

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 44.3.2014 pertaining to)
maintenance of active and inactive)
voter registration lists for elections)

TO: All Concerned Persons

1. On November 19, 2021, the Secretary of State published MAR Notice No. 44-2-251 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1667 of the 2021 Montana Administrative Register, Issue Number 22.

2. On December 10, 2021, a public hearing was held on the proposed amendment of the above-stated rule. There were no attendees at the public hearing. Written comments were received during the public comment period.

3. The Secretary of State has amended the following rule as proposed, but with the following changes from the original proposal, deleted matter interlined:

44.3.2014 MAINTENANCE OF ACTIVE AND INACTIVE VOTER
REGISTRATION LISTS FOR ELECTIONS (1) remains as proposed.

(2) An election administrator performing the procedures outlined in 13-2-220(1)(a) ~~or (b)~~, MCA, in the month of January also satisfies the requirements of 13-13-212(4)(b), MCA.

4. The Secretary of State has thoroughly considered the comments received. A summary of the comments and SOS's responses are as follows:

COMMENT #1: A commenter said that option (b) under 13-2-220(1), MCA provides that an election administrator may mail a "nonforwardable, first-class, 'return if undeliverable -- address correction requested' notice to all registered electors of each jurisdiction to confirm their addresses and provide the 'appropriate confirmation notice.'" Although the nonforwardable notice must be followed by a forwardable notice to any elector who fails to respond within 30 days, the forwardable notice must be mailed in January of an even-numbered year to concurrently satisfy the absentee ballot list maintenance requirements of 13-13-212(4)(b), MCA. Because of the complexity of ensuring the requirements of both statutes are met within the required timeframe, the commenter believes it would be difficult if not impossible to complete.

RESPONSE #1: The Secretary of State agrees and has removed that option.

COMMENT #2: A commenter said that since the Secretary of State is upgrading the voter registration software, now would be a good time to have all voters re-register.

RESPONSE #2: The 2021 legislative enactments implemented by this proposed rule amendment (Senate Bill 170) do not require re-registration of all voters.

COMMENT #3: A commenter said the Secretary of State's Office should encourage election administrators to conduct the procedures in 13-2-220(1)(a) or (b) and (c), MCA, in addition to reviewing all prior 12 months' death notification lists to determine if any changes were inadvertently missed.

RESPONSE #3: Section 13-2-220, MCA requires that election administrators follow "at least one" annually. Election administrators may choose to do more than one option.

COMMENT #4: A commenter said the Secretary of State's Office should conduct random, unannounced verification of election officials' maintenance of active and inactive voter registration lists.

RESPONSE #4: The Secretary of State's Office is currently able to verify list maintenance activity; therefore, inclusion in administrative rule is unnecessary.

COMMENT #5: A commenter said the Secretary of State's Office should require voter records to reflect two eligibility dates – the initial registration date and, if applicable, the date of re-registration for inactive voters, voter address change, or other registration updates.

RESPONSE #5: Changes to voter records are captured in the voter registration system. Voter registration system functionality and software features are not established in administrative rule.

COMMENT #6: A commenter said the Secretary of State's Office should require county election offices to perform an address verification of the entire voter registration database 30 days prior to any mail-in election.

RESPONSE #6: The 2021 legislative enactments implemented by this proposed rule amendment (Senate Bill 170) do not require an additional address verification 30 days prior to any mail-in election.

COMMENT #7: A commenter said the Secretary of State's Office should require elector's information be concealed beneath the flap of the signature envelope for all absentee and mail-in elections.

RESPONSE #7: The 2021 legislative enactments implemented by this proposed rule amendment (Senate Bill 170) do not address this issue.

/s/ AUSTIN JAMES
Austin James
Rule Reviewer

/s/ ANGELA NUNN
Angela Nunn
Chief Deputy Secretary of State

Dated this 4th day of January, 2022.