$60.00/day

Per Diem:

~~Districts 7, 8, 9, 10~~
 Travel:
 0-40 mi. free zone
 40+ mi. \$0.55/mi.
 Per Diem:
 \$70.00/day

Travel: (All Districts)

0-30 mi. free zone

30+ mi. \$0.25/mi. in employer's vehicle; \$0.55/mi. in employee's vehicle

Per Diem: (All Districts)

\$50.00/day

Ironworker-Structural Steel and Reinforcing Steel Rebar Placer

Duties include: Structural steel erection; assemble prefabricated metal buildings; cut, bend, tie and place rebar; energy producing windmill type towers; metal bleacher seating; handrail fabrication and ornamental steel.

Laborers Group 3

| District | Wage Rate | Benefit Rate |
|----------|------------------------|--------------|
| 4 | \$10.00 <u>\$17.30</u> | \$6.52 |

Painter

| District | Wage | Benefit |
|----------|-----------------------------------|---------------------------------|
| 2 | \$16.85 | \$6.22 <u>\$6.27</u> |
| 3 | \$16.75 <u>\$20.00</u> | \$8.19 <u>\$8.20</u> |
| 5 | \$16.85 | \$6.22 <u>\$6.27</u> |
| 6 | \$16.85 <u>\$16.93</u> | \$6.22 <u>\$7.80</u> |
| 7 | \$16.85 | \$6.22 <u>\$6.27</u> |
| 8 | \$16.85 <u>\$18.33</u> | \$4.63 |
| 9 | \$16.85 | \$6.22 <u>\$6.27</u> |
| 10 | \$16.85 <u>\$20.00</u> | \$6.22 <u>\$8.20</u> |

Travel:

~~Districts 1, 2, 4, 5, 6, 7, 8, 9, 10~~ Districts 1, 2, 4, 5, 7, 9
 0-10 mi. free zone
 10+mi. \$0.40/mi.

Per Diem:

~~Districts 1, 2, 4, 5, 6, 7, 8, 9, 10~~ Districts 1, 2, 4, 5, 7, 9
\$32.00/day

Travel:

~~District 3~~ Districts 3, 6, 8, 10
0-10 mi. free zone
10+ mi. ~~\$0.30/mi.~~ \$0.40/mi.

Per Diem:

~~District 3~~ Districts 3, 6, 8, 10
~~\$50.00/day~~ Employer pays for room

Roofers

| District | Wage | Benefit |
|----------|-----------------------------------|---------------------------------|
| 1 | \$19.50 <u>\$16.13</u> | \$7.95 |
| 3 | \$16.40 <u>\$18.00</u> | \$6.42 <u>\$6.35</u> |
| 4 | \$15.19 | \$2.59 <u>\$2.60</u> |
| 5 | \$16.40 <u>\$17.39</u> | \$2.74 |
| 7 | \$15.70 <u>\$18.90</u> | \$2.69 <u>\$2.73</u> |
| 8 | \$15.46 <u>\$18.90</u> | \$2.74 |
| 9 | \$13.25 | \$2.52 <u>\$2.46</u> |
| 10 | \$13.25 | \$3.56 <u>\$3.55</u> |

~~Travel: (All Districts)~~

~~0-50 mi. free zone~~

~~50+ mi. \$0.30/mi.~~

~~Per Diem: (All Districts)~~

~~All Districts~~

~~Room+ \$23.00/day~~

Travel:

Districts 1 & 2
0-50 mi. free zone
50+ mi. \$0.30/mi.

Per Diem:

Districts 1 & 2
\$48.00/day

Per Diem:

Districts 3, 4, 5, 6
Room+ \$23.00/day

Travel:

Districts 7, 8, 9, 10
0-30 mi. free zone
30+ mi. \$0.25/mi.

Per Diem:

Districts 7, 8, 9, 10
\$45.00/day

Taper

| District | Wage | Benefit |
|----------|-----------------------------------|---------------------------------|
| 1 | \$16.85 | \$6.22 <u>\$6.27</u> |
| 2 | \$16.85 | \$6.22 <u>\$6.27</u> |
| 3 | \$16.75 <u>\$20.00</u> | \$8.19 <u>\$8.20</u> |
| 4 | \$16.85 | \$6.22 <u>\$6.27</u> |
| 5 | \$16.85 | \$6.22 <u>\$6.27</u> |

| | | | | |
|----|--------------------|----------------|-------------------|---------------|
| 6 | \$16.85 | <u>\$19.89</u> | \$6.22 | <u>\$8.20</u> |
| 7 | \$16.85 | | \$6.22 | <u>\$6.27</u> |
| 8 | \$16.85 | <u>\$20.00</u> | \$6.22 | <u>\$8.20</u> |
| 9 | \$16.85 | | \$6.22 | <u>\$6.27</u> |
| 10 | \$16.85 | <u>\$20.00</u> | \$6.22 | <u>\$8.20</u> |

Travel:

~~Districts 1, 2, 4, 5, 6, 7, 8, 9, 10~~ Districts 1, 2, 4, 5, 7, 9
0-10 mi. free zone
10+mi. \$0.40/mi.

Per Diem:

~~Districts 1, 2, 4, 5, 6, 7, 8, 9, 10~~ Districts 1, 2, 4, 5, 7, 9
\$32.00/day

Travel:

~~District 3~~ Districts 3, 6, 8, 10
0-10 mi. free zone
10+ mi. ~~\$0.30/mi.~~ \$0.40/mi.

Per Diem:

~~District 3~~ Districts 3, 6, 8, 10
~~\$50.00/day~~ Employer pays for room

5. The rule has been amended as proposed. The following rates in "The State of Montana Prevailing Wage Rates – Nonconstruction Services" publication incorporated by reference in the rule have been amended as follows, stricken matter interlined, new matter underlined.

Elevator Repairers

Travel: (All Districts)

0-15 mi. free zone

16-25 mi. ½ hour at the prevailing wage rate+ Federal mileage rate/mi.

26-35 mi. 1 hour at the prevailing wage rate+ Federal mileage rate/mi.

Per Diem: (All Districts)

\$72.55/day

/s/ MARK CADWALLADER

Mark Cadwallader
Alternate Rule Reviewer

/s/ KEITH KELLY

Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 4, 2009

BEFORE THE BOARD OF REALTY REGULATION
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.210.641 unprofessional)
conduct)

TO: All Concerned Persons

1. On December 24, 2008, the Board of Realty Regulation (board) published MAR Notice No. 24-210-33 regarding the public hearing on the proposed amendment of the above-stated rule, at page 2580 of the 2008 Montana Administrative Register, issue no. 24.

2. On January 16, 2009, a public hearing was held on the proposed amendment of the above-stated rule in Helena. Several comments were received by the January 26, 2009, deadline.

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

COMMENT 1: A number of commenters asked the board to amend the statutory definition of "negotiations" at 37-51-102(15), MCA, and suggested the board delete sections (a) and (b) from the definition.

RESPONSE 1: The board notes that the amendments to ARM 24.210.641 were proposed through the administrative rulemaking process. Statutory amendments are beyond the scope of this notice and must be accomplished through the legislative process.

COMMENT 2: Two commenters stated their general support of the amendments.

RESPONSE 2: The board appreciates all comments made in the rulemaking process.

COMMENT 3: Several commenters requested clarification of when an agent begins acting as a buyer agent and therefore is required to have a signed buyer broker agreement. Some commenters believe the requirement begins when negotiations commence and others suggested that negotiations only begin upon the occurrence of certain actions. Commenters stated that the proposed language regarding having a signed buyer broker agreement prior to acting as a buyer agent is ambiguous.

RESPONSE 3: The board previously determined there is confusion concerning the requirement for a signed buyer broker agreement. A buyer agent is defined in statute as someone acting as an agent of the buyer pursuant to a buyer broker

agreement. Including the act of serving as a buyer agent without a buyer broker agreement as unprofessional conduct merely reinforces the requirement to have a buyer broker agreement.

COMMENT 4: A few commenters objected to the limited time they had to respond to the proposed amendments.

RESPONSE 4: The board notes that the amendments have been on the board's agenda and discussed by the board for a significant period of time before being proposed as a rule change. This is the second time this issue has been noticed for public comment. The board has complied with all statutory rulemaking timelines and has concluded that adequate opportunity for comment and input has been allowed.

COMMENT 5: Several commenters requested the board further clarify the definition of "negotiations" and suggested the board adopt a dictionary definition to eliminate confusion or ambiguity when acting as a buyer's agent.

RESPONSE 5: The board notes that the definition of "negotiations" is set forth in statute at 37-51-102(15), MCA. The board proposed the rule amendments to clarify the negotiation requirements and the ability of a consumer to waive the duties owed by an agent. The board determined that further clarification is unnecessary.

COMMENT 6: One commenter stated that the board should not amend the rule as proposed as the amendments are unnecessary and will confuse consumers and licensees. The commenter used the board's decision on a declaratory ruling petition to support the position, claiming that the board concluded that definitions do not establish duties and do not prohibit a licensee from entering into agreements for services less than those included in a definition. The commenter opined that it is then difficult to understand why the board would now enact rules that require an agent to participate in negotiations after determining there is no mandatory duty to negotiate.

RESPONSE 6: The board considered the comment and disagrees. The board determined that this unprofessional conduct rule would establish duties where definitions cannot. This rule establishes duties, but also identifies how clients can opt out of the duties required of an agent. The board concluded that these two positions are not inconsistent.

COMMENT 7: One commenter encouraged the board to retain all sections of 37-51-102(15), MCA, and not delete sections (a) and (b).

RESPONSE 7: The board acknowledges the comment and notes again that statutes can only be amended via the legislative process.

4. The board has amended ARM 24.210.641 exactly as proposed.

BOARD OF REALTY REGULATION
CINDY WILLIS, CHAIRPERSON

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 4, 2009

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rules I (42.20.901) and II (42.20.902))
relating to property tax)
for privately owned landfills)

TO: All Concerned Persons

1. On November 26, 2008, the department published MAR Notice No. 42-2-803 regarding the proposed adoption of the above-stated rules at page 2460 of the 2008 Montana Administrative Register, issue no. 22.

2. A public hearing was held on December 18, 2008, to consider the proposed adoption. The proposed rules considered at this hearing are the result of a negotiated rulemaking process conducted on July 2, 2008, which involved privately owned sanitary landfills in the state of Montana and staff from both the Department of Environmental Quality and the Department of Revenue. Oral testimony was received at the hearing and is summarized as follows along with the response of the department:

COMMENT NO. 1: Mr. Dub Stocker, Attorney, Fort Worth, Texas representing the Great Falls and Missoula Montana landfills stated that he applauded the department's efforts in promulgating these rules and they had done a fine job.

RESPONSE NO. 1: The department appreciates Mr. Stocker's assistance and appreciation of the department's efforts in proposing these rules.

COMMENT NO. 2: Mr. Stocker, Mr. Roger Bridgeford representing Montana Waste, and Mr. Max Bauer representing Allied Waste all questioned the portion of the rules dealing with 6 inches of daily fill, 18 inches of interim fill, and 3 feet or more of a cap. Mr. Stocker stated that he thought this could cause a great deal of confusion as to when the airspace is computed and who is going to monitor whether it is 6 inches, 6 1/2 inches, or 5 3/4 inches. Mr. Bridgeford stated that the Montana Department of Environmental Quality (DEQ) requires a daily cover of 6 inches. Mr. Stocker stated that he thought this could cause litigation in the future. These gentlemen suggested another 15 percent be added to the compaction ratio of 70 percent to account for daily cover material required added to their land fill. This would increase the total compaction ratio to 85 percent.

RESPONSE NO. 2: The IAAO article suggested a compaction ratio range from 50 percent to 70 percent. In a prior agreement on the valuation of privately held sanitary landfills, there was an agreement on a compaction ratio of 70 percent. A 70 percent compaction ratio provides that 70 percent of 1 ton of garbage, or 1400 pounds can be deposited into one cubic yard. A 50 percent compaction ratio would provide

that 50 percent of 1 ton, or 1000 pounds of garbage can be deposited into one cubic yard.

When researching the issue of landfill compaction ratio on the internet, the articles refer to compaction ratios within the ranges of the IAAO article on valuation of sanitary landfills. The articles discuss typical sanitary landfill operations, and indicate a range of 50 percent to 70 percent for compaction ratios is appropriate. It seems logical that typical land fill operations would have the same type of daily cover material requirements and those would already be factored into those compaction ratios.

The compaction ratio is important in estimating the projected remaining life of the sanitary landfill using the number of tons of fill the landfill operator takes in each year, and the estimated amount of remaining space left in the landfill. In instances where the landfill owner or its agent can provide a preponderance of evidence to the contrary, the rule provides for an adjustment to the compaction ratio of 70 percent. In that instance and as information is available, the department will review the actual measurements of the remaining air space left in the landfill over time and any other important data reported to the DEQ by the landfill operator to confirm the evidence supplied by the landfill owner. It will also review the amount and type of cover material that is regularly used.

As a result, the department has amended New Rule I (42.20.901) as shown below.

COMMENT NO. 3: Mr. Stocker asked where the term "improvements" is used in the rules because it appears to only be referenced in the definitions rule and in a minor way in New Rule I.

He also asked what the department would do if these privately owned sanitary landfills produced methane gas and used it just for their own equipment, trucks, and bulldozers to run things. He stated that they would not be selling the gas. For this reason, the landfill operation is a jigsaw puzzle with different pieces of equipment that make a landfill operate and run. He further stated that the royalty method captures all of that. It would not catch something that is outside the business that requires a capital improvement that might not be captured by the royalty method. Mr. Stocker stated that all the improvements to the business would be captured in the hypothetical royalty methodology that is used which still leaves out the chance for either the department or the landowner coming in with additional proof to prove that 10 percent is not a fair royalty.

Mr. Stocker further stated that when the operation gets beyond the business from which the permit allows on a particular piece of property such as property that has been segregated and developed for a commercial use other than a sanitary landfill, then that would not be subject to the rule.

Mr. Stocker suggested the department consider removing the definition of "improvements" from New Rule I and in New Rule II(6).

RESPONSE NO. 3: The sanitary land fill representatives suggested the royalty method of valuation covered all the current real property improvements made to the landfill properties. In a prior sanitary landfill valuation agreement, there was no discussion of real property improvements. The IAAO article discussing the royalty method of valuation is also silent in regard to real property improvements. However, in

the IAAO article introduction on the valuation of sanitary landfills, the author states that leases between a landowner and landfill operator are generally triple net, with the operator paying all the costs of operating a landfill, as well as closure and post-closure costs. This would suggest the royalty method of valuation was only valuing the use of the land as a landfill, and not the real property improvements made to the landfill.

We have many situations in Montana where real property improvements are owned by a party other than the land owner. In these instances, we do not ignore the improvements made to the land simply because someone other than the land owner owns the improvements; the department values and assesses the improvements to the improvement owner. Historically, improvements on sanitary landfills have been valued separately. In fact currently, minimal improvements exist at two of the sanitary landfill locations that will be impacted by this rule - BFI in Missoula County and Montana Waste in Cascade County. In Cascade County, a scale, scale house, and fencing are the extent of the "other improvements" made to the land fill site. This operation has been in place for 10 to 15 years. The improvements have been separately valued, and provide an example of structures necessary to operate a land fill.

Again, the department believes that under the royalty method of valuation, the royalty being paid to the land owner is for the use of the land as a landfill, and the value of improvements made to the property beyond this use should be added to the overall value of the landfill. Additional improvements made to the property are paid for by the person or entity making the improvements, and wouldn't be reflected in higher royalty payments.

For the foregoing reasons, the department intends to adopt the current definition of "improvements" in (5) of New Rule I (42.20.901) and associated language in (6) of New Rule II (42.20.902).

COMMENT NO. 4: Mr. Jim Sites, Attorney, Billings, Montana and Mr. Stocker questioned the department's intent with regard to the language pertaining to mandatory property related fees or property related taxes imposed by a regulatory taxing authority as stated in New Rule I.

Mr. Bauer asked for more clarification of the term "related to the property" because DEQ bases a lot of the fees on volume and on population estimates not the property. He stated that DEQ assesses a fee on the tonnage basis, so he suggested the original definition that was proposed in the negotiated rulemaking be used instead of the one in the proposed rule, which was "any mandatory assessment or fee".

Mr. Stocker stated the question is, "who and how are you going to enforce it", and "who is the arbitrator of what is a property related fee or tax"?

Mr. Bauer and Mr. Dave Duffy, representing City County Sanitation of Helena, stated that the term "property" should be removed. Mr. Duffy stated that in addition to the tipping fees, there might be a charge for additional fees established by the Legislature for recycling or other purposes and those should not be included in the calculations of the taxes.

RESPONSE NO. 4: The IAAO article on the royalty method of valuation is silent regarding any proposed reductions to the tipping fee advertised at the landfill gate. The department's proposed definition of tipping fee provided "[a]ny mandatory

property related fees or property related taxes imposed by regulatory or taxing authorities shall not be included." The department included this language to provide flexibility and to benefit the industry; however, this language has not received positive acknowledgment from the industry.

If industry members determine in the future that the definition of tipping fees should be amended to allow the department to consider reductions to the dollar charge per ton for dumping municipal solid waste and other approved waste at licensed landfills to account for property related fees or property related taxes imposed by regulatory or taxing authorities, the department would be agreeable to subsequent rule making efforts.

For the foregoing reasons, the department intends to amend the proposed language in (11) of New Rule I.

3. As a result of the comments received the department adopts New Rule I (42.20.901) with the following changes:

NEW RULE I (42.20.901) LANDFILL VALUATION DEFINITIONS The following definitions apply to terms contained in this subchapter:

(1) and (2) remain as proposed.

(3) "Cover materials" means at least six inches of dirt or a dirt-like substance that is applied to the exposed garbage each day and is not removed. It does not mean a tarp or tarp-like product.

(4) through (10) remain as proposed.

(11) "Tipping fees" are the dollar charge per ton for dumping municipal solid waste and other approved waste at the licensed landfill. ~~Any mandatory property related fees or property related taxes imposed by regulatory or taxing authorities shall not be included.~~

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

IMP: 15-6-134, 15-7-111, 15-8-111, MCA

4. The department adopts New Rule II (42.20.902) as proposed.

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

/s/ C. A. Daw
CLEO ANDERSON
Rule Reviewer

/s/ Dan R. Bucks
DAN R. BUCKS
Director of Revenue

Certified to Secretary of State May 4, 2009

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee:

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

Education and Local Government Interim Committee:

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

Children, Families, Health, and Human Services Interim Committee:

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

Environmental Quality Council:

- Department of Environmental Quality;
- Department of Fish, Wildlife, and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions:

Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR or Register) is a soft back, bound publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding register.

Use of the Administrative Rules of Montana (ARM):

Known
Subject

1. Consult ARM Topical Index.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 2008. This table includes those rules adopted during the period January 1, 2009, through March 31, 2009, and any proposed rule action that was pending during the past six-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 2008, this table, and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in the 2008 and 2009 Montana Administrative Register.

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