

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 44.3.116, 44.3.2204, and) PROPOSED AMENDMENT
44.3.2511 pertaining to clarification of)
timing of certain activities of Election)
Administrators)

TO: All Concerned Persons

1. On August 12, 2022, at 10:00 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Secretary of State 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 Secretary of State no later than 5:00 p.m., August 5, 2022, to advise us of the nature of the accommodation that you need. Please contact Sue Ames, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-2807; fax (406) 444-3976; TDD/Montana Relay Service (406) 444-9068; or e-mail sames@mt.gov.

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

44.3.116 ELECTRONIC TRANSMISSION OF VOTING MATERIALS

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

(e) No sooner than the time permitted for preparation of ballots pursuant to 13-13-241(7), MCA, the election administrator shall have the returned ballots transcribed using the procedure prescribed below. If the received ballot is acceptable pursuant to the requirements of 13-13-246, MCA, the election administrator shall:

(e)(i) through (k) remain the same.

AUTH: 13-13-246, MCA

IMP: 13-13-246, MCA

44.3.2204 PROCESSES AND PROCEDURES FOR EARLY

PREPARATION OF ABSENTEE BALLOTS (1) The processes and procedures for early preparation of absentee ballots are conducted after completion of or in conjunction with the processes and procedures in 13-13-241(1) through ~~(7)~~ (8), MCA.

(2) The following processes and procedures, when implemented by the election administrator, are intended to ensure the security of ballots and secrecy of votes during the early preparation of ballots not sooner than ~~one business day~~

~~before election day~~ the earliest time permitted by 13-13-241(7), MCA. The election administrator shall ensure that the early absentee ballot preparation area:

(a) through (5) remain the same.

(6) Immediately after early preparation of absentee ballots and until ballot counting begins ~~on election day~~, the prepared absentee ballots must be stored in secure containers with numbered security seals and:

(a) through (7) remain the same.

(8) Nothing in this rule shall be construed to permit an election official to count absentee ballots or other ballots before ~~election day~~ the time permitted by statute.

AUTH: 13-13-241, MCA

IMP: 13-13-241, MCA

44.3.2511 ELECTRONIC TRANSMISSION OF VOTING MATERIALS

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

(f) ~~On or before election day~~ No sooner than the time permitted for preparation of ballots pursuant to 13-13-241(7), MCA, the election administrator shall have the returned ballots transcribed, as applicable, using the procedure prescribed below.

(g) through (2) remain the same.

AUTH: 13-21-104, MCA

IMP: 13-13-241, 13-21-104, MCA

REASONABLE NECESSITY: The proposed changes better clarify the timing of certain activities of election administrators by referencing statute in order to preclude varying interpretations of law and rule. The changes are in line with SB 162 (2019), which among other things revised the timelines for handling absentee and mail ballots.

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: Angela Nunn, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing angela.nunn@mt.gov, and must be received no later than 5:00 p.m., August 19, 2022.

5. Austin James, Secretary of State's Office, has been designated to preside over and conduct the hearing.

6. The Secretary of State 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 may submit their request online at <https://sosmt.gov/arm/secretary-of-state-administrative-rules/> or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or delivered to the Secretary of

State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to sosarm@mt.gov.

7. With regard to the requirements of 2-4-302(2)(d), MCA, the primary bill sponsor, Senator Webb, was contacted by phone and email (confirmed receipt) on June 30, 2022.

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

/s/ AUSTIN JAMES
Austin James
Rule Reviewer

/s/ CHRISTI JACOBSEN
Christi Jacobsen
Secretary of State

Dated this 12th day of July 2022.