

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the repeal of ARM)	NOTICE OF PUBLIC HEARING ON
44.14.101 and 44.14.308 through)	PROPOSED REPEAL AND
44.14.312 pertaining to records and)	AMENDMENT
information management fees and)	
the amendment of ARM 44.14.106,)	
44.14.201, 44.14.202, and 44.14.203)	
pertaining to delegation authority for)	
records disposal of public records)	
and records storage systems and)	
requirements)	

TO: All Concerned Persons

1. On August 12, 2022, at 11:00 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 repeal and 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 The rules proposed to be repealed are as follows:

44.14.101 RECORDS RETAINED ON DIGITAL MEDIA

AUTH: 2-6-111, 2-6-203, MCA

IMP: 2-6-111, 2-6-203, 2-6-206, 2-6-211, 2-6-213, 2-6-214, 2-6-302, 2-6-304, 2-15-1013, MCA

REASON: The State Records Committee, pursuant to statutorily imposed duties, upon vote, advised the Office of the Secretary of State of a recommendation to repeal ARM 44.14.101. The Secretary of State accepts the committee's recommendation that ARM 44.14.101 has become outdated and no longer relevant under current state record management technology standards. Accordingly, the Secretary proposes to adopt the recommended repeal of ARM 44.14.101.

44.14.308 MISCELLANEOUS FEES

AUTH: 2-15-405, MCA
IMP: 2-6-1114, MCA

44.14.309 MISCELLANEOUS SUPPLIES

AUTH: 2-15-405, MCA
IMP: 2-6-1101, 2-6-1114, MCA

44.14.310 FEES FOR RECORDS CENTER SERVICES

AUTH: 2-15-405, MCA
IMP: 2-6-1114, MCA

44.14.311 FEES FOR RECORDS CENTER BOXES

AUTH: 2-15-405, MCA
IMP: 2-6-1114, MCA

44.14.312 FEES FOR IMAGING SERVICES

AUTH: 2-15-405, MCA
IMP: 2-6-1101, MCA

REASON: As of March 2019, the Office of the Secretary of State no longer charges fees to any agencies for records management services or supplies. As such, the Secretary proposes to repeal these rules, as they no longer reflect records management services and supplies practices.

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

44.14.106 DELEGATION AUTHORITY FOR DISPOSAL OF PUBLIC RECORDS (1) Per ~~2-6-203~~ 2-6-1101, MCA, it is the duty of the Secretary of State to ensure the proper management and safeguarding of public records as defined in ~~2-6-202~~ 2-6-1002(13), MCA.

(2) The state records committee, as established by ~~2-6-208~~ 2-6-1107, MCA, whose presiding officer is the Secretary of State, is authorized to approve, modify, or disapprove of agency requests to dispose of public records.

(3) Per ~~2-6-213~~ 2-6-1103, MCA, each executive branch agency of state government is mandated to administer its records management function.

(4) and (5) remain the same.

(6) A delegation agreement will be in effect for ~~one~~ five years with renewal dependent on an ~~annual~~ review by the Secretary of State and the state records committee to determine if modifications are necessary.

AUTH: 2-6-203, MCA
IMP: ~~2-6-203, 2-6-204, 2-6-205, 2-6-212, 2-6-213,~~ 2-6-1101, 2-6-1103,

MCA

REASON: The State Records Committee, pursuant to statutorily imposed duties, upon vote, advised the Office of the Secretary of State of a recommendation to extend the period for renewal of a delegation agreement from one year to five years. The Secretary accepts the committee's recommendation with the proposal above. In addition, the proposed changes update references to repealed statutes.

44.14.201 USE OF ELECTRONIC RECORDS STORAGE SYSTEMS FOR LOCAL GOVERNMENT DOCUMENTS (1) remains the same.

AUTH: 2-6-404, MCA
IMP: ~~2-6-403~~ 2-6-1205, MCA

44.14.202 STORAGE REQUIREMENT FOR ELECTRONICALLY STORED DOCUMENTS WITH GREATER THAN TEN YEAR RECORD RETENTION (LONG-TERM RECORDS) (1) and (2) remain the same.

AUTH: 2-6-404, MCA
IMP: ~~2-6-403, 2-6-405~~ 2-6-1205, MCA

44.14.203 STORAGE REQUIREMENT FOR ELECTRONICALLY STORED DOCUMENTS WITH LESS THAN TEN YEAR RECORD RETENTION SCHEDULE (1) remains the same.

AUTH: 2-6-404, MCA
IMP: ~~2-6-403~~ 2-6-1205, MCA

REASON: The proposed changes update references to repealed statutes.

5. With regard to the requirements of 2-4-302(1)(c), MCA, it has been determined that these changes will not have a fiscal impact and no persons will be affected. Agencies currently receive records management services through a state-approved vendor. The Secretary of State's Office has not received payment from fees charged for records management services and supplies in over three years.

6. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to 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.

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

8. 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.

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 Secretary of State has determined that the repeal and 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.