

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

In the matter of the adoption of NEW)	NOTICE OF PROPOSED
RULE I pertaining to petitioning)	ADOPTION AND AMENDMENT
rulemaking and the amendment of)	
ARM 6.2.101 and 6.2.120 pertaining)	NO PUBLIC HEARING
to model procedural rules)	CONTEMPLATED

TO: All Concerned Persons

1. The Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI) proposes to adopt and amend the above-stated rules.

2. CSI 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 accommodation, contact CSI no later than 5:00 p.m. on September 17, 2024, to advise us of the nature of the accommodation that you need. Please contact Laura Shirliff, Creative and Digital Services Director, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2040 or 1-800-332-6148; fax (406) 444-3413; TDD (406) 444-3246; or e-mail csi@mt.gov.

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

NEW RULE I RULEMAKING, PETITION TO ADOPT, AMEND, OR REPEAL
RULE (1) Section 2-4-315, MCA, authorizes an interested person or member of the legislature acting on behalf of an interested person when the legislature is not in session, to petition an agency to adopt, amend, or repeal a rule.

(a) The petition shall be in writing, signed by or on behalf of the petitioner, and shall contain, a detailed statement of:

(i) the name and address of the petitioner and of any other person known by the petitioner to be interested in the rule sought to be adopted, amended, or repealed;

(ii) sufficient facts to show how the petitioner will be affected by adoption, amendment, or repeal of the rule;

(iii) the rule that the petitioner requests the agency adopt, amend, or repeal. Where amendment of an existing rule is sought, the rule shall be set forth in the petition with proposed deletions interlined and proposed additions underlined; and

(iv) facts and propositions of law in sufficient detail to show the reasons for adoption, amendment, or repeal of the rule.

(b) Legislators may petition the commissioner on behalf of interested parties through an informal letter or memorandum. The petition should include the name of the person or a description of the class of persons on whose behalf the legislator acts. Petitions filed by the appropriate administrative rule review committee of the legislature need not be brought on the behalf of any specifically interested party. Any petition from the legislature or its members should comply with (1)(a)(iii) and (iv).

- (c) A template for a rulemaking petition is available on CSI's website.
- (2) The petition shall be considered filed when received by CSI.
- (3) Upon receipt of the petition, CSI:
 - (a) may, but is not required to, schedule a hearing or oral presentation of the petitioner's or interested person's views to assist in developing the record;
 - (b) shall, within 60 days after date of submission of the petition, either:
 - (i) issue an order denying the petition; or
 - (ii) initiate rulemaking proceedings in accordance with MAPA.
- (4) A decision to deny a petition or to initiate rulemaking proceedings must:
 - (a) be in writing;
 - (b) be based on record evidence, including any information submitted by the petitioner, the agency, and interested persons; and
 - (c) include the reasons for the decision.

AUTH: 2-4-202, MCA

IMP: 2-4-202, 2-4-315, MCA

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

6.2.101 INCORPORATION OF MODEL PROCEDURAL RULES BY THE INSURANCE DEPARTMENT (1) remains the same.

(2) The insurance department has adopted the Secretary of State's Model Organizational and Procedural Rules by reference to such rules as stated in ARM ~~1.3.301 through 1.3.313~~ 1.4.101 through 1.4.109.

AUTH: 33-1-313, MCA

IMP: 2-4-201, 33-1-313, MCA

6.2.120 INCORPORATION OF MODEL PROCEDURAL RULES BY THE SECURITIES DEPARTMENT (1) remains the same.

(2) The securities department has adopted the Secretary of State's Model Organizational and Procedural Rules by reference to such rules as stated in ARM ~~1.3.301 through 1.3.313~~ 1.4.101 through 1.4.109.

AUTH: 30-10-107, MCA

IMP: 2-4-201, 30-10-107, MCA

5. REASON: The Commissioner of Securities and Insurance, Montana State Auditor, Troy Downing (commissioner) is the statewide elected official responsible for administering the Montana Insurance Code and Securities Act. Effective June 22, 2024, the Secretary of State (SOS) repealed its organizational and procedural rules at ARM 1.3.301 through 1.3.313, and enacted simplified rules at ARM 1.4.101 through 1.4.109.

Because the new, simplified rules enacted by SOS did not include any rule similar to former ARM 1.3.308 Rulemaking, Petition to Adopt, Amend, or Repeal Rule and because 2-4-315, MCA, requires each agency to prescribe by rule the form

and process for such rulemaking petitions, CSI proposes as NEW RULE I the language from repealed ARM 1.3.308.

The proposed amendments to ARM 6.2.101 and 6.2.120 would remove citations to the organizational and procedural rules repealed by SOS and adopt by reference the new, simplified rules from SOS.

6. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Laura Shirliff, Creative and Digital Services Director, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2040 or 1-800-332-6148; fax (406) 444-3413; TDD (406) 444-3246; or e-mail CSI@mt.gov, and must be received no later than 5:00 p.m., October 4, 2024.

7. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Laura Shirliff at the above address no later than 5:00 p.m., October 4, 2024.

8. If the agency receives requests for a public hearing on the proposed actions from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed actions a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 15 persons based on the number of Montana legislators.

9. CSI 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 must 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. Written requests may be mailed or delivered to the contact person in paragraph 6 or made by completing a request form at any rules hearing held by CSI.

10. An electronic copy of this proposal notice is available through the Secretary of State's website at rules.mt.gov.

11. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

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

/s/ Kirsten Madsen

Kirsten Madsen
Rule Reviewer

/s/ Kate McGrath Ellis

Kate McGrath Ellis
Interim Chief Legal Counsel
Commissioner of Securities and Insurance,
Office of the Montana State Auditor

Certified to the Secretary of State August 27, 2024.