

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rule I pertaining to delegated) PROPOSED ADOPTION
authority for the disposal of public)
records)

TO: All Concerned Persons

1. On February 7, 2013, a public hearing will be held at 9:00 a.m. in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing 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. on January 31, 2013, to advise us of the nature of the accommodation that you need. Please contact Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 461-5173; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail jquintana@mt.gov.

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

RULE I DELEGATION AUTHORITY FOR DISPOSAL OF PUBLIC RECORDS (1) Per 2-6-203, 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, MCA.

(2) The state records committee, as established by 2-6-208, 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, MCA, each executive branch agency of state government is mandated to administer its records management function.

(4) Any state agency with a records management program that meets established records retention, disposition, and archiving criteria may apply for and be granted authority to independently dispose of its public records by entering into a delegation agreement with the secretary of state and the state records committee.

(5) The secretary of state and the state records committee shall evaluate an agency's ability to manage its records independently based on a review of the following agency resources:

- (a) management support;
- (b) dedicated human resources;
- (c) current internal policies and procedures;
- (d) annual activity regarding retention schedule modifications and disposal requests; and

(e) negotiate directly with the Montana historical society state archives to establish a mutually acceptable preservation process.

(6) A delegation agreement will be in effect for one year 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, MCA

REASON: The adoption of this rule is reasonably necessary to create a method for the Secretary of State and the State Records Committee to delegate authority to state agencies to independently dispose of their public records. This method will allow qualified state agencies to more efficiently administer their records management function. It will also ensure that all parties, the Secretary of State, the State Records Committee, and the state agency, are meeting their statutory duties and responsibilities with respect to the management of public records.

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: Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801; telephone (406) 461-5173; fax (406) 444-4240; or e-mail jquintana@mt.gov, and must be received no later than 5:00 p.m., February 15, 2013.

5. Jorge Quintana, Secretary of State's Office, has been designated to preside over and conduct this 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 shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. 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 Secretary of State.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State 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, do not apply.

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Dated this 7th day of January, 2013.