

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF AMENDMENT,
ARM 44.3.101, 44.3.1701, 44.3.1703,)	AMENDMENT AND TRANSFER,
44.3.1714, 44.3.1720, 44.3.2010,)	REPEAL, AND TRANSFER
44.3.2015, 44.3.2103, 44.3.2110,)	
44.3.2111, 44.3.2113, 44.3.2402,)	
44.3.2403, 44.3.2501, 44.3.2505, the)	
amendment and transfer of 44.9.201)	
through 44.9.203, 44.9.303, 44.9.306,)	
44.9.307, 44.9.310 through 44.9.312,)	
and 44.9.401 through 44.9.404, the)	
repeal of 44.3.103, 44.3.2305,)	
44.3.2401, 44.9.101 through)	
44.9.103, 44.9.301, 44.9.302,)	
44.9.304, 44.9.305, 44.9.309,)	
44.9.314, 44.9.315, and 44.9.405,)	
and the transfer of ARM 44.9.204,)	
pertaining to elections)	

TO: All Concerned Persons

1. On January 12, 2012, the Secretary of State published MAR Notice No. 44-2-180 pertaining to the public hearing on the proposed amendment, amendment and transfer, repeal, and transfer of the above-stated rules at page 52 of the 2012 Montana Administrative Register, Issue Number 1.

2. No public comment or testimony was received.

3. The Secretary of State has amended the following rules as proposed: ARM 44.3.101, 44.3.1701, 44.3.1703, 44.3.1720, 44.3.2010, 44.3.2015, 44.3.2103, 44.3.2110, 44.3.2113, 44.3.2501, and 44.3.2505.

4. The Secretary of State has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

44.3.1714 HANDLING VOTING MACHINE ERROR DURING COUNT

(1) through (3) remain as proposed.

(a) if no other tested voting machine is available, votes cast on paper ballots must be counted manually in accordance with 13-15-206, MCA; and

(b) remains as proposed.

AUTH: 13-15-206, 13-17-211, MCA

IMP: 13-15-209, MCA

The Secretary of State made the change to correct a typographical error in the proposal notice by substituting a semicolon for a colon.

44.3.2111 PROCEDURES AT THE POLLING PLACE FOR DETERMINING ELIGIBILITY TO VOTE - PRIOR TO CASTING A BALLOT (1) An individual who provides sufficient identification specified in ARM 44.3.21902, but whose name does not appear on the precinct register, shall be permitted to:

- (a) through (a)(iii) remain the same.
- (b) through (3) remain as proposed.

AUTH: 13-13-603, MCA
IMP: 13-13-114, MCA

The Secretary of State made the change to correct a typographical error in the proposal notice.

44.3.2402 DETERMINING A VALID VOTE IN MANUALLY COUNTING AND RECOUNTING PAPER BALLOTS (1) remains as proposed.

- (a) If a majority of the ~~counting~~ designated board members agree that under the rules the voter's intent can be clearly determined, the vote is valid and must be counted according to the voter's intent.
 - (b) If a majority of the ~~counting~~ designated board members do not agree that the voter's intent can be clearly determined under the rules, the vote is not valid and may not be counted.
- (2) remains as proposed.

AUTH: 13-15-206, MCA
IMP: 13-15-206, MCA

The Secretary of State changed "counting" board to "designated" board in (1)(a) and (1)(b) to conform to the amendment to (1) because the board may be either a counting board or a recount board.

44.3.2403 DETERMINING A VALID WRITE-IN VOTE IN MANUALLY COUNTING AND RECOUNTING PAPER BALLOTS (1) remains as proposed.

- (a) If a majority of the ~~counting~~ designated board members agree that under the rules the voter's intent can be clearly determined, the vote is valid and must be counted according to the voter's intent.
 - (b) If a majority of the ~~counting~~ designated board members do not agree that the voter's intent can be clearly determined under the rules, the vote is not valid and may not be counted.
- (2) remains as proposed.
(3) remains the same.

AUTH: 13-15-206, MCA
IMP: 13-10-211, 13-15-206, MCA

The Secretary of State changed "counting" board to "designated" board in (1)(a) and (1)(b) to conform to the amendment to (1) because the board may be either a counting board or a recount board.

5. The Secretary of State has amended and transferred the following rules as proposed: ARM 44.9.201 (44.3.2701), 44.9.203 (44.3.2703), 44.9.306 (44.3.2710), 44.9.307 (44.3.2711), 44.9.310 (44.3.2714), 44.9.311 (44.3.2715), 44.9.401 (44.3.2720), 44.9.402 (44.3.2721), 44.9.403 (44.3.2722), and 44.9.404 (44.3.2723).

6. The Secretary of State has amended and transferred the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

44.9.202 (44.3.2702) PLAN SPECIFICATIONS (1) The ~~written~~ plan for the conduct of an election or elections held on the same election day must include:

- (a) through (g) remain the same.
- (h) remains as proposed.
- (i) a written timetable for the conduct of the election prepared in accordance with the specifications set forth in ARM ~~44.9.203~~ 44.3.2703 below;
- (j) remains the same.
- (i) returned as undeliverable (e.g., "return postage guaranteed"); and
- (ii) returns (e.g., elector to apply own postage or postage pre-paid, how);
- (k) and (l) remain the same.
- (m) remains as proposed.

AUTH: 13-19-105, MCA
IMP: 13-19-205, MCA

The Secretary of State eliminated the word "written" in (1) to conform to the change in the rule title and made the change to (1)(i) to update the ARM reference to the transferred ARM number. The addition of a comma in (1)(j)(i) and (1)(j)(ii) is to correct a typographical error.

44.9.303 (44.3.2707) VOTING BY NONREGISTERED ELIGIBLE ELECTORS (1) and (2) remain the same.

- (a) voting in person at that time, provided the ballots are available, and in the manner provided in ~~ARM 44.9.301 and 44.9.302 above~~ 13-19-304, MCA; or
- (b) through (3) remain the same.
- (a) remains as proposed.
- (b) remains the same.

AUTH: 13-19-105, MCA
IMP: 13-19-304, MCA

The Secretary of State substituted the statutory reference and eliminated the ARM references because the two referenced rules are now repealed.

44.9.312 (44.3.2716) SIGNATURE VERIFICATION PROCEDURES

(1) remains the same.

(a) arrangements shall be made by the school district clerk (election administrator) for the transport of ballots to and from the county election administrator for signature verification in compliance with ARM ~~44.9.309~~ and ~~44.9.310~~ 44.3.2714;

(b) and (c) remain as proposed.

(d) remains the same.

(e) remains as proposed.

(f) for a ballot not validated, the school district clerk (election administrator) shall designate it as a provisional ballot, give notice to the elector as provided in 13-19-313, MCA, ~~and record the ballot as provided in ARM 44.9.313~~;

(g) through (3) remain the same.

(4) remains as proposed.

AUTH: 13-19-105, MCA

IMP: 13-19-304, 13-19-309, 13-19-312, MCA

The Secretary of State made the change to update the ARM reference in (1)(a) to the transferred ARM number and to delete the ARM reference in (1)(f) because ARM 44.9.313 was repealed in 2010 making the reference obsolete.

7. The Secretary of State has repealed the following rules as proposed: ARM 44.3.103, 44.3.2305, 44.3.2401, 44.9.101 through 44.9.103, 44.9.301, 44.9.302, 44.9.304, 44.9.305, 44.9.309, 44.9.314, 44.9.315, and 44.9.405.

8. The Secretary of State has transferred the following rule as proposed: ARM 44.9.204 (44.3.2704).

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Dated this 14th day of March, 2012.