

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rule I pertaining to Public Safety) PROPOSED ADOPTION
Answering Point allowable uses of funds)

TO: All Concerned Persons

1. On March 26, 2018, at 1:00 p.m., the Department of Administration will hold a public hearing in Room 7 of the Mitchell Building, at 125 N. Roberts St., Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on March 14, 2018, to advise us of the nature of the accommodation that you need. Please contact Rhonda Sullivan, Department of Administration, 1400 8th Ave., P.O. Box 200113, Helena, Montana 59620; telephone (406) 444-2420; fax (406) 444-2701; Montana Relay Service 711; or e-mail rsullivan@mt.gov.

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

NEW RULE I ALLOWABLE USES OF FUNDS (1) Funds distributed to a certified PSAP from the 9-1-1 systems account established by 10-4-304, MCA, may be used by the certified PSAP for 9-1-1 purposes for any of the uses set out in the department's February 13, 2018, list of allowable uses, adopted by reference in this rule. The list is available on the department's website at sitsd.mt.gov/PublicSafetyCommunications.

(2) If items, services, or personnel are used or employed for a purpose other than the 9-1-1 system, the department shall allocate funds based on the cost attributable only to the 9-1-1 system. A certified PSAP shall:

(a) advise the department that items, services, or personnel are used or employed for a purpose other than the 9-1-1 system;

(b) calculate the cost of the items, services, or personnel attributable to the 9-1-1 system and provide the calculation and cost to the department; and

(c) provide information verifying the use and calculation upon request by the department.

(3) A certified PSAP may further distribute funds to a local government entity or tribal government participating with the certified PSAP in the 9-1-1 system for any of the uses described in (1).

AUTH: 10-4-108, MCA

IMP: 10-4-107, 10-4-305, MCA

STATEMENT OF REASONABLE NECESSITY: The purpose of this rule is to identify allowable uses of funds paid from the 9-1-1 systems account. Under 10-4-107, MCA, the department is required to monitor the expenditure of funds and ensure payments are used only for 9-1-1 purposes. The department has developed a list of allowable uses of funds based on previous distributions to local government entities for 9-1-1 purposes. Because these allowable uses are already considered to be for 9-1-1 purposes, a local government entity may expend funds received from the 9-1-1 systems account for any of these identified uses. This rule informs interested persons about the list of allowable uses and how they may access the list.

NEW RULE I implements and enforces the spending limitations in 10-4-107 and 10-4-305, MCA. Section (2) addresses the common situation where items, services, or personnel are used or employed by a local government entity for more than one purpose. Section 10-4-107, MCA, limits reimbursement to payments for 9-1-1 purposes. Therefore, the proposed rule allows the local government entity to calculate and request a prorated reimbursement for the portion of the expenditure attributable to a 9-1-1 purpose.

Section (3) provides that a local government entity that hosts a certified PSAP may distribute funds to other local government or tribal government entities participating in the 9-1-1 system with the local government entity that hosts the PSAP only if the funds are ultimately used for an allowable expense. Given its broad rulemaking authority granted in 10-4-108, MCA, which in part addresses "distribution procedures," and 10-4-107, MCA, which states that the department shall "allocate and distribute 9-1-1 fees," the department interprets 10-4-305, MCA, to allow further distributions to other participating entities.

The department initially proposed adoption of New Rule I in MAR Notice No. 2-13-566; however, the list of allowable uses in (1) was not available on the main page of the Public Safety Communications Bureau website as indicated. To allow more time for public consideration and comment, the department is proposing the rule in a slightly modified form. In addition, in response to public comment received in the prior rulemaking and additional input from the 9-1-1 Advisory Council, the department has changed the rule to remove the option of departmental approval of allowable uses on a case-by-case basis. Changes to the list of uses will require amendment of the rule.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Rhonda Sullivan, Department of Administration, 1400 8th Ave., P.O. Box 200113, Helena, Montana 59620; telephone (406) 444-2420; fax (406) 444-2701; or e-mail rsullivan@mt.gov, and must be received no later than 5:00 p.m., April 2, 2018.

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

6. The division maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the mailing list shall make a written request which includes the

name and mailing address or e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding Public Safety Communications Bureau rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the department's web site at <http://doa.mt.gov/administrativerules>. The department strives to make its online version of the notice conform to the official published version, but advises all concerned persons that if a discrepancy exists between the official version and the department's online version, only the official text will be considered. In addition, although the department works to keep its 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, apply and have been fulfilled. The primary bill sponsor, Representative Frank Garner, was contacted on September 1, 2017, by electronic mail, telephone, and United States Postal Service first class mail.

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

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

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

Certified to the Secretary of State February 13, 2018.