

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 1.3.309 pertaining to rulemaking) PROPOSED AMENDMENT
notice requirements)

TO: All Concerned Persons

1. On July 10, 2013, at 9:30 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment of the above-stated rule.

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. on June 28, 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 amended provides as follows, new matter underlined, deleted matter interlined:

1.3.309 RULEMAKING, PROPOSAL NOTICE

(1) and (a) remain the same.

(i) When the bill sponsor contact requirements apply, the proposal notice must state the date on which and the manner in which contact was made with the primary sponsor, per 2-4-302~~(1)(b)~~, MCA.

(b) An agency shall publish notice of intent to adopt, amend, or repeal a rule in accordance with 2-4-302~~(2) and (3)~~, MCA.

(c) through (f) remain the same.

(g) Whenever practicable and appropriate, the agency may send written notice to licensees of the agency, per 2-4-631~~(3)~~, MCA.

(2) Notice of agency action must be published within six months of the date on which notice of the proposed action was published, per 2-4-305~~(7)~~, MCA.

(3) The contents of the notice shall include the following:

(a) The notice of public hearing, as illustrated by template 309a (<http://armtemplates.com>), must include all notice items required by Chapter 318, Section 1, Laws of 2013, 2-4-302, and 2-4-305, MCA, summarized as follows:

(i) and (ii) remain the same.

(iii) If an agency is proposing to adopt a new rule that it determines will significantly and directly impact small businesses, the agency shall include a statement of that determination in its notice. This requirement begins on July 1, 2013, and expires on July 1, 2015.

~~(iii)~~ (iv) The agency shall include in its notice an easily understood statement of reasonable necessity which contains the principal reasons and the rationale for each proposed rule. One statement may cover several proposed rules if appropriate, and if the language of the statement clearly indicates which rules it covers. An inadequate statement of reasonable necessity cannot be corrected in an adoption notice. The corrected statement of reasonable necessity must be included in a new notice or supplemental notice of proposed action. If an agency uses an amended proposal notice to amend a statement of reasonable necessity, the agency shall allow additional response time as required in 2-4-305~~(8)(e)~~, MCA.

(A) and (B) remain the same.

(iv) and (v) remain the same but are renumbered (v) and (vi).

~~(vi)~~ (vii) The agency shall include, at the end of each rule noticed, a citation to the authority for the proposed rule, and citation to the MCA section(s) or ~~sections~~ session laws being implemented. When an amendment to a rule is proposed, any new citations ~~the section(s) of the MCA~~ that constitute authority or implementation for the amendment must be underlined and any stricken citations must be interlined ~~sections implemented by the amendment must be underlined~~. If a proposed action implements a policy of a governing board or commission, the notice must include a citation to and description of the policy implemented.

(vii) remains the same but is renumbered (viii).

(b) remains the same.

(i) all notice items required by Chapter 318, Section 1, Laws of 2013, 2-4-302, and 2-4-305, MCA, as summarized above;

(ii) through (iv) remain the same.

(4) When a hearing has been properly requested per 2-4-302, MCA, the agency shall send notice of the hearing to persons who have requested a public hearing. Also, notice must be published in the register, per 2-4-302~~(2)~~, MCA.

(a) As illustrated by template 309c (<http://armtemplates.com>), the notice shall state that the hearing is being held upon request of the requisite number of persons designated in the original notice, per 2-4-302~~(4)~~, MCA, or the appropriate administrative rule review committee of the Legislature, 2-4-402~~(2)(e)~~, MCA, or a governmental agency or subdivision, or an association.

AUTH: 2-4-202, 2-15-401, MCA

IMP: Ch. 318, Sec. 1, L. 2013, 2-4-202, 2-4-302, 2-4-305, 2-4-307, MCA

REASON: The amendments eliminating the citation earmarks are reasonably necessary to conform to Secretary of State's guidelines advising against the use of citation earmarks in rule text. The amendments to (3)(a) are reasonably necessary to implement the requirements imposed on state agencies by the 2013 Legislature to include a determination of a proposed rule's impact on small businesses in the Montana Administrative Register. The amendment of new (3)(a)(vii) is reasonably necessary to clarify that only new authority and implementation citations need to be underlined.

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) 444-4249; or e-mail jquintana@mt.gov, and must be received no later than 5:00 p.m., July 18, 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 department.

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, apply and have been fulfilled. The primary bill sponsor was contacted by U.S. mail on May 28, 2013.

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Dated this 10th day of June, 2013.