

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 19

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 PUBLIC EMPLOYEES' RETIREMENT BOARD
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 2.43.5101 pertaining to the	)	AMENDMENT
adoption of deferred compensation)	
plan document and trust agreement	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On November 27, 2013, the Public Employees' Retirement Board proposes to amend the above-stated rule.

2. The Public Employees' Retirement Board 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 Montana Public Employee Retirement Administration no later than 5:00 p.m. on November 7, 2013, to advise us of the nature of the accommodation that you need. Please contact Kris Vladic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; TDD (406) 444-1421; or e-mail kvladic@mt.gov.

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

2.43.5101 ADOPTION OF DEFERRED COMPENSATION PLAN
DOCUMENT AND TRUST AGREEMENT (1) remains the same.

(a) State of Montana Public Employee Deferred Compensation Plan Document (January 1, 2008 edition), that was approved by the board on August 14, 2008, and September 11, 2008, and amended February 11, 2010, and June 13, 2013; and

(b) and (2) remain the same.

AUTH: 19-50-102, MCA

IMP: 19-50-102, MCA

STATEMENT OF REASONABLE NECESSITY: The Public Employees' Retirement Board determined to adopt the original plan documents by reference. Changes to the documents are also required to be adopted by reference per 2-4-307(3), MCA. Chapter 145 of the Montana Session Laws of 2013 added a Roth account option within the deferred compensation plan. The board subsequently amended the Deferred Compensation Plan Document to reflect this additional option. Therefore it is necessary to amend the rule that adopts the Deferred Compensation Plan Document by reference.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Kris Vlastic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; or e-mail kvlastic@mt.gov, and must be received no later than 5:00 p.m., November 14, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kris Vlastic at the above address no later than 5:00 p.m., November 14, 2013.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 821 persons based on 8,217 participants in the Deferred Compensation Plan as of July 2013.

7. The Public Employees' Retirement Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the Public Employees' Retirement Board.

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 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 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, apply and have been fulfilled. The primary bill sponsor was contacted by mail on June 21, 2013.

10. With regard to the requirements of 2-4-111, MCA, the Public Employees' Retirement Board has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Scott E. Moore
Scott E. Moore
President
Public Employees' Retirement Board

Certified to the Secretary of State October 7, 2013.

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

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 2.43.2110 pertaining to	)	AMENDMENT
calculation of highest average)	
compensation or final average	)	NO PUBLIC HEARING
compensation	)	CONTEMPLATED

TO: All Concerned Persons

1. On November 27, 2013, the Public Employees' Retirement Board proposes to amend the above-stated rule.

2. The Public Employees' Retirement Board 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 Montana Public Employee Retirement Administration no later than 5:00 p.m. on November 7, 2013 to advise us of the nature of the accommodation that you need. Please contact Kris Vladic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; TDD (406) 444-1421; or e-mail kvladic@mt.gov.

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

2.43.2110 CALCULATION OF HIGHEST AVERAGE COMPENSATION OR FINAL AVERAGE COMPENSATION WITH LUMP-SUM PAYMENTS (1) ~~For~~

~~"highest average compensation" and "final average compensation" purposes:~~

~~(a) for a member initially hired prior to July 1, 2011, compensation means the total compensation earned during 36 consecutive calendar months divided by 36; and~~

~~(b) for a member initially hired on or after July 1, 2011 in a PERS, SRS, or GWPORS covered position, compensation means the total compensation earned during 60 consecutive calendar months divided by 60.~~

(2) Lump-sum payments made upon termination of employment of for paid leave, including banked holiday time, vacation, personal, sick, or compensatory leave must be included in the calculation of a member's highest average compensation or final average compensation by replacing lower compensation months with the same number of higher compensation months. The number of replacement months and the amount of compensation included in the replacement months is determined by ~~used to extend the compensation on the basis of either:~~

(a) dividing the lump-sum payment by the regular hourly rate in effect for the employee at the time of termination and on identified future regular payroll reports, or the monthly salary earned at the time of termination; ~~or~~

~~(3) (b) The lump-sum payment of paid leave, including banked holiday time, vacation, personal, sick, or compensatory leave, for members whose monthly compensation varies, will be extended by multiplying their hourly rate times 2,080 (the assumed number of hours worked in a fiscal year) divided by 12 to determine the monthly wage going forward and then dividing the lump-sum payment by the monthly wage.~~

~~(4) (2) Lump-sum payments made without termination of employment for banked holiday time, compensatory leave, sick leave, or vacation leave paid without termination of employment will not be considered as compensation for any purpose regardless how the payout is classified, including identifying the payout as a bonus.~~

AUTH: 19-2-403, MCA

IMP: 19-2-303, 19-2-506, 19-2-1005, 19-3-108, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA

STATEMENT OF REASONABLE NECESSITY: Current (1) is proposed to be deleted as it merely reflects definitions already included in the law. New (1) is proposed to more clearly and accurately explain how lump-sum payments are treated in the calculation of a member's highest or final average compensation. MPERA receives questions on a regular basis regarding this procedure and believes that the proposed clarification will better inform our members regarding this calculation process.

Section 19-2-1005, MCA, is added to the list of implemented statutes as it was amended by Chapter 386 of the Montana Session Laws of 2013 to limit compensation included in the calculation of a member's highest average compensation or final average compensation to 110% of the member's previous year's compensation. No amendment to the rule itself is necessary as statute clearly defines the limiting calculation.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Kris Vlastic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; or e-mail kvlastic@mt.gov, and must be received no later than 5:00 p.m., November 14, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kris Vlastic at the above address no later than 5:00 p.m., November 14, 2013.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held

at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 6695 persons based on approximately 66,956 defined benefit retirement plan members as of June 30, 2013.

7. The Public Employees' Retirement Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the Public Employees' Retirement Board.

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 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 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, apply and have been fulfilled. The primary bill sponsor was contacted by mail on June 21, 2013.

10. With regard to the requirements of 2-4-111, MCA, the Public Employees' Retirement Board has determined that amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Scott E. Moore
Scott E. Moore
President
Public Employees' Retirement Board

Certified to the Secretary of State October 7, 2013

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

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 2.43.2115, 2.43.2602, and	)	AMENDMENT
2.43.2609 pertaining to the operation)	
of the retirement systems and plans	)	NO PUBLIC HEARING
administered by the Montana Public	)	CONTEMPLATED
Employees' Retirement Board)	

TO: All Concerned Persons

1. On November 27, 2013, the Public Employees' Retirement Board proposes to amend the above-stated rules.

2. The Public Employees' Retirement Board 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 Montana Public Employee Retirement Administration no later than 5:00 p.m. on November 7, 2013, to advise us of the nature of the accommodation that you need. Please contact Kris Vladic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; TDD (406) 444-1421; or e-mail kvladic@mt.gov.

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

2.43.2115 CORRECTION OF DEFINED BENEFIT RETIREMENT SYSTEM REPORTING ERRORS (1) and (2) remain the same.
(3) MPERA may waive interest if delinquent contributions are made within 60 days of the original due date.
 (3) through (6) remain the same but are renumbered (4) through (7).

AUTH: 19-2-403, MCA
IMP: 19-2-403, 19-2-506, 19-2-903, MCA

STATEMENT OF REASONABLE NECESSITY: Administrative efficiency requires waiving minimal amounts of interest on delinquent contributions that are paid within 60 days because the cost to calculate and enforce payments of these minimal amounts of interest is often greater than the amount of interest collected. This rule needs to be amended to include the circumstances which merit MPERA waiving interest due on delinquent contributions.

2.43.2602 APPLICATION PROCESS FOR DISABILITY BENEFITS
(1) through (5) remain the same.

AUTH: 19-2-403, 19-3-2104, 19-3-2141, MCA

IMP: 19-2-406, 19-3-1002, ~~19-3-1005~~, 19-3-2141, 19-5-601, 19-6-601, 19-7-601, 19-8-701, 19-9-902, 19-13-802, MCA

STATEMENT OF REASONABLE NECESSITY: Chapter 178 of the Session Laws of 2013 repealed 19-3-1005, MCA. The repealed language was moved to 19-2-406, MCA, so 19-3-1005, MCA, needs to be removed from the list of implementing authorities. Since 19-2-406, MCA, is already included, no additional citations are needed.

2.43.2609 RETURN TO EMPLOYMENT WITHIN SAME JURISDICTION

(1) through (2) remain the same.

(3) When a member who has returned to work under (1) exceeds 960 hours in a calendar year, the member forfeits the additional service attributable to the contributions paid by the employer. Pursuant to 19-2-706, MCA, the board will credit the member's employer with the employer's contribution for the additional service that exceeds the total proportional amount of retirement benefits related to the additional service purchased under 19-2-706, MCA, and paid to the member from retirement to forfeiture.

(a) through (c) remain the same.

(4) Additional service purchased by the member pursuant to 19-2-706(4), MCA, is not forfeited.

AUTH: 19-2-403, MCA

IMP: 19-2-706, MCA

STATEMENT OF REASONABLE NECESSITY: The proposed amendment is necessary because 19-2-706, MCA, was amended in Chapter 178 of the Session Laws of 2013 to increase the amount of contributions returned to the employer when a "reduction in force" employee returns to covered employment.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Kris Vlastic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; or e-mail kvlastic@mt.gov, and must be received no later than 5:00 p.m., November 14, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kris Vlastic at the above address no later than 5:00 p.m., November 14, 2013.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association

having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 6695 persons based on approximately 66,956 defined benefit retirement plan members.

7. The Public Employees' Retirement Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the Public Employees' Retirement Board.

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9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by mail on June 21, 2013.

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

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Scott E. Moore
Scott E. Moore
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Certified to the Secretary of State October 7, 2013

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

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 2.43.2114, 2.43.2116,	)	AMENDMENT
2.43.3510, 2.43.3515, 2.43.3517,)	
2.43.3524, 2.43.3525, and 2.43.3531	)	NO PUBLIC HEARING
pertaining to the name change of the	)	CONTEMPLATED
Montana university system optional)	
retirement program)	

TO: All Concerned Persons

1. On November 27, 2013, the Public Employees' Retirement Board proposes to amend the above-stated rules.

2. The Public Employees' Retirement Board 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 Montana Public Employee Retirement Administration no later than 5:00 p.m. on November 7, 2013, to advise us of the nature of the accommodation that you need. Please contact Kris Vlastic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; TDD (406) 444-1421 or e-mail kvlastic@mt.gov.

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

2.43.2114 REQUIRED EMPLOYER REPORTS (1) through (8) remain the same.

(9) Reporting agencies of the Montana university system (MUS) shall report employees in PERS-covered positions who elect the MUS ~~optional~~ retirement program ~~(ORP)~~ (MUS-RP). The ~~MUS-ORP~~ MUS-RP report must include all information required in (6). At the same time, reporting agencies of the MUS shall transmit amounts equal to the statutorily required plan choice rate and the education fund rate for those employees.

(10) remains the same.

AUTH: 19-2-403, MCA

IMP: 19-2-506, 19-3-315, 19-3-316, 19-3-412, 19-3-1106, 19-3-1113, 19-3-2117, 19-7-1101, MCA

2.43.2116 CORRECTION OF DEFINED CONTRIBUTION RETIREMENT PLAN REPORTING ERRORS (1) through (2) remain the same.

(3) Reporting errors that result in an ~~Optional Retirement Program (ORP)~~ Montana University System Retirement Program (MUS-RP) member improperly

electing to participate in the DCRP will be corrected by allocating contributions pursuant to 19-21-214, MCA.

(4) and (5) remain the same.

AUTH: 19-2-403, 19-3-2104, MCA

IMP: 19-2-403, 19-2-903, MCA

2.43.3510 ELECTION PERIOD (1) through (3) remain the same.

(a) An election to transfer to the PERS DCRP or the Montana University System ~~Optional~~ Retirement Program will be effective upon confirmation by MPERA pursuant to ARM 2.43.3512 and will not be retroactive.

(4) remains the same.

AUTH: 19-2-403, 19-3-2104, MCA

IMP: 19-3-2104, 19-3-2111, MCA

2.43.3515 PURCHASE OF SERVICE NOT PERMITTED BY PARTICIPANT IN DEFINED CONTRIBUTION RETIREMENT PLAN (1) A member of PERS with

an existing non-PERS service purchase contract entered into pursuant to any MPERA statute or rule who wishes to elect the DCRP or the Montana University System's ~~Optional~~ System Retirement Plan Program (~~ORP~~) (MUS-RP) must terminate or complete the service purchase contract before the election will be confirmed by MPERA.

(2) If a member of PERS with an existing service purchase contract files an election form electing either the DCRP or the ~~ORP~~ MUS-RP, MPERA will send written notice to the member that the election cannot be confirmed until the service purchase contract is either terminated or completed.

(3) through (7) remain the same.

(8) A member with an existing service purchase contract who elects the DCRP or the ~~ORP~~ MUS-RP in the last month of the member's 12-month election period may pay to MPERA in a lump sum the entire amount remaining due under the service purchase contract.

(a) and (b) remain the same.

(9) Any member of an MPERA-administered retirement system with an existing service purchase contract who does not elect the DCRP or the ~~ORP~~ MUS-RP may not terminate the service purchase contract pursuant to this rule.

AUTH: 19-2-403, 19-2-1010, 19-3-2104, MCA

IMP: 19-2-710, 19-3-2111, 19-3-2112, 19-3-2115, MCA

2.43.3517 FAMILY LAW ORDERS, EXECUTIONS, AND INCOME-WITHHOLDING ORDERS AND ELECTIONS (1) A member of PERS who is

subject to a PERS Family Law Order pursuant to 19-2-907, MCA, and wishes to elect the DCRP or the Montana University System's System Optional Retirement Program (~~ORP~~) (MUS-RP), must have the Family Law Order amended to comply with the DCRP or ~~ORP~~ MUS-RP and approved by the board no later than the end of the member's 12-month election period.

(2) A member of PERS who is subject to an execution or income-withholding order pursuant to 19-2-909, MCA, and wishes to elect the DCRP or the ~~ORP~~ MUS-RP, must have the execution or income-withholding order amended to comply with the DCRP or the ~~ORP~~ MUS-RP no later than the end of the member's 12-month election period.

(3) remains the same.

AUTH: 19-2-403, 19-3-2104, MCA

IMP: 19-2-907, 19-2-909, 19-3-2111, MCA

2.43.3524 RETIREES NOT ENTITLED TO ELECTION (1) Retired members of the PERS may not elect the PERS Defined Contribution Retirement Plan or the Montana University System ~~Optional~~ Retirement Program, but must remain members of the PERS Defined Benefit Retirement Plan regardless of reemployment in a PERS-covered position.

(2) remains the same.

AUTH: 19-2-403, 19-3-2104, MCA

IMP: 19-3-1106, 19-3-2104, 19-3-2111, MCA

2.43.3525 MONTANA UNIVERSITY SYSTEM EMPLOYEE ELECTIONS

(1) remains the same.

(2) A MUS employee who is a PERS member may be a participant of the MUS ~~Optional~~ Retirement Program (~~ORP~~) (MUS-RP) and either the PERS Defined Benefit Retirement Plan (DBRP) or the PERS Defined Contribution Retirement Plan (DCRP) only under one of the following conditions:

(a) The PERS member is employed part- or full-time by both the MUS and another PERS-covered employer and does not have previous retirement plan election(s) on file with MPERA. The member may elect the ~~ORP~~ MUS-RP for his or her MUS employment and the DBRP or DCRP for his or her other PERS-covered employment.

(b) The PERS member is employed by the MUS, elected the ~~MUS-ORP~~ MUS-RP, and accepted employment with another PERS-covered employer, other than MUS. The member may have terminated employment with the MUS or may have taken a separate (second) job with the other PERS-covered employer. In either case, the member must elect either the DBRP or DCRP as the member's retirement plan for the member's employment with the other PERS-covered employer.

(3) A MUS employee who is in both a PERS-covered position and an ~~ORP~~ MUS-RP-covered position may be a participant of both the ~~MUS-ORP~~ MUS-RP and either the DBRP or DCRP.

AUTH: 19-2-403, 19-3-2104, MCA

IMP: 19-3-2104, 19-3-2112, MCA

2.43.3531 TIMING OF TRANSFERS TO THE DEFINED CONTRIBUTION RETIREMENT PLAN (1) Once a member's election to join either the PERS DCRP

or the Montana University System ~~Optional Retirement Program (MUS-ORP)~~ (MUS-RP) has been confirmed, MPERA will transfer contributions to the participant's individual account in the DCRP or the ~~MUS-ORP~~ MUS-RP within 15 working days.

AUTH: 19-2-403, 19-3-2104, MCA
IMP: 19-3-2114, 19-3-2117, MCA

STATEMENT OF REASONABLE NECESSITY: The amendments are necessary to comply with Chapter 282 of the Session Laws of 2013, which changed the name of the Optional Retirement Program (ORP) to the Montana University System Retirement Program (MUS-RP).

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Kris Vlastic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; or e-mail kvlastic@mt.gov, and must be received no later than 5:00 p.m., November 14, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kris Vlastic at the above address no later than 5:00 p.m., November 14, 2013.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 821 persons based on 8,217 participants in the Deferred Compensation Plan as of July 2013.

7. The Public Employees' Retirement Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the Public Employees' Retirement Board.

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 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 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, apply and have been fulfilled. The primary bill sponsor was contacted by mail on August 19, 2013.

10. With regard to the requirements of 2-4-111, MCA, the Public Employees' Retirement Board has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Scott E. Moore
Scott E. Moore
President
Public Employees' Retirement Board

Certified to the Secretary of State October 7, 2013.

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

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 2.43.2318 pertaining to "one-for	)	AMENDMENT
-five" additional service and ARM)	
2.43.2324 pertaining to guaranteed	)	NO PUBLIC HEARING
annual benefit adjustment coverage -	)	CONTEMPLATED
PERS, SRS, and GWPORS)	

TO: All Concerned Persons

1. On November 27, 2013, Public Employees' Retirement Board proposes to amend the above-stated rules.

2. The Public Employees' Retirement Board 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 Montana Public Employee Retirement Administration no later than 5:00 p.m. on November 7, 2013, to advise us of the nature of the accommodation that you need. Please contact Kris Vladic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; TDD (406) 444-1421 or e-mail kvladic@mt.gov.

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

2.43.2318 "ONE-FOR-FIVE" ADDITIONAL SERVICE (1) Subject to the requirements of each retirement system, a vested member ~~with five or more years of membership service~~ may purchase additional service credit. Members may purchase one full year of additional service for each five full years of membership service in the retirement system. A member eligible to purchase additional service may purchase months of service totaling 11 months or less.

(2) through (3) remain the same.

AUTH: 19-2-403, MCA

IMP: 19-3-513, 19-3-902, 19-3-904, 19-3-906, 19-5-409, 19-6-804, 19-7-804, 19-8-904, 19-9-411, 19-13-405, MCA

STATEMENT OF REASONABLE NECESSITY: Chapter 272 of the Session Laws of 2013 replaced the five-year period required for members of the Highway Patrol Officers' Retirement System to become vested with a ten-year period for members who were hired on or after July 1, 2013. It is necessary to use the word "vested" in this rule to clarify that in any retirement system it is a member's vested status rather than his or her years of service that qualifies the member to purchase one-for-five service.

2.43.2324 GUARANTEED ANNUAL BENEFIT ADJUSTMENT COVERAGE
~~— PERS, SRS, AND GWPORS~~ (1) Members of ~~PERS, SRS, and GWPORS~~ who terminate covered employment, accept a refund of their accumulated contributions, and return to covered employment in the same system ~~on or after July 1, 2007~~, will be eligible for a ~~1.5%~~ the GABA in effect at the time the member returns to covered employment.

(2) Purchase of the refunded time does not affect the member's new hire date. The member will remain eligible for the ~~1.5%~~ GABA then in effect, not the ~~3.0%~~ GABA associated with the refunded time.

AUTH: 19-2-403, MCA

IMP: 19-2-603, 19-3-1605, 19-7-711, 19-8-1105, MCA

STATEMENT OF REASONABLE NECESSITY: Chapter 272 of the Session Laws of 2013 decreased the guaranteed annual benefit for new members of the Highway Patrol Officers' Retirement System (HPORS). HPORS members who terminate covered employment, withdraw their account balance and then return to covered employment will be subject to the new GABA. This rule was amended to uniformly reflect that a member in this circumstance is subject to the GABA in effect upon returning to covered employment in all defined benefit retirement systems rather than adding another system to the list of retirement system names which do not have a single GABA rate.

The proposed amendment is also necessary to reflect the change in the GABA rate for PERS members from a single rate to a rate that changes based on system funding as implemented in Chapter 390 of the Session Laws of 2013.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Kris Vlastic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; or e-mail kvlastic@mt.gov, and must be received no later than 5:00 p.m., November 14, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kris Vlastic at the above address no later than 5:00 p.m., November 14, 2013.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 6695 persons based on approximately 66,956 defined benefit retirement plan members.

7. The Public Employees' Retirement Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the Public Employees' Retirement Board.

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, apply and have been fulfilled. The primary bill sponsor was contacted by mail on June 21, 2013.

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

/s/ Melanie Symons
Melanie Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Scott E. Moore
Scott Moore
President
Public Employees' Retirement Board

Certified to the Secretary of State October 7, 2013.

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

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 2.43.1501, 2.43.2101,	)	PROPOSED AMENDMENT
2.43.2104, 2.43.2120, 2.43.2214,)	
2.43.2303, 2.43.2610, 2.43.2901,)	
2.43.3008, 2.43.4203, and 2.43.4207)	
pertaining to the operation of the)	
retirement systems and plans)	
administered by the Montana Public)	
Employees' Retirement Board)	

TO: All Concerned Persons

1. On November 7, 2013, at 10:00 a.m., the Public Employees' Retirement Board will hold a public hearing in Room 201 of 100 North Park Avenue, at Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Public Employees' Retirement Board 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 Montana Public Employee Retirement Administration no later than 5:00 p.m. on October 31, 2013, to advise us of the nature of the accommodation that you need. Please contact Kris Vlado, Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; TDD (406) 444-1421; or e-mail kvlado@mt.gov.

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

2.43.1501 REVIEW OF ADMINISTRATIVE DECISION

(1) through (3) remain the same.

(4) The board will notify the appealing party of its initial decision in writing. If the decision is adverse to the appealing party, the board will include a general statement of the reasons for its decision, which need not be exhaustive. The appealing party will be given two options, either of which must be exercised within 30 days of the date of written notification: The appealing party may submit a request in writing for:

(a) ~~any appealing party may submit a request in writing for~~ reconsideration by the board; or

(b) ~~an appealing party, other than a governmental entity, may submit a request in writing for~~ a contested case proceeding.

(5) through (5)(c) remain the same.

(d) The board will notify the party in writing of its decision on reconsideration. That decision will become final and will not be subject to a contested case

proceeding or judicial review unless a the party other than a governmental entity files a written request for a contested case proceeding within 30 days of the written notice of decision on reconsideration.

~~(6) The board's initial decision or decision on reconsideration, if appropriately requested, is final with respect to a party which is a governmental entity, and may not be appealed by that entity.~~

(7) through (9) remain the same, but are renumbered (6) through (8).

AUTH: 19-2-403, MCA

IMP: 19-2-403, MCA

STATEMENT OF REASONABLE NECESSITY: This amendment is needed to remove the limit previously applied to the appeal rights of a governmental entity. Governmental entities have the same appeal rights as an individual under 2-4-102 and 2-4-702, MCA.

2.43.2101 MEMBERSHIP (1) An eligible employee becomes a member of a retirement system on his or her first day of covered employment under that system.

(2) If a member changes his or her name, the member must submit a name change form to MPERA.

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

AUTH: 19-2-403, MCA

IMP: 19-2-303, 19-3-1605, 19-7-711, 19-8-1105, MCA

STATEMENT OF REASONABLE NECESSITY The amended rule is needed to reflect that the process for reporting a name change now only requires a name change form, rather than a full new membership card with beneficiary designations as previously required by ARM 2.43.2104, amended below.

2.43.2104 MEMBERSHIP CARDS FORM (1) Each member must complete a membership card form upon employment, ~~name change~~, or change of beneficiary, and return the card form to their employer. The card form must be immediately forwarded by the employer to MPERA. The designation of beneficiary is only effective upon receipt by MPERA.

(2) remains the same.

(a) indicate "temporary" or "dual employment" status on the card form; and

(b) remains the same.

AUTH: 19-2-403, MCA

IMP: 19-2-801, 19-6-505, 19-9-1102, 19-13-903, MCA

STATEMENT OF REASONABLE NECESSITY: Application for membership is no longer completed on a card. A membership application form has been developed to collect the information. Amendment of this rule is needed to change the references from card to form for consistency with this change in business practice.

Name change was removed from the rule as it is no longer a reason to submit a new membership card/form. As indicated in the proposed amendment to ARM 2.43.2101 above, there is now a specific form for name changes only.

2.43.2120 REINSTATEMENT – CREDIT FOR LOST TIME (1) through (4) remain the same.

AUTH: 19-2-403, MCA
IMP: 19-2-303(46), MCA

STATEMENT OF REASONABLE NECESSITY: The subsection in the implementing statute, 19-2-303, MCA, is removed because it was amended by Chapter 386 of the Montana Session Laws of 2013 and because the subsection number is not necessary to locate the term defined in the underlying statute.

2.43.2214 IMPLEMENTATION AND COMPLIANCE (1) through (2) remain the same.

(3) Board policy number BOARD Admin ~~03~~ 05 titled "Treating Salary Deferrals Under a Cafeteria Plan as Compensation" contains several examples of both valid and invalid cafeteria plans, elections, and waivers and should be referenced for further guidance.

AUTH: 19-2-403, MCA
IMP: 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA

STATEMENT OF REASONABLE NECESSITY: The citation in the rule for the board's administrative policy for treating salary deferral under a cafeteria plan is incorrect. The correct citation is "BOARD Admin 05."

2.43.2303 DOCUMENTATION OF AMOUNT OF SERVICE ELIGIBLE TO BE PURCHASED (1) When military, U.S. government, federal volunteer, Montana public employment, or other public employment related service is eligible to be purchased into a retirement system, the member is responsible for ~~providing~~ ensuring acceptable documentation is provided to MPERA.

(2) The documents submitted ~~by the member~~ must be sufficient to prove to MPERA that the service is eligible to be purchased by the member.

(a) through (3) remain the same.

AUTH: 19-2-403, MCA
IMP: 19-2-715, 19-3-503, 19-3-505, 19-3-510, 19-3-512, 19-3-515, 19-6-801, 19-6-803, 19-7-803, 19-8-901, 19-8-903, 19-9-403, 19-13-403, MCA

STATEMENT OF REASONABLE NECESSITY: It is necessary to amend this rule to reflect a business process change from a member completing and returning the application and all supporting documentation for a service purchase to requiring the member's former employer to complete a certification and return it directly to

MPERA. This process change was instituted to minimize the risk of fraud and is in keeping with business practice common in other retirement systems.

2.43.2610 DESIGNATION OF BENEFICIARY BY RETIREES, AND ALTERNATE PAYEES, AND CONTINGENT ANNUITANTS (1) A retiree, or alternate payee, or contingent annuitant shall make the selection of beneficiary in writing and on the form provided by MPERA, dated and signed by the individual participant, and witnessed by a disinterested third party.

(2) remains the same.

AUTH: 19-2-403, MCA

IMP: 19-2-801, 19-2-902, 19-2-907, 19-3-1501, 19-5-701, 19-7-1001, 19-8-1105, MCA

STATEMENT OF REASONABLE NECESSITY: This rule amendment is needed to clarify that MPERA is not required to collect beneficiaries for contingent annuitants or to pay pro-rated benefits to these parties following the death of a contingent annuitant before the last day of the month under 19-2-902, MCA. Collecting beneficiaries for contingent annuitants creates unnecessary administrative challenges, including spending significant time locating current addresses and social security numbers, often for multiple beneficiaries of a single contingent annuitant. Once located, these beneficiaries are then issued individual payments and forms 1099-R for their fractional share of a frequently small pro-rata payment, which may be more easily, efficiently and inexpensively paid directly to the contingent annuitant's estate and reported on a single form 1099-R.

2.43.2901 REFUNDS TO MEMBERS (1) and (1)(a) remain the same.

(b) the refund application is completed by both the member and the employer, and forwarded to MPERA by the employer;

(c) through (2) remain the same.

~~(3) An alternative refund form is available from MPERA for the member who has terminated and whose member's account has been inactive for more than three months. Termination will be verified with the employer if not satisfactorily indicated on the refund form.~~

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

AUTH: 19-2-403, MCA

IMP: 19-2-303, 19-2-602, 19-5-403, 19-6-403, MCA

STATEMENT OF REASONABLE NECESSITY: The application for refund has been modified to accommodate electronic verification of employment. MPERA staff will use the web-reporting system to verify if and when a member has terminated employment.

MPERA has discontinued an alternative refund form for members that have terminated employment and whose account has been inactive for more than three

months. Refunds for these individuals can be obtained by using the regular refund application.

2.43.3008 FAMILY LAW ORDERS – CONTENTS AND DURATION FOR DEFINED BENEFIT PLANS (1) through (5) remain the same.

~~(6) If MPERA is unable to locate an alternate payee upon the death of the participant, MPERA will use IRS's letter forwarding service in a final attempt to locate.~~

AUTH: 19-2-403, 19-2-907, MCA

IMP: 19-2-907, MCA

STATEMENT OF REASONABLE NECESSITY: The IRS discontinued their letter forwarding service August 31, 2012. MPERA staff uses a variety of methods to search for alternate payees including Internet-based searches and obituaries.

2.43.4203 DETENTION OFFICER MEMBERSHIP IN SHERIFFS' RETIREMENT SYSTEM (SRS) (1) through (1)(b) remain the same.

(c) completing, within the time allowed by ARM ~~23.14.526~~ 23.13.206, a detention officers' basic course as provided by the Montana Law Enforcement Academy or equivalent training in a training school meeting the minimum standards of the Board of Crime Control, as required by ARM ~~23.14.526~~ 23.13.206, pursuant to 44-4-301, MCA.

AUTH: 19-2-403, MCA

IMP: 19-7-101, 19-7-301, 19-7-302, MCA

STATEMENT OF REASONABLE NECESSITY: The Department of Justice repealed ARM 23.14.526 in 2008. The rule is being corrected to reflect the correct reference to ARM 23.13.206.

2.43.4207 DETENTION CENTER REPORTS FROM SHERIFFS

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

(b) whether the employee is acting as a detention officer, and has completed a detention officers' basic course or equivalent training at a training school meeting the minimum standards of the Board of Crime Control or is expected to receive such training within the time allowed by ARM ~~23.14.526~~ 23.13.206; and

(c) and (4) remain the same.

AUTH: 19-2-403, MCA

IMP: 19-7-101, 19-7-301, 19-7-302, MCA

STATEMENT OF REASONABLE NECESSITY: The Department of Justice repealed ARM 23.14.526 in 2008. The rule is being corrected to reflect the correct reference to ARM 23.13.206.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kris Vlastic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0513; telephone (406) 444-2578; fax (406) 444-5428; or e-mail kvlastic@mt.gov, and must be received no later than 5:00 p.m., November 14, 2013.

5. Kris Vlastic, Montana Public Employee Retirement Administration, has been designated to preside over and conduct this hearing.

6. The Public Employees' Retirement Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the Public Employees' Retirement Board.

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

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

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

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Scott E. Moore
Scott E. Moore
President
Public Employees' Retirement Board

Certified to the Secretary of State October 7, 2013

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 6.6.3702, 6.6.3703, 6.6.3704,	)	PROPOSED AMENDMENT AND
6.6.3705, 6.6.3706, 6.6.3707,	)	ADOPTION
6.6.3708, 6.6.3709, 6.6.3710,)	
6.6.3711, 6.6.3712, 6.6.3713,)	
6.6.3714, 6.6.3715, and 6.6.3716 and)	
the adoption of New Rule I pertaining)	
to Reporting by Holding Company)	
Systems)	

TO: All Concerned Persons

1. On November 12, 2013, at 3:00 p.m., the Commissioner of Securities and Insurance, Montana State Auditor, will hold a public hearing in the 2nd floor conference room, at the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), 840 Helena Ave., Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The CSI will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing, or need an alternative accessible format of this notice. If you require an accommodation, contact the CSI no later than 5:00 p.m., November 5, 2013, to advise us of the nature of the accommodation that you need. Please contact Darla Sautter, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; fax (406) 444-3499; TDD/Montana Relay Service (406) 444-3246; or e-mail dsautter@mt.gov.

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

6.6.3702 FORMS--GENERAL REQUIREMENTS (1) Forms A, B, C, and D are intended to be guides in the preparation of the statements required by 33-2-1104, 33-2-1111, and 33-2-1113, MCA. They are not intended to be blank forms which are to be filled in. The statements filed must contain the numbers and captions of all items, but the text of the items may be omitted, provided the answers ~~thereto~~ are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions appearing in the forms, ~~whether appearing under the items of the form or elsewhere therein, are to be~~ must be omitted from the statements. Unless expressly provided otherwise, if any item is inapplicable, or the answer ~~thereto~~ to any item is in the negative, an appropriate statement to that effect shall be made.

(2) One complete copy of each statement including attached exhibits and ~~all other papers and documents filed as a part thereof~~, must be filed with the commissioner by personal delivery or mail addressed to the eCommissioner of Securities and Insurance insurance, Montana State Auditor, 840 Helena Avenue,

Helena, MT 59601. A copy of Form C shall be filed in each state in which an insurer is authorized to do business, if the insurance regulator of that state has notified the insurer of its request in writing, in which case the insurer has 30 days from receipt of the notice to file such form. An insurer must file a copy of Form C within 30 days of written request from a state insurance regulator in any state the insurer is authorized to do business. At least one of the copies shall must be manually signed in the manner prescribed on the form. Unsigned copies must be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority must ~~also~~ be filed with the statement.

(3) Statements should be prepared on ~~paper~~ 8 1/2" x 11" (or 8 1/2" x 14") paper in size and preferably bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of all statements, financial statements, and exhibits must be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories must be so designated ~~so as to be clearly and~~ clearly and distinguishable ~~as such~~ on photocopies. Statements must be in the English language and monetary values must be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it must be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall must be converted into United States currency.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1104, 33-2-1111, 33-2-1113, 33-2-1517, MCA

6.6.3703 FORMS--INCORPORATION BY REFERENCE, SUMMARIES, AND OMISSIONS (1) Information required by any item of Forms A, ~~Form~~ B, or ~~Form~~ D may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Forms A, ~~Form~~ B, or ~~Form~~ D, provided such the document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the commissioner which were filed within three years need not be attached as exhibits. References to information contained in exhibits or in documents already on file must clearly identify the material and shall must specifically indicate that such material is to be incorporated by reference in answer to the item. Matter must not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear, or confusing.

(2) Where an item requires a summary or outline of the provisions of any document, only a brief statement must be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the commissioner which was filed within three years and may be qualified in its entirety by such reference. In any case where two or more documents required to be filed

as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents, a copy of which is filed.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1104, 33-2-1511, 33-2-1113, 33-2-1517, MCA

6.6.3704 FORMS--INFORMATION UNKNOWN OR UNAVAILABLE AND EXTENSION OF TIME TO FURNISH (1) ~~Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:~~

~~(a) The person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and~~

~~(b) The person filing shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.~~

~~(1)(2) If it is impractical to furnish any required information, document, or report at the time it is required to be filed, there may be filed with the commissioner a separate document:~~ a separate document may be filed with the commissioner;

~~(a) remains the same.~~

~~(b) stating why the filing thereof at the time required is impractical; and~~

~~(c) requesting an extension of time to a specified date for filing the information, document, or report to a specified date.~~

~~(2)(3) The request for extension will be deemed granted unless the commissioner within 30 days after receipt thereof notifies the person that the request is denied. Unless the commissioner notifies the person that the request for extension is denied within 30 days after receipt of the request, the request will be deemed granted.~~

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1104, 33-2-1111, 33-2-1113, 33-2-1517, MCA

6.6.3705 FORMS--ADDITIONAL INFORMATION AND EXHIBITS (1) In addition to the information expressly required to be included in Forms A, Form B, Form C, and Form D, ~~there must be added such further material information, if any, as may be necessary to make the information contained therein not misleading.~~ any additional material information necessary to make the information contained in the forms not misleading must be added. ~~The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement.~~ Additional

exhibits not required by the statement may be filed. Such exhibits must be so marked as to indicate clearly the subject matters to which they refer. The additional exhibits must indicate the subject matters they reference. Changes to Forms A, B, C, or D must include on the top of the cover page the phrase: "Change No. (insert number) to Form (A, B, C, or D)" and must indicate the date of the change ~~and not~~ rather than the date of the original filing.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1104, 33-2-1111, 33-2-1113, 33-2-1517, MCA

6.6.3706 FILING OF FORM A, REGARDING ACQUISITION OR CONTROL

(1) A person required to file a statement pursuant to 33-2-1104, MCA, shall furnish the required information on Form A, ~~hereby~~ which is made a part of these rules.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1104, 33-2-1517, MCA

6.6.3707 AMENDMENTS TO FORM A

(1) The applicant shall promptly advise the commissioner of any changes in the information ~~se~~ furnished on Form A arising subsequent to the date upon which ~~such~~ the information was furnished, but prior to the commissioner's disposition of the application.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1103, 33-2-1517, MCA

6.6.3708 REPORTING ACQUISITION OF DOMESTIC INSURERS

(1) If the person being acquired is deemed to be a "domestic insurer" solely because of the provisions of 33-2-1104, MCA, the name of the domestic insurer on the cover page ~~should~~ must be indicated as follows:

(a) "ABC Insurance Company, a subsidiary of XYZ Holding Company."

(2) remains the same.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1104, 33-2-1517, MCA

6.6.3709 FILING OF FORM B--ANNUAL REGISTRATION OF INSURERS

(1) An insurer required to file an annual registration statement pursuant to 33-2-1111(2)-, MCA, shall furnish the required information on Form B, ~~hereby~~ which is made a part of these rules.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1111, 33-2-1517, MCA

6.6.3710 AMENDMENTS TO FORM B

(1) An amendment to Form B ~~must~~ shall be filed within 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement.

(2) Amendments must be filed in the Form B format with only those items which are being amended reported. Each ~~such~~ amendment must include at the top of the cover page "Amendment No. (insert number) to Form B for (insert year)," and ~~must~~ shall indicate the date of the change and not the date of the original filings.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1111, 33-2-1517, MCA

6.6.3711 SUMMARY OF CHANGES TO REGISTRATION--STATEMENT

FILING (1) An insurer required to file an annual registration statement pursuant to 33-2-1111(2)-, MCA, is also required to furnish information required on Form C, hereby which is made a part of these regulations rules. ~~An insurer shall file a copy of Form C in each state in which the insurer is authorized to do business, if requested by the commissioner of that state.~~

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1111, 33-2-1517, MCA

6.6.3712 ALTERNATIVE AND CONSOLIDATED REGISTRATIONS

(1) through (2) remain the same.

(3) With the prior approval of the commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under paragraph (1) above.

(4) Any insurer may take advantage of the provisions of 33-2-1111(8) and (9), MCA, without obtaining the prior approval of the commissioner. The commissioner, however, may require individual filings if (s)he deems such filings necessary in the interest of clarity, ~~and~~ ease of administration, ~~or for~~ the public benefit.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1111, 33-2-1517, MCA

6.6.3713 DISCLAIMERS AND TERMINATION OF REGISTRATION

(1) and (1)(a) remain the same.

(b) with respect to the person whose control is denied, and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record, or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;

(c) all material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person; and

(d) a statement explaining why ~~such~~ the person should not be considered to control the subject.

(2) A request for termination of registration shall be deemed ~~to have been~~ granted unless the commissioner, within 30 days after (s)he receives the request, notifies the registrant otherwise.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1111, 33-2-1112, 33-2-1517, MCA

6.6.3714 FILING OF FORM D--TRANSACTIONS SUBJECT TO PRIOR NOTICE (1) An insurer required to give notice of a proposed transaction pursuant to 33-2-1113, MCA, shall furnish the required information on Form D, hereby which is made a part of these rules.

(2) Agreements for cost sharing services and management services must at a minimum, and as applicable:

(a) identify the person providing services, and the nature of such services;

(b) set forth the methods to allocate costs;

(c) require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;

(d) prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;

(e) state that the insurer will maintain oversight for functions provided to the insurer by the affiliate, and that the insurer will monitor services annually for quality assurance;

(f) define books and records of the insurer to include all books and records developed or maintained under or related to the agreement;

(g) specify that all books and records of the insurer are and remain the property of the insurer and are subject to control of the insurer;

(h) state that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer, and are subject to the control of the insurer;

(i) include standards for termination of the agreement with and without cause;

(j) include provisions for indemnification of the insurer in the event of gross negligence, or willful misconduct on the part of the affiliate providing the services;

(k) specify that, if the insurer is placed in receivership or seized by the commissioner under the Insurers Supervision, Rehabilitation, and Liquidation Act:

(i) all of the rights of the insurer under the agreement extend to the receiver or commissioner; and

(ii) all books and records will immediately be made available to the receiver or commissioner, and shall be turned over to the receiver or commissioner immediately upon the receiver or the commissioner's request.

(l) specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to the Insurers Supervision, Rehabilitation, and Liquidation Act; and

(m) specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the commissioner under the Insurers Supervision, Rehabilitation, and Liquidation Act, and will make them available to the receiver, for so long as the affiliate continues to receive timely payment for services rendered.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1113, 33-2-1517, MCA

6.6.3715 EXTRAORDINARY DIVIDENDS AND OTHER DISTRIBUTIONS

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

(i) the amounts, dates, and forms of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurers own securities) paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

(ii) through (f) remain the same.

(2) Subject to 33-2-1114, MCA, each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within 15 business days following the declaration thereof, including the same information required by (1)(d)(i) through (v) ~~hereof~~.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1116, 33-2-1114, MCA

6.6.3716 ADEQUACY OF SURPLUS (1) The factors set forth in 33-2-1113(6), MCA, are not ~~exclusive~~ intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus, no single factor will necessarily be controlling. The commissioner will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the commissioner will consider the extent to which each of these factors varies from company to company, and in determining the quality and liquidity of investments in subsidiaries, the commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1113, 33-2-1517, MCA

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

NEW RULE I FORMS (1) The following forms apply to this subchapter.

(a) **FORM A**

**STATEMENT REGARDING THE
ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER**

Name of Domestic Insurer

BY

Name of Acquiring Person (Applicant)

Filed with the Montana Commission of Insurance

(State of domicile of insurer being acquired)

Dated: _____, 20____

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

ITEM 1. INSURER AND METHOD OF ACQUISITION

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

- (a) State the name and address of the applicant seeking to acquire control over the insurer;
- (b) If the applicant is not an individual, state the nature of its business operations for the past five years, or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries; and
- (c) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the applicant and all affiliates of the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings, and the date when commenced.

ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT

On the biographical affidavit, include a third party background check, and state the following with respect to:

- (1) The applicant if (s)he is an individual, or
- (2) All persons who are directors, executive officers or owners of 10% or more of the voting securities of the applicant if the applicant is not an individual.
 - (a) Name and business address;
 - (b) Present principal business activity, occupation, or employment including position and office held and the name, principal business, and address of any corporation or other organization in which such employment is carried on;
 - (c) Material occupations, positions, offices, or employment during the last five years, giving the starting and ending dates of each and the name, principal business, and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office, or employment required licensing by or registration with any federal, state, or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension, or disciplinary proceedings in connection therewith; and
 - (d) Whether or not a person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

ITEM 4. NATURE, SOURCE, AND AMOUNT OF CONSIDERATION

- (a) Describe the nature, source, and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all

agreements, promissory notes, and security arrangements relating thereto;

- (b) Explain the criteria used in determining the nature and amount of such consideration; and
- (c) If the source of the consideration is a loan made in the lender's ordinary course of business, and if the applicant wishes the identity of the lender to remain confidential, (s)he must specifically request that the identity be kept confidential.

ITEM 5. FUTURE PLANS OF INSURER

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate the insurer, to sell its assets to or merge it with any person or persons, or to make any other material change in its business operations, or corporate structure, or management.

ITEM 6. VOTING SECURITIES TO BE ACQUIRED

State the number of shares of the insurer's voting securities which the applicant, its affiliates, and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement, or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

ITEM 7. OWNERSHIP OF VOTING SECURITIES

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates, or any person listed in Item 3.

ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDING WITH RESPECT TO VOTING SECURITIES OF THE INSURER

Give a full description of any contracts, arrangements, or understandings with respect to any voting security of the insurer in which the applicant, its affiliates, or any person listed in Item 3 is involved including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements, or understandings have been entered into.

ITEM 9. RECENT PURCHASES OF VOTING SECURITIES

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates, or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement. Include in such description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefore. State whether any such shares so purchased are hypothecated.

ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates, or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates, or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement.

ITEM 11. AGREEMENT WITH BROKER-DEALERS

Describe the terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender, and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto.

ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS

- (a) Financial statements, exhibits, and three year financial projections of the insurer(s) must be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached;
- (b) The financial statements must include the annual financial statements of the persons identified in Item 2(c) for the preceding five fiscal years (or for such lesser period as the applicant and its affiliates, and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if the information is available. Such statements may be prepared on either an individual basis, or, unless the commissioner otherwise requires, on a consolidated basis, if such consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant must be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles, or with requirements of insurance, or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of such person filed

with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of the state; and

- (c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory, or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or ARM 6.6.3702 and 6.6.3704.

ITEM 13. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of 33-1-1111, MCA, _____ has caused this application to be duly signed on its behalf in the city of _____ and state of _____ on the _____ day of _____, 20__.

(SEAL) _____
Name of Applicant

BY _____
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned certifies that (s)he has duly executed the attached application dated _____, 20__, for and on behalf of _____; (Name of Applicant); that (s)he is the

_____ (Title of Officer) of such company and that (s)he is authorized to execute and file the instrument. Deponent further says that (s)he is familiar with the instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature) _____

(Type or print name beneath) _____

(b)

FORM B

INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT

Filed with the Montana Commission of Insurance

By

Name of Registrant

On Behalf of Following Insurance Companies

Name

Address

Name	Address

Date: _____, 20__

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

ITEM 1. IDENTITY AND CONTROL OF REGISTRANT

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date on which each registrant became part of the insurance holding company system; and the method(s) by which control of each registrant was acquired and is maintained.

ITEM 2. ORGANIZATIONAL CHART

Furnish a chart or listing presenting the identities of, and interrelationships among, all affiliated persons within the insurance holding company system. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of control. As to each person specified in such chart or listing, indicate the type of organization (e.g., corporation, trust, partnership), and the state or other jurisdiction of domicile.

ITEM 3. THE ULTIMATE CONTROLLING PERSON

As to the ultimate controlling person in the insurance holding company system furnish the following information:

- (a) Name;
- (b) Home office address;
- (c) Principal executive office address;
- (d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc;
- (e) The principal business of the person;
- (f) The name and address of any person who holds or owns 10% or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned; and
- (g) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings, and the date when commenced.

ITEM 4. BIOGRAPHICAL INFORMATION

If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the

directors and executive officers of the ultimate controlling person; the individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any convictions of crimes other than minor traffic violations during the past ten years. If the ultimate controlling person is an individual, furnish the individual's name and address, the individual's principal occupation, and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years.

ITEM 5. TRANSACTIONS AND AGREEMENTS

Briefly describe the following agreements in force and transactions currently outstanding, or which have occurred during the last calendar year between the registrant and its affiliates:

- (a) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the registrant or of the registrant by its affiliates;
- (b) Purchases, sales, or exchanges of assets;
- (c) Transactions not in the ordinary course of business;
- (d) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the registrant's business;
- (e) All management agreements, service contracts, and all cost-sharing arrangements;
- (f) Reinsurance agreements;
- (g) Dividends and other distributions to shareholders;
- (h) Consolidated tax allocation agreements; and
- (i) Any pledge of the registrant's stock and/or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

No information need be disclosed if such information is not material for purposes of 33-2-1111, 33-2-1112, and 33-2-1113, MCA.

Sales, purchases, exchanges, loans, or extensions of credit, investments or guarantees involving one-half of 1% or less of the

registrant's admitted assets as of the 31st day of December of the preceding year are not deemed material.

The description must be in a manner as to permit the proper evaluation thereof by the commissioner, and must include at least the following: the nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to the transaction, and relationship of the affiliated parties to the registrant.

ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceeding is or was pending:

- (a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party; and
- (b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership, or other corporate reorganizations.

ITEM 7. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

ITEM 8. FINANCIAL STATEMENTS AND EXHIBITS

- (a) Financial statements and exhibits must be listed under this item and attached to this statement as an appendix.
- (b) If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, the financial statements must include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information must be filed for any subsequent period to the extent such information is available. The financial statements may be prepared either on an individual basis, or unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Unless the commissioner otherwise permits, the annual financial statements must be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles, or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the insurer's annual statement filed with the insurance department of the insurer's domiciliary state, and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that state.

Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the Personal Financial Statements Guide by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent public accountants Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

- (c) Exhibits must include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Form B or ARM 6.6.3702 and 6.6.3704.

ITEM 9. FORM C REQUIRED

A Form C, Summary of Changes to Registration Statement, must be prepared and filed with this Form B.

ITEM 10. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of 33-2-1111, MCA, the registrant has caused this annual registration statement to be duly signed on its behalf in the city of _____ and state of _____ on the day of _____, 20__.

(SEAL) _____
Name of Applicant

BY _____
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned certifies that (s)he has duly executed the attached annual registration statement dated _____, 20__ , for and on behalf of _____ (Name of Applicant); that (s)he is the _____ (Title of Officer) of the company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature) _____

(Type or print name beneath) _____

(c)

FORM C

SUMMARY OF CHANGES TO REGISTRATION STATEMENT

Filed with the Montana Commission of Insurance

By

Name of Registrant

On Behalf of Following Insurance Companies

Name

Address

Date: _____, 20__

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description must be in a manner as to permit the proper evaluation thereof by the commissioner, and must include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of 10% or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where an individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change must be included. If a transaction

disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer must furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

Pursuant to the requirements of 33-2-1111, MCA, the registrant has caused this summary of registration statement to be duly signed on its behalf in the city of _____ and state of _____ on the _____ day of _____, 20____.

(SEAL) _____
Name of Registrant

By _____
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned certifies that (s)he has duly executed the attached summary of registration statement dated _____, 20__, for and on behalf of _____ (Name of Applicant); that (s)he is the _____ (Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature) _____

(Type or print name beneath) _____

(d)

FORM D

PRIOR NOTICE OF A TRANSACTION

Filed with the Montana Commission of Insurance

By

Name of Registrant

On Behalf of Following Insurance Companies

Name

Address

Name	Address

Date: _____, 20____

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should be Addressed:

ITEM 1. IDENTITY OF PARTIES TO TRANSACTION

Furnish the following information for each of the parties to the transaction:

- (a) Name;
- (b) Home office address;
- (c) Principal executive office address;
- (d) The organizational structure; i.e., corporation, partnership, individual, trust, etc.

- (e) A description of the nature of the parties' business operations;
- (f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties; and
- (g) Where the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

ITEM 2. DESCRIPTION OF THE TRANSACTION

Furnish the following information for each transaction for which notice is being given:

- (a) A statement as to whether notice is being given under 33-2-1113(2), MCA;
- (b) A statement of the nature of the transaction;
- (c) A statement of how the transaction meets the 'fair and reasonable' standard of Section 5A(1)(a) of the Act; and
- (d) The proposed effective date of the transaction.

ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES OR INVESTMENTS

Furnish a brief description of the amount and source of funds, securities, property, or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements, and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of, or deferral of interest.

If the transaction involves an investment, guarantee, or other arrangement, state the time period during which the investment, guarantee, or other arrangement will remain in effect, together with any provisions for extensions or renewals of the investments, guarantees, or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

Notice is not required if the maximum amount which can at any time be outstanding, or for which the insurer can be legally obligated under the loan, extension of credit, or guarantee is less than, (a) in the case of non-life insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders or, (b) in the case of life insurers, 3% of the insurer's admitted assets, each as of the 31st day of December of the preceding year.

ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NON-AFFILIATE

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit. Additionally, specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of, or make investments in any affiliate. Describe the amount and source of funds, securities, property, or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, include a description of its cost and fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

Notice is not required if the loan or extension of credit is one which equals less than, in the case of non-life insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders or, with respect to life insurers, 3% of the insurer's admitted assets, each as of the 31st day of December of the preceding year.

ITEM 5. REINSURANCE

If the transaction is a reinsurance agreement or modification to a reinsurance agreement, as described by 33-2-1113(2)(a)(iii), MCA, furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

Notice is not required for reinsurance agreements or modifications if the reinsurance premium or a change in the insurer's liabilities in connection with the reinsurance agreement or modification is less than 5% of the insurer's surplus as regards policyholders, as of the 31st day of December of the preceding year.

ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS, AND COST-SHARING AGREEMENTS

For management and service agreements, furnish:

- (a) A brief description of the managerial responsibilities, or services to be performed; and
- (b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

- (a) A brief description of the purpose of the agreement;
- (b) A description of the period of time during which the agreement is to be in effect;
- (c) A brief description of each party's expenses or costs covered by the agreement; and
- (d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement.
- (e) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus.
- (f) A statement regarding the cost allocation methods that specifies whether proposed charges are based on "cost of market." If market-based, rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable; and
- (g) A statement regarding compliance with the NAIC Accounting Practices and Procedure Manual regarding expense allocation.

ITEM 7. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of 33-2-1113, MCA, _____ has caused this notice to be duly signed on its behalf in the city of _____ and state of _____ on the _____ day of _____, 20____.

(SEAL) _____
Name of Applicant

By: _____
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned certifies that (s)he has duly executed the attached notice dated _____, 20__, for and on behalf of _____; (Name of Applicant); that (s)he is the _____ (Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature) _____

(Type or print name beneath) _____

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1104, 33-2-1111, 33-2-1113, 33-2-1517, MCA

5. REASONABLE NECESSITY STATEMENT: The Commissioner of Securities and Insurance, Montana State Auditor, Monica J. Lindeen (Commissioner), is the statewide elected official responsible for administration of the Montana Insurance Department and regulating the business of insurance in the state of Montana.

The commissioner is a member, and the Vice President, of the National Association of Insurance Commissioners (NAIC). The NAIC is an organization of insurance regulators from the 50 states, the District of Columbia, and the U.S. territories. The

NAIC provides a forum for the development of uniform policy and regulation when uniformity is appropriate. The source of the legislation relating to holding company systems was the Insurance Holding Company System Regulatory Act, promulgated by the NAIC. The source of the administrative rules relating to insurance company holding systems was the Insurance Holding Company System Model Regulation With Reporting Forms and Instructions (NAIC model), also promulgated by the NAIC. The rules and forms relating to insurance holding company systems need to be amended to conform more accurately to the NAIC model rules and forms and to eliminate incorrect citations, gender specific language, archaic language, redundancies, typographical or grammatical errors, and complicated sentence syntax.

ARM 6.6.3702 is being amended to eliminate archaic and redundant language, to clarify existing language, to simplify existing language, to correct mandatory language, and to properly capitalize the commissioner's official title.

ARM 6.6.3703(1) is being amended to eliminate language that was eliminated in the NAIC model. Sections (2) and (3) are proposed to be renumbered (1) and (2) to compensate for the removal of (1). New (1) and (2) are proposed to be amended to eliminate archaic language, clarify existing language, and to simplify sentence structure.

ARM 6.6.3705 is being amended to eliminate redundancies, simplify sentence structure, eliminate archaic language, and to clarify existing language.

ARM 6.6.3706 and ARM 6.6.3707 are being amended to eliminate archaic language.

ARM 6.6.3708 is being amended to correct mandatory language.

ARM 6.6.3709 is being amended to correct a spacing error and to eliminate archaic language.

ARM 6.6.3710 is being amended to correct mandatory language, eliminate archaic language, and to insert necessary commas.

ARM 6.6.3711 is being amended to conform with the updated NAIC model, to correct errors, and eliminate archaic language.

ARM 6.6.3712 is being amended to eliminate unnecessary language, remove gender specific language, and add necessary commas.

ARM 6.6.3713 is being amended to add a necessary comma, correct sentence structure, eliminate archaic language, and eliminate gender specific language.

ARM 6.6.3714 is being amended to eliminate archaic language, correct mandatory language, conform the rule to the updated NAIC model, and to correctly identify the Insurers Supervision, Rehabilitation, and Liquidation Act.

ARM 6.6.3715 is proposed to be amended to correct a spacing error, remove archaic language, and eliminate a section abbreviation.

ARM 6.6.3716 is being amended to correct a spacing error, and to conform to the updated NAIC model.

NEW RULE I is proposed to be adopted in order to properly include Forms A through D within the rules in this subchapter.

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: Mike Winsor, Staff Attorney, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2040; fax (406) 444-3499; or e-mail mwinsor@mt.gov, and must be received no later than 5:00 p.m., November 20, 2013.

7. Michael Winsor, staff attorney, has been designated to preside over and conduct this hearing.

8. The CSI maintains a list of concerned persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Such written request may be mailed or delivered to Darla Sautter, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2726; fax (406) 444-3499; or e-mail dsautter@mt.gov or may be made by completing a request form at any rules hearing held by the CSI.

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. Pursuant to 2-4-302, MCA, the bill sponsor contact requirements do not apply.

11. Pursuant to 2-4-111, MCA, the small business impact analysis statement does not apply to these rules.

/s/Brett O'Neil
Brett O'Neil
Rule Reviewer

/s/Jesse Laslovich
Jesse Laslovich
Chief Legal Counsel

Certified to the Secretary of State October 7, 2013.

BEFORE THE BOARD OF LAND COMMISSIONERS AND
THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I through VIII, the amendment) PROPOSED ADOPTION ,
of ARM 36.25.128, and the repeal of) AMENDMENT, AND
36.25.131 regarding cabinsite lease) REPEAL
site sales)

To: All Concerned Persons

1. The Department of Natural Resources and Conservation will hold two public hearings on the following dates and times to consider the proposed adoption, amendment, and repeal of the above-stated rules:

November 6, 2013, at 7:00 p.m. at the Sullivan Memorial Community Hall, 3248 Highway 83, Seeley Lake, Montana; and

November 8, 2013, at 1:00 p.m. in the Bannack Room (first floor) at the Department of Natural Resources and Conservation, 1625 Eleventh Avenue, Helena, Montana.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than October 31, 2013, to advise us of the nature of the accommodation that you need. Please contact Emily Cooper, Department of Natural Resources and Conservation, 1625 Eleventh Avenue, Helena, MT; telephone (406) 444-4165; fax (406) 444-2684; e-mail ecooper@mt.gov.

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

NEW RULE I DEFINITIONS As used in this subchapter, the following definitions apply, except where the context clearly indicates otherwise:

(1) "Agenda item report" means an agenda item containing information specific to sales presented to the state Board of Land Commissioners.

(2) "Bid" means a written or oral monetary commitment to purchase land or interest in land offered at the specified time and place by a person eligible to participate in an auction, as specified by the department in accordance with 77-2-363, MCA.

(3) "Bid deposit" for a cabin site or home site sale only means electronic funds transfer or a certified check or cashier's check drawn on any Montana bank equal to five percent of the minimum sales price submitted in connection with a bid for the real property as an assurance of the performance of a contractual or promissory requirement.

(4) "Board" means the state Board of Land Commissioners.

(5) "Department" means the Department of Natural Resources and Conservation.

(6) "Estimated costs" means the estimated costs to prepare the cabin site or home site for sale.

(7) "Improvements" means a home or residence, outbuildings and structures, sleeping cabins, utilities, water systems, septic systems, docks and landscaping.

(8) "Lessee" means the current lease holder of any cabin site or home site lease of state trust land.

(9) "Parcel" means one section or less that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office or in the department's records.

(10) "Processing costs" means estimated costs of preparing the parcel for sale, including but not limited to nomination fees, legal advertising, appraisals attributable to improvements, cultural resource inventories, required environmental review if not exempt under 77-2-363(6)(b), MCA, public notice, and document filing fees.

(11) "Tract" means a distinct portion of land, irrespective of ownership, that can be identified by legal description, independent of any other portion of land, using documents on file in the records of the county clerk and recorder's office.

AUTH: 77-1-204, 77-2-308, 77-2-328, 77-2-362, MCA

IMP: 77-2-328, 77-2-362, 77-2-363, MCA

NEW RULE II TRANSACTION COSTS FOR CABIN SITE OR HOME SITE

SALES (1) With the exception of processing costs described in this rule, the purchaser, or an applicant for purchase, of lands formerly comprising a state cabin site need not compensate the department for any administrative costs or services performed by department staff necessary for the sale of that state cabin site.

(2) The department shall:

(a) maintain a record of each transaction; and

(b) summarize all costs at the completion of each sale.

(3) Except as provided hereinabove, processing costs as described in [New RULE I](9) shall be paid by the nominator or the purchaser, respectively.

AUTH: 77-2-362, MCA

IMP: 77-2-362, MCA

NEW RULE III CONSIDERATIONS IN THE SALE OF CABIN SITE OR HOME SITE PURSUANT TO LAND BANKING

(1) If the sale of a parcel would extinguish existing, reasonable public access to other public or state trust land or to public water, as defined in 77-2-303(2)(a), MCA, the board shall reserve an easement or right of way for access to the other public or state trust land or to public water.

(2) If the sale of a parcel would extinguish access to adjacent private land, the department shall provide an opportunity for the landowner to make application to purchase an easement under 77-1-107, 77-1-130, or 77-2-101, MCA.

AUTH: 77-2-303, 77-2-362, MCA
IMP: 77-2-308, 77-2-311, 77-2-363, MCA

NEW RULE IV PRELIMINARY REVIEW OF CABIN SITES AND HOME SITE SALE PARCELS BEFORE NOMINATION

(1) The department shall conduct a preliminary review of each parcel prior to department's nomination of any cabin site or home site parcel for sale. The department shall also conduct a preliminary review of any lessee- or improvement owner-nominated parcel to determine the suitability and priority for selling a cabin site or home site. The department may consider the following factors in the preliminary review:

- (a) whether sale is consistent with the board's constitutional fiduciary duty;
- (b) whether the parcel possesses clear title and whether any mortgage holder consents to sale;
- (c) whether there are any outstanding lease violations on the parcel;
- (d) whether, and to what degree the sale of the parcel would affect access to other public lands; and
- (e) the extent of infrastructure, such as roads, utilities, power, telephone, water, or sewer availability.

(2) Based on the preliminary review, the department will inform the nominating lessee how the department ranks the cabin site or home site for processing for nomination for sale.

(3) The department may determine, based on current market conditions, the annual amount of cabin site or home site sale applications that it will accept and process in a given area.

AUTH: 77-1-204, 77-2-308, 77-2-362, MCA
IMP: 77-2-328, 77-2-363, MCA

NEW RULE V PROCEDURES FOR NOMINATING AND EVALUATING CABIN SITE AND HOME SITES FOR SALE PURSUANT TO LAND BANKING

(1) The board shall, in its sole discretion, sell individual cabin sites and home sites in configurations providing the best financial and management advantage to the affected trust beneficiary.

(2) The board reserves the right to approve or deny any nominations for the sale of state cabin sites and home sites. The department reserves the right to prioritize activities and determine the number of transactions processed related to the sale of cabin sites and home sites.

(3) The board, the department, the current lessee of, or the owner of the improvements resting upon a cabin site or home site, may nominate that cabin site or home site for sale:

- (a) nominations must be on a form issued by the department and must be sent to the appropriate department office, as noted on the form;
- (b) a lessee or improvement owner may nominate and shall pay a nonrefundable \$100 processing fee for each cabin site or home site nominated;
- (c) the department may not accept incomplete nominations;
- (d) the department shall review the classification of the parcel, as provided in 77-1-401, MCA, and classify the parcel if it is not classified; and

(e) when a parcel is nominated, the department shall notify:
(i) all persons holding a license on the parcel;
(ii) the representative of any affected trust beneficiary; and
(iii) the lessee of the parcel if the board or department nominated the parcel for sale.

(4) Sale of cabin sites and home sites are exempt from Montana Environmental Policy Act (MEPA) review under 77-2-363(6)(b), MCA.

(5) If the department determines pursuant to [New Rule IV] that a cabin site or home site meets the preliminary suitability requirements for sale, the department will prepare an agenda item report for the board to seek the board's preliminary approval for a potential sale of the cabin site or home site.

(6) If the department determines the cabin site or home site is not suitable for sale, the department may, without board approval, remove the cabin site or home site from nomination and eliminate the parcel from further review.

(7) The department shall notify the lessee or improvement owner of the department's recommendation of the suitability of a cabin site or home site parcel's suitability for sale by mail, as provided in 77-2-363(3), MCA.

(a) The notification must be mailed on or before the day the department posts the notice on its web site or other equivalent electronic medium.

(b) As a courtesy, the department shall try to contact the lessee by telephone about the department's notice of suitability for sale.

(8) The department shall notify all persons holding a license on the cabin site or home site and the trust beneficiary about the determination.

(9) Any person may appeal the department's removal of a cabin site or home site from nomination to the board within 15 days of the department posting the report on the web site or other equivalent electronic medium. The board shall place the appeal on the next available agenda of a regularly scheduled board meeting no later than 15 days before the meeting.

(10) On a board or department-nominated cabin site or home site, the lessee may, within 60 days of the determination, notify the department that the lessee intends to propose a land exchange.

(11) For each cabin site or home site under review for possible sale, the department shall review the title to the tract and improvements, but the department does not warrant the accuracy of its findings to any party.

(12) Upon the department's agenda item report to the board under (5), the board may preliminarily approve, reject, or modify the terms of the proposed sale.

(a) If the board rejects the proposed sale of the cabin site or home site, the department shall remove the parcel from nomination.

(b) If the board preliminarily approves the proposed sale of the cabin site or home site, the department shall post the sale information for the parcel on the department's web site or other equivalent electronic medium within 30 days of the board's approval.

(13) If the board has preliminarily approved a proposed sale nominated by the lessee or improvement owner, the department will estimate the costs of the appraisal and will notify the lessee or improvement owner of the approval and request submission of the estimated costs of the appraisal attributable to the

improvements on the cabin site or home site and associated costs of processing the cabin site or home site for sale.

(a) Where the board gives preliminary approval for the sale of the parcel, the lessee or improvement owner must submit payment for all processing costs within ten days of notification to do so by the department.

(14) If the board has preliminarily approved a proposed sale, the department shall contract with a Montana-licensed certified general appraiser to appraise the cabin site or home site, including improvements under consideration for sale in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), as adopted by reference by the state Board of Real Estate Appraisers in ARM 24.207.402. The department will review or contract the review of the appraisal conducted by the contract appraiser.

(15) The department shall pay that proportion of the cost of the appraisal necessary to determine the appraised value of the land. The lessee or improvement owner shall pay that proportion of the cost of the appraisal necessary to determine the appraised value of the improvements.

(a) The department will provide the lessee or improvement owner with a list of no less than two acceptable appraisers to conduct the appraisal, the lessee or improvement owner will select 50 percent of the appraisers on the list, from which the department will select an appraiser to conduct the appraisal.

(b) The appraisal for cabin sites and home sites must:

(i) include a separate land value for the state-owned cabin site or home site in the valuation;

(ii) include a separate value for the non-state-owned improvements in the valuation.

(A) Valuation of the improvements must account for all forms of obsolescence;

(iii) include a total value of the property.

(A) The value of state-owned land added to the non-state-owned improvements value will not be greater than the total value of the property;

(iv) use comparable sales for like properties;

(v) be valued with the hypothetical condition that the cabin site or home site has legal access;

(vi) be reviewed and updated one year from the date of valuation stated in the appraisal report; and

(c) The department shall notify the lessee of the appraised value and post that same information in a dated notice on the department's web site or other equivalent electronic medium.

(16) The department shall give the lessee or improvement owner notice and opportunity for an informal administrative hearing before the department to contest those valuations. The department shall review the arguments and evidence received at the hearing to make a recommendation of the values of the land and the cabin site or home site improvements to the board.

(a) The lessee or improvements owner must file notice of appeal of value with the department within ten days of the department's notification to the lessee or improvements owner of the department's initial valuation of the land and the improvements. Within ten days after receipt of any notice of appeal the department

shall notify the lessee or improvements owner of the time and place of the hearing before the director of the department, or the director's designee. Any such hearing shall be informal without adherence to strict rules of evidence as provided in 2-4-604, MCA. A hearings examiner may be appointed to conduct the hearing. The lessee or owner of improvements shall present evidence and arguments it wishes the department to consider in recommending values of land and improvements to the board.

(17) The department shall present its findings, conclusions, and recommended values of land and improvements to the board and the lessee or improvement owner.

(18) Upon receiving the appraisal values or department's recommendation of values, the board shall set a minimum acceptable bid on the real property comprising the cabin site or home site, and determine the improvement value for compensation to the lessee or improvement owner.

(a) Upon receipt of lessee consent to the terms and conditions of the proposed sale and the valuation of cabin site or home site improvements, the sale must proceed utilizing the board's final determination of the values, and the lessee or improvement owner is obligated to transfer its interest in the cabin site or home site improvements existing on the cabin site or home site lease according to the board's final determination of their value.

(b) Nothing in this rule prohibits the lessee or improvement owner from choosing to accept a price for the cabin site or home site improvements existing on the cabin site or home site that is less than the board's final determination of value.

(19) The department shall give notice of the minimum acceptable bid for the real property comprising the cabin site or home site, and the determined value of the improvements for sale by listing the proposed sale of the cabin site or home site and the improvements upon the department's Internet web site or other equivalent electronic medium.

(20) If the board has preliminarily approved a proposed sale, the department shall make the following available to the public, all bidders, and the lessee:

(a) minimum acceptable bid for the land and the determined value of the improvements;

(b) contents and findings of any title review without any warranty of title; and

(c) any required environmental review.

(21) The department shall provide notice of the proposed sale to the following:

(a) Department of Fish, Wildlife and Parks;

(b) Department of Transportation;

(c) Department of Environmental Quality;

(d) all adjacent landowners of record;

(e) the appropriate trust beneficiaries;

(f) the board of county commissioners in the county where the cabin site or home site is located;

(g) any surface lessees of the sale of the cabin site or home site by mail. The notice to lessees must include an estimate of costs necessary to complete the sale if the lessees nominated the cabin site or home site;

(h) all persons holding a license on the cabin site or home site;

(i) all persons who have requested to be placed on a notification list for the sale of the real property.

(22) If necessary, the department may conduct a survey of the cabin site or home site proposed for sale. The department shall pay for any such survey of the cabin site or home site.

AUTH: 77-1-204, 77-2-308, 77-2-362, MCA

IMP: 77-2-328, 77-2-362, 77-2-363, 77-2-364, 77-2-366, MCA

NEW RULE VI TERMINATION OF LESSEE-INITIATED CABIN SITE OR HOME SITE SALE AFTER DEPOSIT AND PROCESSING COSTS PAID BY LESSEE

(1) If the current lessee of the cabin site or home site has initiated the sale, as authorized by 77-2-361 through 77-2-367, MCA, and submitted processing costs with the department, the lessee may cancel the sale. The lessee shall send written notice by certified mail to the department, postmarked no later than ten days before the date of the auction.

(2) If the lessee cancels the sale the lessee shall pay all costs incurred by the department in preparing the sale, including but not limited to:

(a) any costs for required environmental review if not exempt under 75-1-201, 77-1-121, or 77-2-363(6)(b), MCA;

(b) appraisal attributable to the improvements;

(c) cultural resource inventory;

(d) public notices; and

(e) other costs that may be incurred by the department and/or board.

(3) The processing costs and bid deposit, as required in [New Rule V](13) and [New Rule VIII](4) that are paid by the lessee must be applied toward costs incurred by the department for the canceled sale.

(4) Any amount of processing costs and bid deposit remaining after payment of department costs must be returned to the lessee.

AUTH: 77-1-204, 77-2-308, 77-2-328, MCA

IMP: 77-2-328, 77-2-363, MCA

NEW RULE VII PROCEDURE FOR CONDUCTING CABIN SITE AND HOME SITE SALES (1) All land cabin site and home site sales are subject to the provisions of 77-2-318 through 77-2-326, MCA.

(2) The department shall set the date of the auction. Bidders may appear personally or be represented by a legally authorized representative.

(3) As required by 77-2-322, MCA, the department shall, at a minimum:

(a) publish notice of the auction in a newspaper of general circulation in the county where the auction is to take place, once each week for four consecutive weeks preceding the due date for bid deposits; and

(b) post the notice on the department's web site or other equivalent electronic medium and provide links to associated realty web sites, when feasible.

(4) A person wishing to bid upon a nominated cabin site or home site offered for sale at auction shall submit a bid deposit and execute a purchase agreement with

the department. The bid deposit and purchase agreement must be postmarked no later than 20 days before the date of the auction.

(5) Subject to (6), land must be sold to the highest bidder who consummates the terms of the sale.

(6) In accordance with 77-2-324, MCA, the current lessee has the preference right to match the high bid.

(7) The purchaser shall pay closing costs, including but not limited to:

(a) the cost of the appraisal attributable to the improvements;

(b) title insurance;

(c) filing fees;

(d) closing fees; and

(e) water rights transfer.

(8) The department shall retain the bid deposit and processing costs of the successful bidder. The department shall return the bid deposits of all unsuccessful bidders within 15 business days following the auction.

(9) If the highest bidder fails to consummate the sale for any reason the bidder forfeits the bid deposit and processing costs. The department may then offer the cabin site or home site to the next highest bidder at the final sale price.

(a) If the next highest bidder, or a subsequent bidder, in sequence of bid amount, agrees to the terms of the sale, that bidder shall complete a purchase agreement and resubmit a bid deposit and processing costs to the department.

(b) The bid deposit and processing costs will be returned to the highest bidder if a subsequent bidder completes a purchase agreement and resubmits a bid deposit and processing costs and the purchase price.

(10) If the final bidder who agrees to consummate the sale fails to comply with the terms of the sale, and submit the purchase price, for any reason, that bidder's bid deposit and processing costs are forfeited.

(a) The bid deposit must be credited to the land banking trust fund.

(b) The processing costs will be credited to the land banking administration account.

AUTH: 77-1-204, 77-2-308, 77-2-362, MCA

IMP: 77-2-328, 77-2-363, MCA

NEW RULE VIII VALUATION OF CABIN SITE AND HOME SITE IMPROVEMENTS FOR ACQUISITION UPON SALE OF CABIN AND HOME SITES

(1) If the lessee or improvement owner consents to the terms and conditions of the proposed sale and the valuation of cabin site or home site improvements, the sale must proceed utilizing the board's final determination of the values, and the lessee or improvement owner is obligated to transfer its interest in the cabin site or home site improvements existing upon the cabin site or home site lease according to the board's final determination of their value. The lessee or improvement owner shall receive the entire proceeds of sale attributable to the value of the improvements as previously determined by the board.

(2) Nothing in this rule prohibits the lessee or improvement owner from choosing to accept a price for the cabin site or home site improvements existing the cabin site or home site that is less than the board's final determination of value.

AUTH: 77-1-204, 77-2-308, 77-2-317, 77-6-302, 77-6-303, 77-6-306, MCA
IMP: 77-2-317, 77-2-328, MCA

REASONABLE NECESSITY: Chapter 422 of the 2013 Montana Session Laws, which will be codified as 77-2-317, MCA, established procedures for the sale of cabin sites and home sites upon state land. New Rules I through VIII are reasonably necessary to describe and define the sale process for such lands and implement the provisions of Chapter 422 of the 2013 Montana Session Laws. The rules are configured to: attain the full market value for the sale of such lands; make selected lands available for sale at the request of a cabin site or home site lessee or improvement owner; provide a valuation process for the land and improvements; and exempt such sales from the provisions of Title 75, Chapter 1, Parts 1 through 3.

During the initial two years the proposed nomination fees are expected to affect approximately five cabin site or home site nominees per year and generate approximately \$500 annually for the general fund. Thereafter, the proposed nomination fees are expected to affect approximately 40 cabin site or home site nominees per year and generate approximately \$4,000 annually for the general fund.

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

36.25.128 SALES (1) Except as provided in [New Rule I] through [New Rule VIII] ~~the board may sell any land under lease or license under the same terms and conditions as land not under lease or license. The board shall notify the lessee prior to such sale and at least six months prior to possession being given to the purchaser or as consistent with the applicable lease agreement. The lessee or licensee shall be entitled to compensation for improvements as provided in ARM 36.25.125. The purchaser will be given possession of land sold on March 1 next succeeding the date of the sale unless the lease or license expires prior to that date or the lessee or licensee and purchaser agree in writing on another date.~~

AUTH: 77-1-204, 77-1-209, 77-2-301, 77-2-303, 77-2-308, 77-2-328, 77-2-362, MCA

IMP: 77-2-303, 77-2-326, 77-2-362, 77-2-363, MCA

REASONABLE NECESSITY: The amendment of ARM 36.25.128 is reasonably necessary to conform the administrative rule to the provisions of Section one of Chapter 422 of the 2013 Montana Session Laws (codified at 77-2-303, MCA). The department is proposing to amend this rule to allow for the sale of the premises of former cabin site and home site leases which border navigable lakes, non-navigable meandered lakes, and navigable streams, as authorized by 77-2-303, MCA.

5. The department proposes to repeal the following rule:

36.25.131 SALE OF CABINSITES AND CITY OR TOWN LOTS:
IMPROVEMENTS

AUTH: 77-2-328, MCA

IMP: 77-2-318, 77-2-325, MCA

REASONABLE NECESSITY: ARM 36.25.131 is proposed to be repealed because it conflicts with New Rules I through VIII.

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 in writing to Emily Cooper, Department of Natural Resources and Conservation, 1625 Eleventh Avenue, Helena, MT; telephone (406) 444-4165; fax (406) 444-2684; e-mail dcabinsites@mt.gov, and must be received no later than 5:00 p.m. on November 14, 2013.

7. John Grimm, Department of Natural Resources and Conservation, has been designated to preside over and conduct the public 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 that the person wishes to receive notices regarding conservation districts and resource development, forestry, oil and gas conservation, trust land management, water resources, or a combination thereof. 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 Lucy Richards, P.O. Box 201601, 1625 Eleventh Avenue, Helena, MT 59620; fax (406) 444-2684; e-mail lrichards@mt.gov; 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 department's web site at <http://www.dnrc.mt.gov>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail on September 6, 2013.

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

/s/ John E. Tubbs
JOHN E. TUBBS
Director
Natural Resources and Conservation

/s/ Tommy Butler
TOMMY BUTLER
Rule Reviewer

Certified to the Secretary of State on October 7, 2013.

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 37.86.2925 and 37.86.2928) PROPOSED AMENDMENT
pertaining to Medicaid inpatient)
hospital services)

TO: All Concerned Persons

1. On November 6, 2013, at 11:00 a.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, at 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 October 30, 2013, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, 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:

37.86.2925 INPATIENT HOSPITAL REIMBURSEMENT, DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS (1) Routine disproportionate share hospitals (RDSH) ~~shall~~ will receive an additional payment amount equal to the product of the hospital's prospective base rate times the adjustment percentage of:

(a) and (b) remain the same.

(2) Subject to federal approval and the availability of sufficient state special revenue, all supplemental disproportionate share hospitals (SDSH) ~~shall~~ will receive a ~~supplemental disproportionate share hospital~~ SDSH payment. In order to maintain access and quality in the most rural areas in Montana, critical access hospitals ~~shall~~ will receive an increased portion of the available funding.

The ~~supplemental disproportionate share hospital~~ SDSH payment shall will be calculated using the formula: $SDSH = (M \div D) \times P$.

(a) For the purposes of ~~the determining supplemental disproportionate share hospital~~ SDSH payment amounts, the following definitions apply:

(i) and (ii) remain the same.

(A) For critical access hospitals, weighted Medicaid inpatient days ~~shall~~ equals the number of Medicaid inpatient days provided multiplied by 3.8.

(B) remains the same.

(iii) "D" equals the total number of weighted Medicaid paid inpatient days provided by all ~~supplemental disproportionate share hospitals~~ SDSHs in Montana.

(iv) "P" equals the unexpended, unencumbered disproportionate share hospital (DSH) allotment for Montana, as determined by the federal Centers for Medicare and Medicaid Services (CMS) according to section 1923 of the Social Security Act, remaining after routine ~~disproportionate share hospital~~ DSH payments have been calculated according to (1), plus the state financial participation.

(v) remains the same.

(3) ~~Disproportionate share hospital~~ DSH payments, including routine ~~disproportionate share hospital~~ RDSH payments and ~~supplemental disproportionate share hospital~~ SDSH payments, will be limited to the cap established by ~~the federal Centers for Medicare and Medicaid Services (CMS)~~ for the state of Montana. The adjustment percentages specified in ~~this rule shall~~ (1) will be ratably reduced as determined necessary by the department to avoid exceeding the cap.

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

(ii) redistribute the amount in overpayment to providers that had not exceeded the hospital-specific limit during the period in which the DSH payments were determined utilizing the methodology used in the payment of the original allocation; and

(iii) remains the same.

(d) Should the DSH overpayment exceed the aggregate hospital-specific limit, the federal amount of overpayment will be returned to ~~the Center for Medicare and Medicaid Services (CMS)~~.

(e) and (f) remain the same.

(4) Eligibility for ~~routine disproportionate share hospital~~ RDSH and ~~supplemental disproportionate share hospital~~ SDSH payments will be determined based on a provider's year-end reimbursement status.

AUTH: 2-4-201, 53-2-201, 53-6-113, MCA

IMP: 2-4-201, 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.86.2928 INPATIENT HOSPITAL REIMBURSEMENT, HOSPITAL REIMBURSEMENT ADJUSTOR (1) All hospitals meeting the eligibility requirements in ARM 37.86.2940 ~~shall~~ will receive a hospital reimbursement adjustor (HRA) payment. The payment consists of two separately calculated amounts. In order to maintain access and quality in the most rural areas of Montana, critical access hospitals ~~shall~~ will receive both components of the HRA. All other hospitals ~~shall~~ will receive only Part 1, as defined in (2)(a). Eligibility for an HRA payment will be determined based on a hospital's year-end reimbursement status.

(2) Part 1 of the HRA payment will be based upon Medicaid inpatient utilization, and will be computed as follows: $HRA1 = (M \div D) \times P$.

(a) For the purposes of calculating Part 1 of the HRA, the following apply:

(i) through (iii) remain the same.

(iv) "P" equals the total amount to be paid via Part 1 of the HRA. "P" consists of a state-paid amount plus the applicable federal financial participation (FFP). The

portion of "P" that is paid by the state will equal the amount of revenue generated by Montana's hospital utilization fee, less all of the following:

(A) remains the same.

(B) 4% of the total revenue generated by the hospital utilization fee, which will be expended as match for continuity of care adjustor payments, as provided in ARM ~~37.88.1106~~ 37.87.1224; and

(C) through (3) remain the same.

AUTH: 2-4-201, 53-2-201, 53-6-113, MCA

IMP: 2-4-201, 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-149, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (the department) is proposing amendments to ARM 37.86.2925 and 37.86.2928 regarding Medicaid Inpatient Hospital Services. The amendments are necessary to reflect the department's methodology for distributing disproportionate share hospital (DSH) overpayments and to update the rules using current terminology and rule formats.

ARM 37.86.2925

The department is proposing to amend this rule by specifying for providers how the department will redistribute DSH overpayments to providers within a specified period of time. This overpayment amount will be redistributed to providers that have not exceeded the hospital-specific limit. Overpayment redistribution will be determined utilizing the methodology used in the original DSH allocation for that time period in which the original DSH payment was made. The department is also amending grammatical errors in this rule. The proposed change of the term "shall" to "will" reflects current rule format standards and is not intended to change provider rights or privileges.

ARM 37.86.2928

In the current rule, a reference to ARM 37.88.1106 is made which provides for continuity of care adjustor payments. However, ARM 37.88.1106 has been repealed and replaced with ARM 37.87.1224. Therefore, to maintain accuracy within the rule, ARM 37.88.1106 will be replaced with ARM 37.87.1224. The proposed change of the term "shall" to "will" reflects current rule format standards and is not intended to change provider rights or privileges.

Fiscal Impact

Because the monies allocated to fund the hospital utilization fee are not generated through the Medicaid budget, the proposed amendments to the above-mentioned rules will not have any fiscal impact on the Medicaid budget for state fiscal year (SFY) 2014. Current hospital base rates will remain the same, having a budget-neutral effect.

5. The department intends to adopt these rule amendments effective January 1, 2014.

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: Kenneth Mordan, 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., November 14, 2013.

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.

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

/s/ John C. Koch
John C. Koch
Rule Reviewer

/s/ Mary E. Dalton acting for
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 7, 2013.

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 37.87.1313 pertaining to 1915(i)) PROPOSED AMENDMENT
home and community-based services)
(HCBS) state plan program for youth)
with serious emotional disturbance)

TO: All Concerned Persons

1. On November 6, 2013, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, at Helena, Montana, to consider the proposed amendment of the above-stated rule.

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 October 30, 2013, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, 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 rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.87.1313 1915(i) HOME AND COMMUNITY-BASED SERVICES (HCBS) STATE PLAN PROGRAM FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: FEDERAL AUTHORIZATION AND AUTHORITY OF STATE TO ADMINISTER PROGRAM (1) through (3) remain the same.

(4) The 1915(i) home and community-based services state plan program for youth with serious emotional disturbance must be delivered in accordance with the requirements and limitations of the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Policy Manual dated ~~July 4~~ December 13, 2013.

(5) The department adopts and incorporates by reference the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Policy Manual, dated ~~July 4~~ December 13, 2013. A copy of the manual may be obtained from the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 North Sanders, P.O. Box 4210, Helena, MT 59604 or at <http://www.dphhs.mt.gov/mentalhealth/children/>.

AUTH: 53-6-113, MCA
IMP: 53-6-101, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.87.1313 to reflect approval of the department's amendment to the 1915(i) HCBS State Plan Amendment (SPA) by the Centers for Medicare and Medicaid Services (CMS).

ARM 37.87.1313

On September 20, 2013, the Centers for Medicare and Medicaid Services (CMS) approved the department's amendment to the 1915(i) HCBS SPA effective July 1, 2013; the department received notification of the approval on September 24, 2013. This proposed amendment to the state plan is necessary due to the decrease in funding for the Utilization Review (UR) Contract during the 63rd Montana Legislature. The amendments to the state plan move the functions previously performed by the UR contractor staff to the Regional Managers employed by the department. This rule amendment is necessary to revise the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Policy Manual adopted and incorporated by reference in rule to reflect the state plan amendment.

Fiscal Impact

There is no fiscal impact associated with this proposed rule amendment.

5. The department intends to adopt these rule amendments effective retroactive to October 1, 2013. 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: Kenneth Mordan, 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., November 14, 2013.

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.

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

/s/ John C. Koch
John C. Koch
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 7, 2013.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.13.401, 42.13.402, and) PROPOSED AMENDMENT
42.13.404 relating to wine importation)
and licensee reporting requirements)

TO: All Concerned Persons

1. On November 12, 2013, at 1:30 p.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on November 1, 2013. Please contact Laurie Logan, Department of Revenue, Director's Office, PO Box 7701, Helena, Montana 59604-7701; telephone 406.444.7905; fax 406.444.3696; or e-mail lalogan@mt.gov.

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

42.13.401 IMPORTATION OF WINE (1) ~~Each~~ A foreign winery or importer, not otherwise licensed in Montana, desiring to ship table wines wine to licensed distributors within the state Montana must submit an application for registration to the department as specified in 16-4-107, MCA. ~~Each product the winery or importer desires to ship must conform to the provisions of ARM 42.13.201. Each application must be~~ The registration must be renewed annually by October 1 and be accompanied by the applicable registration fee shown in (2)(3).

(2) Each product the foreign winery or importer desires to ship must conform to the provisions of ARM 42.13.201.

(2)(3) The For the first year, the registration fee shall be is based on the total number of cases the registrant intends to ship to Montana that year. For subsequent years, the registration fee is based on the total number of cases the registrant actually shipped to Montana during the preceding year. The registration fee schedule is as follows:

- (a) 0-60 cases = no charge;
- (b) 61-500 cases = \$25;
- (c) 501-1000 cases = \$50;
- (d) 1001-1500 cases = \$100;
- (e) 1501-2000 cases = \$200; or
- (f) 2001 + cases = \$400.

(4) A winery that desires to ship table wine directly to consumers in Montana must also hold a current direct shipment endorsement, as specified in 16-4-1102, MCA. The direct shipment endorsement has an annual fee of \$50.

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

AUTH: 16-1-303, 16-4-1103, MCA

IMP: 16-4-107, 16-4-1101, 16-4-1102, 16-4-1103, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.13.401 based on the passage of House Bill 402, L. 2013. House Bill 402 allows wineries to obtain a direct shipment endorsement from the department to ship table wine directly to consumers within the state.

The proposed amendment in (1) adds clarification that a foreign winery or importer that is not otherwise licensed must first register with the department in order to ship table wine into Montana. The proposed amendment is intended to enhance understanding within the industry by specifying the registration renewal date and providing notice that a registration fee is required. New (2) relocates a statement being stricken from (1) and adds the word "foreign" for clarity.

The proposed amendments to new (3) will provide clear notification to wineries and importers on how the registration fee is determined the first year and each year thereafter. For the first year, the registration fee is based on the volume the registrant intends to ship that year because there is no prior shipment data upon which to base a fee. For the following years, the registration fee is based on the past year's actual shipments. Basing the renewal fee on past shipment volume was selected because it is a relatively accurate indication of intended shipment volume for the renewal year. This will simplify the renewal process for wineries and importers by limiting determination of the registration fee to speculation of potential shipment volume in the first year only.

New (4) is being proposed to notify foreign wineries that in order to ship table wine to consumers in Montana, they must hold a current direct shipment endorsement. The direct shipment endorsement fee is included in the rule as a point of reference for the industry. The statute citations being added are in reference to the new law this rule is being amended to implement.

42.13.402 WINE DISTRIBUTOR'S MONTHLY REPORTS AND TAX RETURN

(1) Each table wine distributor shall pay any tax due and file with the department a table wine distributor's monthly tax return on Form WIT, as required by pursuant to 16-1-411 and 16-3-411, MCA. The form must be filed regardless of whether or not the distributor has sold any wine during a that month.

(2) and (3) remain the same.

(4) Each table wine distributor shall monthly file Form WIT-3 to report the total amount of table wine sold to retailers, as required by 16-3-404, MCA.

AUTH: 16-1-303, MCA

IMP: 15-1-216, 16-1-411, 16-3-404, 16-3-411, 16-4-406, MCA

REASONABLE NECESSITY: The department proposes to amend ARM

42.13.402 to update the statutes citations in (1) and to add information that was previously missing from the rule. Additionally, table wine distributors are not only required to report certain sales information, but are also required to pay the tax on wine sold to retailers. Therefore, the department is proposing to expand the title of the rule to more accurately reflect the rule content.

New (4) is being proposed to provide table wine distributors with the specific name of the form that is required to be filed for sales to retailers. Identifying the name of the form within the rule is intended to eliminate confusion and increase compliance.

42.13.404 WINE REPORTING REQUIREMENTS (1) ~~Each~~ On or before the 15th of each month, a winery located outside of that sells table wine directly to a retailer, consumer, or table wine distributor in Montana shall complete pay any tax due and file with the department monthly reports on forms provided by the department, with the following information reports for the preceding month:

~~(a) A winery that sells Form WIT, reporting the total amount of table wine shipped directly to a retailer located in Montana must pay the tax due, pursuant to 16-3-411, MCA, on or before the 15th of each month for wine sold in the previous month and complete Montana tax return Form WIT; and retailers and consumers, pursuant to 16-1-411 and 16-3-411, MCA;~~

~~(b) A winery that sells Form WIT-3, reporting the amount of table wine shipped directly to a each retailer and consumer, shall report on or before the 15th of each month the amount of wine sold directly to retailers in the previous month on Form WIT-3. pursuant to 16-3-411 and 16-4-1102, MCA; and~~

~~(c) Form WSM, reporting the amount of table wine shipped directly to each table wine distributor, pursuant to 16-3-411, MCA.~~

~~(2) Each retailer that purchases wine from an out-of-state winery shall report the amount of wine purchased on Form WIT-2 On or before the 15th of each month, each retailer shall file a Form WIT-2, reporting the amount of table wine purchased from wineries.~~

~~(3) Each winery located in Montana that is licensed to do business in the state shall, each quarter, report to the department the quantity of wine sold to distributors and the name and address of distributors on or before the 15th of the following month.~~

~~(4) Any winery located in Montana selling directly to the consumer or the retailer must pay tax on or before the 15th of each month for wine sold in the previous month pursuant to 16-1-411, MCA, and complete Montana Form WIT.~~

AUTH: 16-1-303, MCA

IMP: 16-1-411, 16-3-411, 16-4-107, 16-4-1101, 16-4-1102, 16-4-1103, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.13.404 based on the passage of House Bill 402, L. 2013. House Bill 402 places the reporting and tax requirement on wineries for direct shipments of table wine made to a consumer in the state of Montana. The proposed amendments to this rule incorporate the changes in statute and enhance the readability of the rule for the industry. Additionally, 16-1-411, MCA, is being added to the implementing citations.

The proposed amendments in (1) specifically address the reporting requirements to be made by the winery. Referencing the forms and the information required on them is intended to enhance knowledge within the industry and help eliminate confusion. The proposed amendment in (2) specifically addresses the reporting requirements to be made by the retailer. The amendments are being proposed to reduce confusion and increase compliance while providing a check and balance process to ensure that the distribution of table wine within the state conforms to the requirements of the law. The department further proposes to strike (3) and (4) as the content of those sections is being amended into (1) and (2).

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, PO Box 7701, Helena, Montana 59604-7701; telephone 406.444.7905; fax 406.444.3696; or e-mail lalogan@mt.gov and must be received no later than November 18, 2013.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

6. An electronic copy of this notice is available on the department's web site at www.revenue.mt.gov. It can be found by selecting the "Administrative Rules" link in the left hand column of the homepage under the "Public Meetings" heading. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in number 4 above or faxed to the office at 406.444.3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of House Bill 402, L. 2013, Representative Chuck Hunter, was initially notified by regular mail on May 16, 2013, and subsequently notified on September 19, 2013.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the proposed amendments to the rules contained in this notice will not significantly or directly impact small businesses.

/s/ Laurie Logan
LAURIE LOGAN
Rule Reviewer

/s/ Mike Kadas
MIKE KADAS
Director of Revenue

Certified to Secretary of State October 7, 2013

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rule I relating to the electronic) PROPOSED ADOPTION
submission of documents through the)
business licensing portal)

TO: All Concerned Persons

1. On November 12, 2013, at 11 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed adoption of the above-stated rule. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on November 1, 2013. Please contact Laurie Logan, Department of Revenue, Director's Office, PO Box 7701, Helena, Montana 59604-7701; telephone 406.444.7905; fax 406.444.3696; or e-mail lalogan@mt.gov.

3. The proposed new rule does not replace or modify any section currently found in the Administrative Rules of Montana. The proposed new rule provides as follows:

NEW RULE I ELECTRONIC SUBMISSION OF DOCUMENTS AND ELECTRONIC SIGNATURES

(1) The department may accept electronic submission of certain documents through the licensing portal.

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

(a) all requested information is provided; and

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

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

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

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

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

AUTH: 30-16-104, MCA

IMP: 30-16-102, 30-16-103, 30-16-104, 30-18-102, MCA

REASONABLE NECESSITY: The department proposes to adopt New Rule I, based on 30-16-104(1), MCA, which states that the Board of Review is responsible for adopting rules governing the identification and use of electronic forms of signature to fulfill licensing requirements for applicants and current licensees who use the licensing portal. Adoption of the rule is necessary to provide uniform, secure procedures for receiving electronic documents and to ensure the authenticity and integrity of submissions.

The licensing process enables a business to apply for one or more licenses by completing a single copy of the licensing master application and supplemental forms. Currently, businesses can only submit completed applications and supplemental forms by mailing or faxing the documents to the licensing office.

Based on survey feedback, the board learned that licensees would prefer to submit these documents electronically. In response, the board began developing software, slated for completion by the end of 2013, which allows businesses to apply for, pay for, and renew business licenses online.

Allowing the electronic filing of documents can increase the timeliness of reporting by simplifying and expediting the reporting process. It also reduces the administrative burden of extracting data from paper reports and the costs of reporting and recordkeeping for both the licensees and for state agencies. Furthermore, electronic filings reduce environmental impacts by eliminating the need for paper submissions.

The department has determined that the proposed new rule will save businesses time and money. Currently there are 6,000 businesses using the licensing process. By allowing businesses to file online, they will no longer need to file hard copies of their documents with the department. With the electronic signature, the online documents are official and take the place of signed hard copies of the documents. Under the criteria set out in 2-4-111, MCA, this new rule does not require a small business impact study.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, PO Box 7701, Helena, Montana 59604-7701; telephone 406.444.7905; fax 406.444.3696; or e-mail lalogan@mt.gov and must be received no later than November 18, 2013.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

6. An electronic copy of this notice is available on the department's web site at revenue.mt.gov. It can be found by selecting the "Administrative Rules" link in the left hand column of the homepage under the "Public Meetings" heading. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system

maintenance or technical problems.

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in number 4 above or faxed to the office at 406.444.3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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

9. The small business impact study requirements of 2-4-111, MCA, do not apply.

/s/ Laurie Logan
LAURIE LOGAN
Rule Reviewer

/s/ Mike Kadas
MIKE KADAS
Director of Revenue

Certified to Secretary of State October 7, 2013

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
44.10.338 pertaining to limitations on	)	AMENDMENT
individual and political party)	
contributions	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On November 16, 2013, the Commissioner of Political Practices proposes to amend the above-stated rule.

2. The Commissioner of Political Practices 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 Commissioner of Political Practices no later than 5:00 p.m. on October 28, 2013, to advise us of the nature of the accommodation that you need. Please contact Jonathan Motl, Commissioner of Political Practices, 1205 Eighth Avenue, Helena, Montana, 59620; telephone (406) 444-2942; fax (406) 444-1643; or e-mail jmacnaughton@mt.gov.

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

44.10.338 LIMITATIONS ON INDIVIDUAL AND POLITICAL PARTY CONTRIBUTIONS (1) Pursuant to the operation specified in 13-37-216, MCA, limits on total combined contributions from individuals to candidates are as follows:

- (a) a candidate for governor may receive no more than ~~\$630~~ \$650;
- (b) a candidate for other statewide office may receive no more than ~~\$340~~ \$320;
- (c) a candidate for all other public offices may receive no more than ~~\$160~~ \$170.

(2) Pursuant to the operation specified in 13-37-216, MCA, limits on total combined contributions from political party committees to candidates are as follows:

- (a) a candidate for governor may receive no more than ~~\$22,600~~ \$23,350;
- (b) a candidate for other statewide offices may receive no more than ~~\$8450~~ \$8450;
- (c) a candidate for Public Service Commission may receive no more than ~~\$3260~~ \$3350;

- (d) a candidate for senate may receive no more than ~~\$1300~~ \$1350;
- (e) a candidate for all other public offices may receive no more than ~~\$800~~ \$850.

(3) Pursuant to 13-37-218, MCA, in-kind contributions must be included in computing these limitation totals.

AUTH: 13-37-216, MCA

IMP: 13-37-216, 13-37-218, 15-30-101(8), MCA

REASON: Section 13-37-216, MCA, requires the Commissioner of Political Practices to periodically adjust the limitation established in statute, and to publish the revised limitations as a rule. The Bureau of Labor Statistics supplied the following Consumer Price Index information: June 2002 CPI = 179.9; June 2013 CPI = 233.504. The commissioner must adjust the limitations by multiplying each limit by an inflation factor, which is determined by dividing the Consumer Price Index for June of the year prior to the year in which a general election is held by the Consumer Price Index for June 2002. The inflation factor for the 2014 general election is 1.297. The information is used to determine the inflation factor to be applied to the contribution limits for candidates. This information is required by 13-37-216, MCA.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Jonathan Motl, Commissioner of Political Practices, 1205 Eighth Avenue, Helena, Montana, 59620; telephone (406) 444-2942; fax (406) 444-1643; or e-mail jmacnaughton@mt.gov, and must be received no later than 5:00 p.m., November 18, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Jonathan Motl at the above address no later than 5:00 p.m., November 18, 2013.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 87 persons based on candidate counts from the 2012 election cycle.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above 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 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 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, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail on October 7, 2013.

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

/s/ Jaime MacNaughton
Legal Counsel
Rule Reviewer

/s/ Jonathan R. Motl
Jonathan R. Motl
Commissioner of
Political Practices

Certified to the Secretary of State October 7, 2013.

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 44.10.331 pertaining to	)	AMENDMENT
limitations on receipts from political)	
committees to legislative candidates	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On November 16, 2013, the Commissioner of Political Practices proposes to amend the above-stated rule.

2. The Commissioner of Political Practices will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Commissioner of Political Practices no later than 5:00 p.m. on October 28, 2013, to advise us of the nature of the accommodation that you need. Please contact Jonathan R. Motl, Commissioner of Political Practices, P.O. Box 202401, 1205 Eighth Avenue, Helena, Montana, 59620; telephone (406) 444-2942; fax (406) 444-1643; or e-mail jmacnaughton@mt.gov.

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

44.10.331 LIMITATIONS ON RECEIPTS FROM POLITICAL COMMITTEES

(1) Pursuant to the operation specified in 13-37-218, MCA, limits on total combined contributions from political committees other than political party committees to legislative candidates are as follows:

(a) a candidate for the state house of representatives may receive no more than ~~\$1600~~ \$1650;

(b) a candidate for the state senate may receive no more than ~~\$2650~~ \$2750.

(2) These limits apply to total combined receipts for the entire election cycle of ~~2012~~ 2014.

(3) Pursuant to 13-37-218, MCA, in-kind contributions must be included in computing these limitation totals.

AUTH: 13-37-114, 13-37-218, MCA
IMP: 13-37-218, ~~15-30-101(8)~~, MCA

Reasonable Necessity: Section 13-37-218, MCA, requires the Commissioner of Political Practices to periodically adjust the limitations established as a rule. The Bureau of Labor Statistics supplied the following Consumer Price Index information: June 2003 CPI = 183.7; June 2013 CPI = 233.504. The commissioner must adjust the limitations by multiplying each limit by an inflation factor, which is determined by dividing the Consumer Price Index for June of the year prior to the year in which a

general election is held by the Consumer Price Index for June 2003. The inflation for the 2014 election is 1.271. The information is used to determine the inflation factor to be applied to the aggregate contribution limits for House and Senate candidates. This information is required by 13-37-218, MCA, and appears in ARM 44.10.331. It must be revised after June of every odd-numbered year.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Jonathan R. Motl, Commissioner of Political Practices, P.O. Box 202401, 1205 Eighth Avenue, Helena, Montana, 59620; telephone (406) 444-2942; fax (406) 444-1643; or e-mail jmacnaughton@mt.gov, and must be received no later than 5:00 p.m., November 14, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Jonathan R. Motl at the above address no later than 5:00 p.m., November 14, 2013.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 87 persons based on candidate counts from the 2012 election cycle.

7. The commissioner maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the 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 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 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.

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

/s/ Jaime MacNaughton
Jaime MacNaughton
Rule Reviewer

/s/ Jonathan R. Motl
Jonathan R. Motl
Commissioner
Political Practices

Certified to the Secretary of State October 7, 2013.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 2.43.3502 pertaining to the)
investment policy statement for the)
Defined Contribution Retirement Plan)
and ARM 2.43.5102 pertaining to the)
investment policy statement for the)
457 Deferred Compensation Plan)

TO: All Concerned Persons

1. On July 11, 2013, the Public Employees' Retirement Board published MAR Notice No. 2-43-487 pertaining to the proposed amendment of the above-stated rules at page 1165 of the 2013 Montana Administrative Register, Issue Number 13.

2. The Public Employees' Retirement Board has amended the above-stated rules as proposed.

3. The Public Employees' Retirement 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 representative of the Legislative Services Division commented that the rule notice should better explain the subject matter of the material being adopted by reference and provide information on where to find the referenced material. She indicated that provision of that information in the notice of amendment would satisfy her concerns.

RESPONSE 1: The Public Employees Retirement Board is responsible for providing at least eight investment alternatives within the defined contribution retirement plan (19-3-2122, MCA) and multiple investment alternatives within the state of Montana's 457(b) deferred compensation plan (19-50-102, MCA). The board, in coordination with its investment consultant, Wilshire Associates, and its advisory council, the Employee Investment Advisory Council, has developed investment policy statements to guide its selection of investments for both plans. The investment policy statements are reviewed on a yearly basis and amended to reflect best practices in defined contribution plan investments. The investment policy statements are adopted by reference and are available on the board's web page at mpera.mt.gov.

COMMENT 2: A representative of the Legislative Services Division commented that the rule notice proposing these rules should have contained a statement regarding the effect the rules could have on small businesses. SB 139 requires that in certain circumstances state agencies conduct a small business impact analysis prior to the adoption.

RESPONSE 2: The Public Employees' Retirement Board determined that the proposed rules did not directly impact small business. Therefore the board is adding the following statement with regard to the requirements of Chapter 318, Section 1, Laws of 2013: the Public Employees' Retirement Board has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Scott E. Moore
Scott E. Moore
President
Public Employees' Retirement Board

Certified to the Secretary of State October 7, 2013.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION AND
Rule I and the amendment of ARM) AMENDMENT
2.59.1001 pertaining to the merger)
application procedures)

TO: All Concerned Persons

1. On August 8, 2013, the Department of Administration published MAR Notice No. 2-59-484 pertaining to the proposed adoption and amendment of the above-stated rules at page 1375 of the 2013 Montana Administrative Register, Issue Number 15.

2. No comments were received.

3. The department has adopted NEW RULE I (ARM 2.59.1002) exactly as proposed.

4. The department has amended ARM 2.59.1001 exactly as proposed.

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

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

Certified to the Secretary of State October 7, 2013.

BEFORE THE STATE BANKING BOARD
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rules I through VII pertaining to)
applications for shell banks)

TO: All Concerned Persons

1. On August 8, 2013, the Department of Administration published MAR Notice No. 2-60-485 pertaining to the proposed adoption of the above-stated rules at page 1383 of the 2013 Montana Administrative Register, Issue Number 15.

2. No comments were received.

3. The department has adopted the following rules as proposed: NEW RULE I (2.60.901), NEW RULE II (2.60.902), NEW RULE III (2.60.903), NEW RULE IV (2.60.904), NEW RULE V (2.60.905), NEW RULE VI (2.60.906), and NEW RULE VII (2.60.907).

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

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

Certified to the Secretary of State October 7, 2013.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 6.6.507B, 6.6.507C, 6.6.507D,)
6.6.507E, 6.6.509, 6.6.511, and)
6.6.511A pertaining to Medicare)
Supplements)

TO: All Concerned Persons

1. On July 25, 2013, the Commissioner of Securities and Insurance, Montana State Auditor, published MAR Notice No. 6-203 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1228 of the 2013 Montana Administrative Register, Issue Number 14.

2. The department has amended the following rules as proposed: ARM 6.6.507B, 6.6.509, 6.6.511, and 6.6.511A.

3. The department has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

6.6.507C GUARANTEED ISSUE FOR ELIGIBLE PERSONS (1) through (2)(g) remain as proposed.

(h) the individual, upon first becoming eligible for benefits under Medicare Part A and B ~~enrolls~~ is enrolled in the Qualified Medicare Beneficiary Program as defined in section 6408(d)(2) of the Federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, or full Medicaid (ARM 37.83.802), and no longer qualifies due to income or eligibility changes;

(i) through (3)(a)(iii) remain as proposed.

(b) an individual described in (2)(b), (c), (e), (f), (h), ~~or (i), or (j)~~, whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends 63 days after the date the applicable coverage is terminated;

(c) through (5)(c)(ii) remain as proposed.

(d) an eligible person defined in (2)(f), (h), (i), or (j) is entitled to the issuance of any Medicare supplement policy offered by any issuer;

(e) through (6)(b) remain as proposed.

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

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

6.6.507D BENEFIT STANDARDS FOR 2010 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED FOR DELIVERY WITH AN EFFECTIVE DATE FOR COVERAGE ON OR AFTER JUNE 1, 2010 (1) through (4)(b)(iii) remain as proposed.

(iv) coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement, ~~less any applicable copayments for advanced imaging services and power-operated vehicles or scooters, as described in (7)(c) and (7)(e) for new Plan C and F policies, or certificates with an effective date on or after January 1, 2015;~~

(v) and (vi) remain as proposed.

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

6.6.507E STANDARD MEDICARE SUPPLEMENT BENEFIT PLANS FOR 2010 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED WITH AN EFFECTIVE DATE FOR COVERAGE ON OR AFTER JUNE 1, 2010 (1) through (7)(c)(i) remain as proposed.

(ii) 100% of 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 ARM 6.6.507D(4)(b), ~~with copayments in the following amounts for new policies and certificates with effective dates on or after January 1, 2015:~~

~~(A) the lesser of \$25 or the Medicare Part B coinsurance or copayment for each primary covered advanced imaging service; and~~

~~(B) the lesser of \$50 or the Medicare Part B coinsurance or copayment for the purchase of each covered power-operated vehicle or scooter.~~

~~(iii) for purposes of this subsection:~~

~~(A) "advanced imaging service" means those Medicare Part B services, such as magnetic resonance imaging scans (MRIs), computerized tomography scans (CAT or CT scans) and positron emission tomography scans (PET scans), defined in separate guidance by the NAIC, in consultation with CMS, for purposes of establishing which covered services are subject to cost sharing. This definition may be updated periodically as needed; and~~

~~(B) "power-operated vehicle" or "scooter" means certain durable medical equipment defined in separate guidance by the NAIC, in consultation with CMS, for purposes of establishing which covered services are subject to cost sharing. This definition may be updated periodically as needed.~~

~~(7)(d) through (7)(e)(i) remain as proposed.~~

(ii) 100% of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign county, established in ARM 6.6.507D(4)(b), ~~with copayments in the following amounts for the new policies and certificates with effective dates on or after January 1, 2015:~~

~~(A) the lesser of \$25 or the Medicare Part B coinsurance or copayment for each primary covered advanced imaging service; and~~

~~(B) the lesser of \$50 or the Medicare Part B coinsurance or copayment for the purchase of each covered power-operated vehicle or scooter where the supplier accepts Medicare assignment for the claim.~~

~~(iii) for purposes of this subsection:~~

~~(A) "advanced imaging service" means those Medicare Part B services, such as magnetic resonance imaging scans (MRIs), computerized tomography scans (CAT or CT scans) and positron emission tomography scans (PET scans), defined in separate guidance by the NAIC, in consultation with CMS, for purposes of establishing which covered services are subject to cost-sharing. The definition may be updated periodically as needed; and~~

~~(B) "power-operated vehicle" or "scooter" means certain durable medical equipment defined in separate guidance by the NAIC, in consultation with CMS, for purposes of establishing which covered services are subject to cost-sharing. This definition may be updated periodically as needed.~~

~~(7)(f) through (7)(f)(i)(B) remain as proposed.~~

~~(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 regular 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. Copays for advanced imaging services and power-operated vehicles applied under regular Plan F for new policies issued on or after January 1, 2015, are not applicable under Plan F With High Deductible.~~

~~(7)(g) through (11) remain as proposed.~~

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

4. On August 19, 2013, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Comments were received by the August 27, 2013, deadline.

5. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT 1: The commenter was concerned that the existing guaranteed issue opportunity established by ARM 6.6.507C(2)(a) already covers the proposed open enrollment period.

RESPONSE 1: The commenter's assertion that the new language duplicates ARM 6.6.507C(2)(a) does not account for the fact that not every eligible person is a part of an employee welfare benefit plan. This is especially true of those on the MCHA Medicare carve-out plan. Moreover, there are many association groups, as well as individuals, who will be denied coverage if the department agreed with the comment. Accordingly, the department adopts the proposed rule.

COMMENT 2: The commenter noted that SB 223, in the 2013 legislature, which terminated the Montana Comprehensive Health Association (MCHA), did not include anything about guaranteed issue of Medigap policies. The commenter believed, therefore, that the CSI should not require providers to offer such coverage, as the regulations are unnecessary to address the closure of the MCHA program in light of other reforms that may present coverage opportunities for such enrollees. The commenter requested clarification of the CSI's concerns related to the need for an open enrollment period following termination of an individual health insurance policy or certificate for a person enrolled, or eligible for enrollment, in Medicare Part B. Finally, the commenter noted there may be alternate opportunities for consumers without specifying what those opportunities may be.

RESPONSE 2: The commenter is correct that the legislature did not include any language about guaranteed issue with its termination language. It is, however, the commissioner's statutory responsibility to protect insurance consumers (see generally 33-1-311(3), MCA). Furthermore, SB 223 did not address Medicare supplement insurance in any way, which would have fallen outside the scope of the legislation. The commissioner has authority to adopt rules to establish standards for policies that supplement Medicare under 33-2-904 and 33-22-905, MCA. In particular, the commissioner may adopt rules that set standards concerning eligibility (33-22-904(2)(b), MCA). The adoption of the proposed rules is consistent with this statutory authority.

With regard to the commenter's alternative opportunities comment, the CSI assumes the commenter is talking about the exchanges. However, persons in a Medicare carve-out, such as MCHA, are not eligible to enroll in the exchanges because they are Medicare eligible. Also, purchasing individual insurance is not appropriate for individuals who have Medicare as their primary insurance. Those individuals would be forced to pay for duplicative coverage. Absent the proposed rule, there would be no coverage available for these people.

COMMENT 3: The commenter expressed concerns that the changes to ARM 6.6.507C(j), which requires guaranteed issue for eligible persons by reason of disability or end-stage renal, would increase costs of current and eligible enrollees. The commenter cited a 2003 actuarial report on dates culled from 1996-2000 to support the commenter's position that persons eligible due to end-stage renal disease or disability cost twice as much as persons eligible by reason of age.

RESPONSE 3: The CSI understands that adding additional, high-risk persons to any insurance pool may drive up costs for all those involved with the pool. Absent these proposed changes, however, the transition plan for the MCHA will not be effective because of the alternative coverage available for these beneficiaries. Many other states require open enrollment opportunities for individuals who are eligible for Medicare by reason of disability. This is not an isolated circumstance that is foreign to the Medicare supplement industry.

COMMENT 4: The commenter was concerned that cost sharing for Medigap Plans C and F did not make the final version of the NAIC's model rule and should therefore be omitted from the CSI's rules.

RESPONSE 4: The CSI agrees with the commenter and the proposed language regarding cost sharing for advanced imaging services and power-operated vehicles/scooters is struck from ARM 6.6.507D and 6.6.507E.

COMMENT 5: The commenter noted that ARM 6.6.507C(3)(b) should also include (j) to accurately reflect the overall changes made. The commenter further noted that the language (3)(c) through (6)(b), which reads "remain the same" should be changed. The reason is that subsection (5) should indicate what products the new enrollees are eligible for. Finally, the commenter noted that ARM 6.6.507C(2)(h) should read "is enrolled" in as opposed to "enrolls" in.

RESPONSE 5: The CSI concurs and has added subsections (j) and (5)(f). Because the persons included within the new carve-out have never attempted to enroll, the panoply of options should be available to them. The CSI also agrees that changing the language to "is enrolled" more accurately reflects the law.

/s/Brett O'Neil
Brett O'Neil
Rule Reviewer

/s/Jesse Laslovich
Jesse Laslovich
Chief Legal Counsel

Certified to the Secretary of State October 7, 2013

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 6.10.705 pertaining to)
Composition of the Committee)

TO: All Concerned Persons

1. On July 11, 2013, the Commissioner of Securities and Insurance, Montana State Auditor, published MAR Notice No. 6-204 pertaining to the proposed amendment of the above-stated rule at page 1168 of the 2013 Montana Administrative Register, Issue Number 13.

2. The department has amended the above-stated rule as proposed.

3. No comments or testimony were received.

/s/ Brett O'Neil
Brett O'Neil
Rule Reviewer

/s/ Jesse Laslovich
Jesse Laslovich
Chief Legal Counsel

Certified to the Secretary of State October 7, 2013.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION
Rules I through VIII pertaining to)	
infectious waste	)	(INFECTIOUS WASTE
	)	MANAGEMENT)

TO: All Concerned Persons

1. On August 8, 2013, the Department of Environmental Quality published MAR Notice No. 17-347 regarding a notice of public hearing on proposed adoption of the above-stated rules at page 1419, 2013 Montana Administrative Register, Issue Number 15.

2. The department has adopted New Rules I (17.50.1501), II (17.50.1502), III (17.50.1503), IV (17.50.1504), V (17.50.1505), VI (17.50.1506), VII (17.50.1507), and VIII (17.50.1508) exactly as proposed.

3. No public comments or testimony were received.

Reviewed by:	DEPARTMENT OF ENVIRONMENTAL QUALITY
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/s/ John F. North
 JOHN F. NORTH
 Rule Reviewer

By: /s/ Tracy Stone-Manning
 TRACY STONE-MANNING, DIRECTOR

Certified to the Secretary of State, October 7, 2013.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF AMENDMENT
17.56.201 and 17.56.202 pertaining to)	
performance standards for new UST	)	(UNDERGROUND STORAGE
systems and upgrading of existing UST	)	TANKS)
systems)	

TO: All Concerned Persons

1. On August 8, 2013, the Department of Environmental Quality published MAR Notice No. 17-348 regarding a notice of public hearing on the proposed amendment of the above-stated rules at page 1428, 2013 Montana Administrative Register, Issue Number 15.

2. The department has amended the rules exactly as proposed.

3. The following comments were received and appear with the department's responses:

COMMENT NO. 1: Comments were received in support of the proposed amendments.

RESPONSE: The department acknowledges the comments.

Reviewed by: DEPARTMENT OF ENVIRONMENTAL QUALITY

/s/ John F. North
JOHN F. NORTH
Rule Reviewer

By: /s/ Tracy Stone-Manning
TRACY STONE-MANNING, DIRECTOR

Certified to the Secretary of State, October 7, 2013.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
17.36.802 and 17.36.805 pertaining to fee)
schedules and changes in subdivision) (SUBDIVISIONS)

TO: All Concerned Persons

1. On August 22, 2013, the Department of Environmental Quality published MAR Notice No. 17-349 regarding a notice of public hearing on the proposed amendment of the above-stated rules at page 1474, 2013 Montana Administrative Register, Issue Number 16.

2. The department has amended ARM 17.36.805 exactly as proposed and has amended ARM 17.36.802 as proposed, but with the following changes, stricken matter interlined, new matter underlined:

17.36.802 FEE SCHEDULES (1) An applicant for approval of a division of land into one or more parcels, condominiums, mobile home/trailer courts, recreational camping vehicle spaces, and tourist campgrounds shall pay the following fees:

	<u>UNIT</u>	<u>UNIT COST</u>
<u>TYPE OF LOTS</u>		
Subdivision lot	lot/parcel	\$ 125
Condominium/trailer court/recreational camping vehicle campground	unit/space	\$ 50
Resubmittal fee – previously approved lot, boundaries are not changed	lot/parcel	\$ 75
<u>TYPE OF WATER SYSTEM</u>		
Individual or shared water supply system (existing and proposed)	unit	\$ 85

Multiple user system (non-public) - new system	each	\$315 (plus \$105/hour for review in excess of four hours)
- connection to distribution system	lot/unit	\$ 70
- new distribution system <u>design</u>	lineal foot	\$ 0.50
<u>- connection to distribution system</u>	<u>lot/unit</u>	<u>\$ 70</u>
Public water system New system per DEQ-1	component	per ARM 17.38.106 fee schedule
- connection to distribution system	lot/structure	\$ 70
- new distribution system <u>design</u>	lineal foot	\$ 0.50
<u>- connection to distribution system</u>	<u>lot/structure</u>	<u>\$ 70</u>
<u>TYPE OF WASTEWATER DISPOSAL</u>		
Existing systems	unit	\$ 75
New subsurface <u>gravity fed</u> system	drainfield	\$ 95
New pressure-dosed, elevated sand mound, ET systems, intermittent sand filter, ETA systems, recirculating sand filter, recirculating trickling filter, aerobic treatment unit, nutrient removal, and whole house subsurface drip irrigation systems	design	\$ 190 (plus \$105/hour for review in excess of two hours)
Drainfields for pressured-dosed, intermittent sand filter, recirculating sand filter, recirculating trickling filter, aerobic treatment unit, and nutrient removal <u>New pressure-dosed, elevated sand mound, ET systems, intermittent sand filter, ETA systems, recirculating sand filter, recirculating trickling filter, aerobic treatment unit, nutrient removal, and whole house subsurface drip irrigation systems</u>	drainfield	\$ 50
Gray water reuse systems. This is a stand-alone fee and all gray water reuse systems will be reviewed at the unit cost	unit	\$ 95 (plus \$105/hour in excess of two hours)

Multiple user wastewater system (non-public) - connection to collection system - new collection system <u>design</u> - <u>connection to collection system</u>	lot/unit lineal foot <u>lot/unit</u>	\$ 70 \$ 0.50 \$ <u>70</u>
New public wastewater system per DEQ-2 - connection to collection system - new collection system <u>design</u> - <u>connection to collection system</u>	component lot/structure lineal foot <u>lot/structure</u>	per ARM 17.38.106 fee schedule \$ 70 \$ 0.50 \$ <u>70</u>
<u>OTHER</u>		
Deviation from circular	request or per design	\$ 200 (plus \$105/hour for review in excess of two hours)
Waiver from rule	request	\$ 200 (plus \$105/hour for review in excess of two hours)
Reissuance of original approval statement	request	\$ 60
Municipal facilities exemption checklist (former master plan exemption)	application	\$ 100
Nonsignificance determinations/categorical exemption reviews - individual/shared systems - multiple-user non-public systems - public systems	drainfield lot/structure drainfield	\$ 60 \$ 30 per ARM 17.38.106 fee schedule
Storm drainage plan review - plans exempt from Circular DEQ-8 - Circular DEQ-8 review	lot design lot	\$ 40 \$ 180 \$ 40 (plus

		\$105/ hour for review in excess of 30 minutes per lot)
Preparation of environmental assessments/environmental impact statements	----	actual cost

3. The following comments were received and appear with the department's responses:

COMMENT NO. 1: DEQ-8 reviews are inconsistent, time consuming, and are already costly. Additionally DEQ-8 still needs to be updated. Review fees for DEQ-8 should stay the same until it is updated.

RESPONSE: The department meets weekly to discuss issues with reviews, is always available as a resource to assist local reviewing authorities, and welcomes feedback on how reviews can be more consistent. The department will address concerns about consistency with Department Circular DEQ-8 reviews on a case-by-case basis. However, updating DEQ-8 is beyond the scope of this rulemaking. Increased fees associated with the review of storm water plans submitted under DEQ-8 are necessary to ensure program stability and consistency in review. The suggested change has not been made.

COMMENT NO. 2: Consider whether the list of systems in the 3rd and 4th row under "TYPE OF WASTEWATER DISPOSAL" should be identical. Also, DEQ should clarify which fees are for design and which are for drainfields.

RESPONSE: Row 3 of the fee sheet lists system designs, whereas row 4 discusses drainfields or other subsurface distribution facilities associated with those systems. Since it is possible to have multiple drainfields use the same system design criteria, the fees reflect that possibility. The department agrees that the two sections should be consistent and has amended the rule to show one fee for the design of the system and one for the drainfield that is consistent for all listed systems.

COMMENT NO. 3: It is not clear why the drainfield location for a new subsurface system and a drainfield location for pressure-dosed, intermittent sand filter have different fees. It has been my understanding that the drainfield design addresses design issues and the drainfield location addresses location issues, such as setback distances.

RESPONSE: The fees referenced in row 2 for a "new subsurface system" pertain to reviews of gravity fed systems. In order to clarify the type of subsurface system the reference in row 2 has been changed and now refers to "new gravity fed systems." The drainfield fees in row 2 are different than in row 4 because the review of a new gravity fed system includes consideration of both the design of the system and drainfield siting. The systems described in row 3 and row 4 separate the fees for review of system design and drainfield siting although both are required.

COMMENT NO. 4: The section entitled "Multiple user wastewater system (non-public)" appears to be a duplication regarding the connection to the collection system. Also, DEQ should format the multiple-user water and wastewater systems in the same way, i.e., design information first and connection information second.

RESPONSE: The fees for non-public multiple user wastewater system are addressed in multiple sections. The fees for drainfield design are found in the Type of Wastewater Disposal section under row 2, at \$95 for a drainfield and in rows 3 and 4, at \$190 for design plus \$50 for a drainfield. The collection system is reviewed at 50 cents per lineal foot and each connection at \$70, as shown in row 6. In the rule notice, proposed new language was underlined and language proposed to be deleted was interlined. No duplication of costs associated with connection to multiple user wastewater systems was proposed. However, to provide consistency between the different sections of the rule, all references in both the water and wastewater sections now include design criteria first and subsequent connections or duplicating facilities second, as shown above.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ John F. North

JOHN F. NORTH
Rule Reviewer

By: /s/ Tracy Stone-Manning

TRACY STONE-MANNING, DIRECTOR

Certified to the Secretary of State, October 7, 2013.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) CORRECTED NOTICE OF
23.12.601 concerning the Adoption of) AMENDMENT
the International Fire Code)

TO: All Concerned Persons

1. On June 6, 2013, the Department of Justice published MAR Notice No. 23-12-230 pertaining to the proposed amendment of the above-stated rule at page 897 of the 2013 Montana Administrative Register, Issue Number 11. On July 25, 2013, the department published the notice of amendment at page 1338 of the 2013 Montana Administrative Register, Issue Number 14.

2. The Department of Justice is submitting this corrected notice because, due to a typographical error in the notice of amendment and the notice of adoption of ARM 23.12.601(5)(c), chapters 12 and 13 were inadvertently omitted. The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

23.12.601 ADOPTION OF THE INTERNATIONAL FIRE CODE (2012 EDITION) (1) through (5)(b) remain as amended.

(c) The Permit sections of the following chapters are not adopted: 3, 5, 6, 9, 11-13, 20-35, and 50-67.

(d) through (ab) remain as amended.

3. The replacement pages for this corrected notice were submitted to the Secretary of State on September 30, 2013.

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

/s/ Tim Fox
Tim Fox
Attorney General
Department of Justice

Certified to the Secretary of State October 7, 2013.

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

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 24.222.701 supervisor) ADOPTION
responsibility, 24.222.702 schedule of)
supervision, 24.222.703 functions of)
aides or assistants, 24.222.2301)
unprofessional conduct, and the)
adoption of NEW RULE I functions of)
audiology aides or assistants)

TO: All Concerned Persons

1. On June 6, 2013, the Board of Speech-Language Pathologists and Audiologists (board) published MAR Notice No. 24-222-23 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 909 of the 2013 Montana Administrative Register, Issue No. 11.

2. On June 27, 2013, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the July 8, 2013, deadline.

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

Comments 1 through 19 relate to ARM 24.222.701:

COMMENT 1: Thirteen commenters opposed the changes to ARM 24.222.701, stating the new rules place undue burdens on the schools both financially and in finding licensees to do the supervisory work. The commenters cautioned about the current shortage of speech-language pathologists (SLP) in the state and asserted that new graduates may have to leave Montana to gain supervision, which reduces the likelihood that they will return to practice here. The commenters stated that a shortage of highly qualified individuals providing services has been a challenge and the rule changes will reduce the pool of those qualified to supervise paraprofessionals and create difficulties across the state, particularly for school districts.

RESPONSE 1: The board agrees that it may be a hardship, but notes that it is the board's job to protect the consumer, not the schools. The proposed one-year licensure requirement is in the middle of both the ASHA recommendation of two years, and other states that may have more or less experience required for supervisors. The board notes that other states and ASHA require practicum and/or

degrees for supervisors, while the board is proposing much less stringent requirements.

COMMENT 2: One commenter asserted that SLPs plan on a certain date to start repaying their school loans and the lenders do not know they are not yet fully employed due to the extension added to the program.

RESPONSE 2: See Response 1. Additionally, the board's duty is protecting the public, which does not involve student loans. The board notes that under current rules SLP licensees are not able to supervise in their post-required degree period of employment, and that licensees could still be fully employed while functioning as supervisors.

COMMENT 3: A commenter opined that schools will not hire SLPs with the additional \$10,000 - \$20,000 required for additional supervision, and that the SLPs will not receive the full salary they deserve since the extra money would go to replacement supervisors.

RESPONSE 3: The board's responsibility is ensuring qualified licensees to further protect the public and consumers, and the board is not involved with contracts between employers and licensees.

COMMENT 4: One commenter asserted that a one-year extension of the inability of SLPs to supervise aides is a fundamental change in a program, and that it's unknown what moral authority the program would have to apply this to anybody already in the program. The commenter further stated that those already in the program have not counted on working an extra year without full pay.

RESPONSE 4: See Response 1. The board does not understand what moral authority of a program entails and the board is not involved with contracts between employers and licensees.

COMMENT 5: One commenter stated that audiologists have thousands of hours of supervised clinic practicum before they can even hold a diploma as doctors of audiology. This commenter argued that requiring an extra year of licensure before an audiologist can supervise makes no sense, because audiologists are health care professionals and, in some states, are elevated to the status of limited license practitioners who can do everything but prescribe drugs.

RESPONSE 5: Medicare requires physician referral, so the board does not agree with the commenter's statement on limited license practitioners. The board concluded that the year of licensure is necessary to ensure qualified safe supervision of assistants/aides.

COMMENT 6: One commenter emphasized that today's graduating Au.D. audiologists already have four and a half years of supervised patient contact that support private practice and enhance the profession.

RESPONSE 6: See Response 5.

COMMENT 7: One commenter asked what data the board has to support the amendment of ARM 24.222.701 and require a year of licensure to supervise. The commenter questioned how this change will improve educational performance and services, and requested a copy of the data.

RESPONSE 7: The board considered standards of the American Speech-Language Hearing Association (ASHA), other states, the American Academy of Audiology (AAA), and university programs in proposing the amendments to this rule. The board believes it has accomplished its due diligence in proposing the additional year requirement. Board staff will provide the requested documentation to the commenter.

COMMENT 8: One commenter questioned the one-year licensure requirement for supervisors, asserting that the extension is an unfounded mandate for which the legislature has not authorized funding. The commenter asked for the data the board has to determine the cost to the state of the one-year extension of supervision.

RESPONSE 8: The board is responsible for ensuring qualified, licensed supervisors for the protection of the public and has authority from the legislature to accomplish this. The board is not responsible for assessing the budgetary impact of the rule change on state agencies.

COMMENT 9: A commenter suggested the board increase the requirement to two years of licensure to qualify as a supervisor.

RESPONSE 9: The board is not required to comply with standards of professional organizations or other entities, but to regulate licensees in a manner that is reasonable and prudent to ensure the protection of the Montana public.

COMMENT 10: One commenter recommended the board require supervisors to provide 20 percent direct supervision and ten percent indirect supervision for the first 90 days rather than the ten percent currently proposed.

RESPONSE 10: The board believes this comment relates to ARM 24.222.702, and not the direct services required of supervisors in ARM 24.222.701. The comment exceeds the scope of this rulemaking notice as the board has not proposed any changes to required supervision percentages.

COMMENT 11: A commenter suggested limiting the number of aides/assistants supervised by one individual to two, rather than allowing board-approval when supervising three or more.

RESPONSE 11: See Response 9.

COMMENT 12: Two commenters support the amendments to ARM 24.222.701, stating that ASHA requires two years of experience before being able to supervise assistants.

RESPONSE 12: The board appreciates all comments received during the rulemaking process.

COMMENT 13: One commenter suggested that at a minimum, the one-year requirement for supervisors should not apply to anyone currently in the program, because it would be a total change to their program.

RESPONSE 13: The board is unsure what the commenter means by "program." Following extensive research and discussion, the board decided not to provide for grandfathering or any exceptions to the one-year licensure requirement for supervisors.

COMMENT 14: Two commenters suggested that the board consider credit for years of experience when determining competence to supervise aides.

RESPONSE 14: See Response 13.

COMMENT 15: Two commenters asked the board to consider the opinions of former supervisors when determining new graduates' ability to supervise.

RESPONSE 15: See Response 13.

COMMENT 16: One commenter recommended that the university include a supervisor course since applicants must pass a practical exam and complete coursework, and for the board to require one year of experience or semester credits in supervision.

RESPONSE 16: The board has no authority over curricula of any educational institution and notes there are no exceptions to the one-year licensure requirement.

COMMENT 17: A commenter asked the board to amend the rule to require licensure in Montana or another state for at least nine months to qualify as a supervisor, as this would credit audiologists for their one year and nine month residency.

RESPONSE 17: The board concluded that the year of licensure is necessary to ensure qualified safe supervision of assistants and aides.

COMMENT 18: One commenter asked the board to defer this issue, stating that most SLPs are on vacation and unaware of the proposed changes.

RESPONSE 18: Board meetings are set a year in advance according to the availability of meeting rooms, staff, and board members. The board must continue

its work regardless of anyone's vacation schedule. Further, the board complied with all public notice requirements of the Montana Administrative Procedure Act in this rulemaking project.

COMMENT 19: One commenter asked that the board clarify exactly what kind of a schedule is expected from the supervising SLPs and specifically regarding the ten percent and 20 percent supervision.

RESPONSE 19: The board notes that the requirements in ARM 24.222.702 were purposefully set to allow for flexibility in providing services in Montana. The board always welcomes comments and suggestions regarding the supervision forms.

Comments 20 through 25 relate to ARM 24.222.702:

COMMENT 20: Four commenters asserted that the ten percent requirement for total client contact time places an undue burden on already challenged work schedules, the likelihood of additional documentation requirements, and geography.

RESPONSE 20: The board believes this comment likely relates to ARM 24.222.701(5), on direct services provided by supervisors. In any case, the board concluded that a supervisor providing ten percent of direct client services is a minimum requirement to ensure that at least some services come from a licensed practitioner. The board believes that ten percent is minimal, is not burdensome, and that flexibility in scheduling will allow licensees to prorate the ten percent.

COMMENT 21: One commenter opposed the amendments, stating the shortage of speech pathology aides in schools is very restrictive for those providing services over long distance and with large caseloads. The commenter asserted that since supervisors sign off with their credentials, they are accountable and diligent about who they have attend their patients.

RESPONSE 21: The board agrees that most licensees are ethical in practice, but notes that these rules are necessary to assure the public that minimum standards of practice are being met.

COMMENT 22: One commenter believed the board lacks the ability to make the proposed changes and the changes are an unnecessary infringement on the profession.

RESPONSE 22: See Response 8.

COMMENT 23: One commenter asked the board to define "direct service" for clarity.

RESPONSE 23: The board intends to explore the definition in a future rulemaking project regarding telepractice.

COMMENT 24: Two commenters stated that the application supervision forms are confusing and not user-friendly.

RESPONSE 24: The board always welcomes comments and suggestions regarding the supervision forms.

COMMENT 25: One commenter suggested the board remove the requirement for the board to approve all schedules of supervision, since supervisors already supervise ten percent of contact hours, and submit forms showing patient contact hours and hours supervised. The commenter asserted that the board is unnecessarily trying to turn a supervisor's right to have an aide into a board-bestowed privilege. The commenter stated that since state employees have a minimum third grade education, they are capable of the simple math required to check the contact hours on the forms. The commenter asserted that the amendments will allow the board unlimited time to review applications, followed by a final board decision to deny licensure for any or no reason whatsoever, without allowing a process to appeal the board decision.

RESPONSE 25: The board requires review and approval of supervisor schedules to ensure that aides/assistants are properly and adequately supervised.

Comments 26 through 47 relate to ARM 24.222.703 and New Rule I:

COMMENT 26: Five commenters stated that the new requirements for audiology assistants are excessively constricting.

RESPONSE 26: In the past, there were no guidelines for audiology aides/assistants. The board conducted appropriate research to propose these minimum requirements for safe audiology aide practice.

COMMENT 27: One commenter stressed that the rule changes could affect audiology assistants' wages.

RESPONSE 27: See Response 3.

COMMENT 28: One commenter stated that following the amendments, assistants would no longer relieve the audiologist of duties, since the duties an assistant can perform currently will require an on-site supervising audiologist and result in longer wait-time for patients. The commenter believed that the changes would make taking on an assistant so daunting that an audiologist may choose not to even have an assistant, thus costing the audiologist time and money.

RESPONSE 28: The board notes that the proposed rule changes do not require one hundred percent on-site supervision and do allow for practice flexibility. Also, see Response 3.

COMMENT 29: One commenter opposed New Rule I, stating that it prevents normal office conduct by permitting tasks without the ability to communicate useful information.

RESPONSE 29: The board does not believe the proposed aide/assistant functions prohibit normal, routine, and necessary interaction with consumers in accordance with supervisor practices. However, the board is amending New Rule I (4)(a)(vii), (ix), and (x) to clarify this area of practice.

COMMENT 30: One commenter asked the board to strike ARM 24.222.703(2)(a)(ii) and (vi), and (2)(b)(iv), asserting that the functions allowed in these sections are outside the ASHA scope of practice for SLP aides/assistants.

RESPONSE 30: See Response 9.

COMMENT 31: A few commenters stated there is a need to better define aide levels and asked the board to consider the differences between aides and assistants and align the definitions with ASHA and the Office of Public Instruction for clarity.

RESPONSE 31: The board is governed by and functions within the statutory definitions of audiology aide or assistant and speech-language pathology aide or assistant, which do not differentiate between "aides" and "assistants."

COMMENT 32: One commenter stated that the new rules provide some helpful guidelines for scope of practice of audiology assistants.

RESPONSE 32: The board appreciates all comments received during the rulemaking process.

COMMENT 33: Two commenters suggested that the board work with the university to get a bachelor-level track for assistants. The commenters prefer using "assistants" believing that with formal training, a person serves as an assistant, not an aide.

RESPONSE 33: The board has established minimum educational requirements for aides/assistants in ARM 24.222.301. The board lacks the authority to establish educational curricula.

COMMENT 34: Two commenters suggested the board work with health care companies, school administrators, and practicing speech therapists to find solutions to these issues.

RESPONSE 34: The board always welcomes input from the public on any matter or issue within the board's jurisdiction.

COMMENT 35: One commenter suggested the board amend the rules to allow clinical fellows (CFs) to supervise aides as this would support the university in providing a different track.

RESPONSE 35: The board concluded that the one-year licensure requirement would help to ensure public safety. The board finds it unlikely that a university would change a curriculum in response to a board rule amendment.

COMMENT 36: A commenter asked the board to consider a graduate student as another unique part of supervision, considering that a university's expectations of a graduate student to serve as an assistant or perform practicum experience or externship are much greater.

RESPONSE 36: The board has no authority to affect student supervision requirements and determined that the one-year licensure requirement is necessary for public safety.

COMMENT 37: One commenter asked the board to add language to New Rule I (3)(a)(xi) for audiology aides to direct patients to another professional for cerumen management, stating that without the language, the rule limits tasks currently allowed.

RESPONSE 37: The board does not see a limitation in allowable tasks in New Rule I (3)(a)(xi), and believes cerumen management is already included.

COMMENT 38: One commenter suggested adding language to New Rule I (3)(a)(xxvi) to permit audiology aides to restore a previous setting or session to a hearing instrument if the setting was previously prescribed by the audiologist.

RESPONSE 38: The board believes that restoring settings and functions is already included within New Rule I (3)(a)(xiii), and is amending that section for clarity.

COMMENT 39: A commenter suggested adding to New Rule I (3)(a)(xxvii) to permit audiology aides to administer patient questionnaires or surveys prepared by the supervising audiologist to determine patient scheduling priority, especially regarding initial screening for sudden hearing loss.

RESPONSE 39: The board believes that the stated functions are already included within New Rule I (3)(a)(i).

COMMENT 40: One commenter suggested adding to New Rule I (3)(a)(xxviii) to permit audiology aides to communicate to patients the results of the tests and activities described in (v), (vi), (vii), (viii), and (xvi) of (3). The commenter noted that though aides can do many things under the new rules such as cleaning a hearing aid, they are expressly prohibited from communicating any results to the patient.

RESPONSE 40: See Response 29.

COMMENT 41: One commenter suggested adding to New Rule I (3)(a)(xxix) to permit audiology aides to communicate information regarding a patient or patient status to family members or other third parties only with the consent of the patient and at the direction of the supervising audiologist.

RESPONSE 41: See Response 29.

COMMENT 42: One commenter suggested adding to New Rule I (3)(a)(xxx) to permit audiology aides to program, set up, and troubleshoot assistive listening devices recommended by the supervising audiologist.

RESPONSE 42: The board does not believe that programming assistive listening devices is within the allowable functions of audiology aides/assistants, and is not amending the rule as suggested.

COMMENT 43: One commenter suggested adding to New Rule I (3), "(b) an industrial audiology aide or assistant may: (i) conduct pure tone audiometry testing, make comparisons of the results to previous pure tone audiometry test results to determine if a change has occurred, and communicate the results of the pure tone audiometry test to the patient; and (ii) may read and interpret changes to an audiogram and refer the patient to the supervising audiologist for subsequent testing siting that industrial aids or CAOHC certified aids (same thing) have a job to do which requires the following. They absolutely cannot work without these changes. An industrial aid: works under an audiologist, may perform pure tone tests without direct on-site supervision, is trained and certified to be able to evaluate test results for the purpose of determining degree of loss by pure tone, and change when comparing a previous test to the current test, they must be allowed to calculate change per frequency (baseline, this test), they must be able to communicate that change to the person being tested, and they must be able to refer that patient to the supervising audiologist for further testing based on OSHA or NIOSH recommendations."

RESPONSE 43: The board appreciates the suggested additions and will consider the language regarding industrial aides in future rulemaking discussions, since the suggestions exceed the parameters of the current rules notice.

COMMENT 44: A commenter suggested amending New Rule I (4) to allow for functions that may be specifically permitted in (3).

RESPONSE 44: The board decided to keep the format and organization of the rule exactly as proposed.

COMMENT 45: One commenter stated that aides cannot ask a question about a group discussion unless the board amends New Rule I (4)(a)(iii) to allow aides/assistants to confirm previous instructions of the supervising audiologist with other aides, assistants, or employees of the supervising audiologist. The

commenter thought it was odd that the board would prevent aides from being able to ask other staff members' questions about a group meeting required by the supervising audiologist.

RESPONSE 45: See Response 29. Additionally, the board intends that New Rule I (4)(a)(iii) applies to interdisciplinary team meetings and aides are not able to represent audiologist licensees at these meetings.

COMMENT 46: One commenter suggested amending New Rule I (4)(a)(ix) to allow aides to disclose clinical or confidential information to individuals other than the supervising audiologist as long as they have the approval of the supervising audiologist. The commenter asserted that without the amendment, aides are completely mute and audiologists may as well not even have aides, since all information about a patient is both clinical and confidential. The commenter asserted that without this suggested amendment, the limitation would kill the professions of assistants and industrial assistants.

RESPONSE 46: See Response 29.

COMMENT 47: A commenter suggested amending New Rule I (4)(a)(xii) to allow aides to make ear impressions, since audiologists are hard to come by and dispensers may also be too expensive for small clinics to afford. The commenter suggested the board consider requiring a formal "earmold impression" test to determine an assistant's competence.

RESPONSE 47: The board concluded that it is necessary for the protection of the public to require that licensed audiologists make earmold impressions.

COMMENT 48: One commenter suggested that given the seriousness of the proposed amendment to ARM 24.222.2301, and the fact that most SLPs are on summer break, the board should allow more input and consideration of the ramifications of any new or existing guidelines before adoption.

RESPONSE 48: See Response 18.

COMMENT 49: One commenter asked for a clarifying definition of remote supervision of aides.

RESPONSE 49: See response 23.

COMMENT 50: A commenter stated that the Montana Speech and Hearing Association wishes to participate in the board's rulemaking for this notice and future notices. The commenter asserted that scheduling of board meetings by both the board and the association were ill-timed and did not allow the association to respond as a whole.

RESPONSE 50: See Response 18. The board publicly posts its upcoming scheduled meetings on the board web site as well as showing them on full board meeting agendas.

COMMENT 51: One commenter requested the board host a second hearing with all board members present since the audiologists received the notice at 3:30 a.m. on June 27, 2013.

RESPONSE 51: The board complied with all public notice requirements of the Montana Administrative Procedure Act in this rulemaking project, and notes that public comments were accepted until 5:00 p.m. on July 8, 2013. Rules hearings are conducted by department staff as one of several means to collect public comment on proposed rule changes, which are brought to the boards for consideration.

COMMENT 52: One commenter suggested the board amend ARM 24.222.202 (6) by inserting a definition of "supervision" that allows for a substitute supervisor to fill in at times.

RESPONSE 52: The board is not proposing to amend ARM 24.222.202; therefore, the comment exceeds the parameters of the current rules notice.

COMMENT 53: One commenter requested the board amend ARM 24.222.301(5)(a) and (b) to clarify that the equivalent of the undergraduate degree in communication sciences and disorders is the "Leveling Course Certificate" to align with the MASHA resolution to award certificates of completion to students completing the leveling course.

RESPONSE 53: The board is not proposing to amend ARM 24.222.301; therefore, the comment exceeds the parameters of the current rules notice.

4. The board has amended ARM 24.222.701, 24.222.702, 24.222.703, and 24.222.2301 exactly as proposed.

5. The board has adopted New Rule I (24.222.706) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I FUNCTIONS OF AUDIOLOGY AIDES OR ASSISTANTS

(1) through (3)(a)(xii) remain as proposed.

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

(xiv) through (4)(a)(vi) remain as proposed.

(vii) transmit clinical information either orally or in writing to anyone, including the patient, ~~without the approval~~ except at the direction of the supervising audiologist;

(viii) remains as proposed.

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

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

(xi) through (5) remain as proposed.

BOARD OF SPEECH-LANGUAGE
PATHOLOGISTS AND AUDIOLOGISTS
LYNN HARRIS, CHAIRPERSON

/s/ DARCEE L. MOE

Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 7, 2013

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) CORRECTED NOTICE OF
ARM 32.2.405 pertaining to) AMENDMENT
miscellaneous fees)

TO: All Concerned Persons

1. On June 6, 2013, the Department of Livestock published MAR Notice No. 32-13-233 pertaining to the amendment of the above-stated rule at page 927 of the 2013 Montana Administrative Register, Issue Number 11. On July 25, 2013, the department published the notice of amendment at page 1342 of the 2013 Montana Administrative Register, Issue Number 14.

2. While preparing September 30, 2013, replacement pages, the department discovered a numbering error in the amendment to ARM 32.2.405. The error occurred as a result of the simultaneous publication of Notice No. 32-13-232 and Notice No. 32-13-233 in 2013 MAR Issue No. 11, June 6, 2013. The rule, as amended in corrected form, reads as follows, new matter underlined:

32.2.405 DEPARTMENT OF LIVESTOCK MISCELLANEOUS FEES
(1) through (16) remain as amended.
(17) and (18) remain the same.

3. The replacement pages reflecting this correction were submitted to the Secretary of State on September 30, 2013.

/s/ George H. Harris
George H. Harris
Rule Reviewer

/s/ Christian Mackay
Christian Mackay
Executive Officer
Board of Livestock
Department of Livestock

Certified to the Secretary of State October 7, 2013

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment for) NOTICE OF AMENDMENT
ARM 32.3.214 special requirements)
for goats)

TO: All Concerned Persons

1. On August 22, 2013, the Department of Livestock published MAR Notice No. 32-13-237 regarding the proposed amendment of the above stated rule at page 1493 of the 2013 Montana Administrative Register, Issue Number 16.
2. The department has amended the above-stated rule as proposed.
3. No comments or testimony were received.

DEPARTMENT OF LIVESTOCK

BY: /s/ Christian Mackay
Christian Mackay
Executive Officer
Board of Livestock
Department of Livestock

BY: /s/ George H. Harris
George H. Harris
Rule Reviewer

Certified to the Secretary of State October 7, 2013.

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

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 37.34.2101, 37.34.2102, and) REPEAL
37.34.2111 and the repeal of ARM)
37.34.2106, 37.34.2107, and)
37.34.2112 pertaining to)
developmental disabilities program)
staffing)

TO: All Concerned Persons

1. On February 28, 2013, the Department of Public Health and Human Services published MAR Notice No. 37-625 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 249 of the 2013 Montana Administrative Register, Issue Number 4. On July 11, 2013, the Department of Public Health and Human Services published an Amended Notice of Proposed Amendment and Repeal at page 1173 of the 2013 Montana Administrative Register, Issue Number 13. The purpose of the amended notice was to propose additional amendments based on public comment. On August 22, 2013, the Department of Public Health and Human Services published a Notice of Extension of Comment Period on Proposed Amendment and Repeal at page 1499 of the Montana Administrative Register, Issue Number 16.

2. The department has amended ARM 37.34.2101 as proposed.

3. The department has repealed ARM 37.34.2106, 37.34.2107, and 37.34.2112 as proposed.

4. The department has amended the following rules as proposed, but with the following changes from the amended proposal, new matter underlined, deleted matter interlined:

37.34.2102 STAFFING: STAFF COMPETENCIES (1) and (2) remain as proposed.

(3) ~~The contractor must verify to the department upon hire and on a regular basis thereafter, that each staff person meets the competencies to perform the tasks and responsibilities of their position in the provision of developmental disabilities program services.~~ The contractor must verify to the department, upon hire, that each staff person has the ability to meet the competencies to perform the tasks and responsibilities of their position in the provision of developmental disabilities program services.

(4) The contractor must verify to the department, annually, that each staff person has the ability to meet the competencies to perform the tasks and responsibilities of their position in the provision of developmental disabilities program

services, as determined by completion of the training requirements within the established timeframes.

(4) ~~(5)~~ Upon hiring of a staff person, inclusive of administrative and management services, the contractor must review the list of excluded individuals and entities maintained by the Office of Inspector General of the U.S. Department of Health and Human Services and the excluded parties list system at the System for Award Management maintained by the federal General Services Administration (GSA) to determine whether the person appears on ~~the list~~ either of these lists and if the person appears on one of the lists, must:

(a) and (b) remain as proposed.

~~(5) A staff person must be trained and demonstrate competency within 30 days of hire, in the following:~~

~~(a) abuse and incident reporting;~~

~~(b) rights and confidentiality;~~

~~(c) first aid and CPR; and~~

~~(d) any specialty training related to the needs of the persons served.~~

~~(6) A staff person must complete the department-approved basic training in the provision of direct care services within six months of hire.~~

~~(7) A staff person must complete 20 hours of lessons annually of the department-approved basic training in the provision of direct care services.~~

AUTH: 53-20-204, MCA

IMP: 53-20-205, MCA

37.34.2111 STAFFING: CONTRACTOR STAFFING FOR SERVICES

(1) and (2) remain as proposed.

(3) For noncongregate services or agency-based self-directed services, the contractor must provide for emergency, back-up staff in applicable programs, sufficient to meet the needs of the persons the contractor serves. This requirement is satisfied only if, in lieu of the absent caregiver, the on-call back-up staff actually appear and engage in providing the service.

AUTH: 53-20-204, MCA

IMP: 53-20-205, MCA

5. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: A few commenters asked for clarification on proposed ARM 37.34.2102(3) regarding what the department expects in terms of "regular basis" and "meets the competencies." One commenter stated that it would be difficult to assess and document competency and suggested that the measure be that the provider document that the staff has taken the appropriate training in the timeframes established.

RESPONSE #1: The department will change the language of ARM 37.34.2102(3) to state that contractors must verify to the department annually that each direct care staff person meet the competencies to perform the tasks and responsibilities of their position. The department will further clarify that the level of competency to perform the tasks and responsibilities of the position is based upon the completion of the training requirements within the established timeframes. The department will remove the requirement that a staff person must meet the competencies upon hire and instead require they have the ability to meet the competencies for their position.

COMMENT #2: One commenter requested further information regarding the use of aliases by potential job applicants or employees in terms of reviewing the list of excluded individuals and entities maintained at the System for Award Management.

RESPONSE #2: If a provider employs or contracts with a person that the provider knows or should know is excluded, the provider may be held liable if the person participates in any way in providing items or services that are payable by a federal health care program. The Office of Inspector General released a Special Advisory Bulletin, dated May 8, 2013, which provides additional information and resources pertaining to the exclusion from participation in federal health care programs.

COMMENT #3: One commenter wants to know who the department contact is for reporting if a staff person was found on the excluded individuals list.

RESPONSE #3: The department contact for reporting persons found on the excluded individuals list is the Surveillance and Utilization Review Supervisor, Quality Assurance Division, Department of Health and Human Services.

COMMENT #4: One commenter stated a need to find out what exactly the federal requirements are for terminating persons on the excluded individuals list.

RESPONSE #4: The Office of Inspector General released a Special Advisory Bulletin, dated May 8, 2013, which provides additional information and resources pertaining to the exclusion from participation in federal health care programs.

COMMENT #5: Several commenters stated that it is difficult for staff persons to be trained and demonstrate competency within 30 days of hire in abuse and incident reporting, rights and confidentiality, first aid and CPR. A few of the commenters also asked what constitutes "specialty training."

RESPONSE #5: The department is removing the training requirements from this rule and will address the concerns of the commenters in a future rulemaking process.

COMMENT #6: A few commenters asked what the department-approved basic training is. They also asked what are the consequences of not getting the training completed in the allotted six-month period.

RESPONSE #6: The department-approved basic training currently refers to the College of Direct Supports, Tier One training module. A person who does not complete the training required in the timeframe specified would no longer meet the competencies to perform the tasks and responsibilities for their position.

COMMENT #7: Several commenters asked if the "20 hours of lessons annually" is the College of Direct Supports training.

RESPONSE #7: As referred to in the proposed notice, the 20 hours of annual training is the College of Direct Support. However, the department is removing the training requirements from the staffing rule and instead, specifying the training requirements per service in future rulemaking.

COMMENT #8: A few commenters requested the department allow the 20 hours of annual training be prorated based upon staff FTE. Another commenter asked if the 20 hours of annual training can be limited, for example, a set number of tiers the staff person must complete.

RESPONSE #8: The department is removing the training requirements from the staffing rule and instead, specifying the training requirements per service in a future rulemaking. The prorated training requirements will be addressed at that time.

COMMENT #9: One commenter stated that it is, at times, impossible to provide back-up staffing and would like to know if making attempts to have back-up staff would suffice for this requirement in those situations.

RESPONSE #9: The department believes it is imperative to have back-up staffing in self-directed services and in noncongregate settings due to the fact that, in these settings, essential services may not be available to the person without such back-up planning. In congregate settings there are other staff members present that could cover essential services in the event back-up staff are not available. The department will amend the language to specify back-up staffing in self-directed services and noncongregate settings only is essential and attempts to have back-up staffing under these circumstances would not suffice to meet the requirement.

COMMENT #10: One commenter asked why the language in ARM 37.34.2111(5)(a) is being repealed.

RESPONSE #10: The language in ARM 37.34.2111(5)(a) is being repealed because, though it provides guidelines that are considered a best practice, it is not enforceable by the department. The department encourages those who apply this standard to continue to do so.

COMMENT #11: Some commenters requested the flexibility to manage the training for their staff after they have completed the College of Direct Supports training curriculum. Another commenter stated that the department needs to provide new tiers for staff persons to take who have already completed the six available tiers.

RESPONSE #11: The department is removing the training requirements from the staffing rule and instead, specifying the training requirements per service in future rulemaking. It is the department's intent to address the commenters' concerns by allowing providers to create training specific to the needs of staff persons after the completion of Tier One of the College of Direct Support is completed.

COMMENT #12: One commenter noted that if the person's individual cost plan is not sufficient to meet the health and safety needs of the person, then the provider must continue to provide that level of care at a financial loss.

RESPONSE #12: Individual cost plans are determined by identifying the services, amount of the services, the provider types, and the funding allocated in order to meet the person's needs. If the person's needs are not sufficiently being met by the services identified in the plan of care, a provider should contact the regional manager to discuss their concerns in providing the level of care the person requires.

/s/ Cary B. Lund
Cary B. Lund
Rule Reviewer

/s/ Mary E. Dalton acting for
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 7, 2013

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.59.101, 37.59.102,)
37.59.105, 37.59.109, 37.59.110,)
37.59.201, 37.59.202, 37.59.203,)
37.59.301, 37.59.302, 37.59.303,)
37.59.401, and 37.59.402 pertaining)
to the update of the special)
supplemental nutrition program for)
women, infants, and children (WIC))

TO: All Concerned Persons

1. On August 22, 2013, the Department of Public Health and Human Services published MAR Notice No. 37-642 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1501 of the 2013 Montana Administrative Register, Issue Number 16.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ Shannon L. McDonald
Shannon L. McDonald
Rule Reviewer

/s/ Mary E. Dalton acting for
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 7, 2013.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 1.3.307 pertaining to rulemaking)
notice requirements)

TO: All Concerned Persons

1. On August 22, 2013, the Secretary of State published MAR Notice No. 44-2-191 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1517 of the 2013 Montana Administrative Register, Issue Number 16.

2. The Secretary of State has amended the rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

1.3.307 RULEMAKING, INTRODUCTION

(1) through (3)(b) remain as proposed.

(c) an agency function which is clearly and specifically included in a statute to which the agency's rulemaking authority extends, per 2-4-305~~(3)~~, MCA.

(4) Rulemaking under MAPA involves four steps.

(a) Contact with the primary sponsor. When an agency begins to work on the substantive content and the wording of a proposal notice for a rule that initially implements legislation, the agency shall contact the legislator who was the primary sponsor of the legislation. See 2-4-302~~(2)(d)~~, MCA.

(b) remains as proposed.

(c) Opportunity to be heard.

(i) The agency shall allow at least 28 days from the publication of the original notice of proposed action for interested persons to submit comments in writing via regular mail, e-mail, or fax to the agency. The agency shall extend the response time in the event an amended or supplemental notice is filed to amend a statement of reasonable necessity, pursuant to 2-4-305~~(8)(e)~~, MCA.

(ii) The agency shall schedule a hearing to be held at least 20 days from the publication of the notice of proposed action if the proposed rules affect matters which are of significant interest to the public as defined at 2-4-102~~(12)~~, MCA.

(iii) through (7) remain as proposed.

3. The Secretary of State has eliminated the citation earmarks in (3) and (4) to conform to the guidelines advising against the use of citation earmarks in rule text.

4. No comments or testimony were received.

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Dated this 7th day of October, 2013.

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 June 30, 2013. This table includes those rules adopted during the period July 1, 2013, through September 30, 2013, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 2013, this table, and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in the 2013 Montana Administrative Register.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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