

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption of New ) NOTICE OF PUBLIC HEARING ON  
Rules I through V pertaining to public ) PROPOSED ADOPTION  
participation )

TO: All Concerned Persons

1. On October 28, 2021, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed adoption of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/82080243305>; meeting ID: 820 8024 3305; or

(b) Dial by telephone +1 646 558 8656; meeting ID: 820 8024 3305. Find your local number: <https://mt-gov.zoom.us/u/koP4MBt35>.

2. The Department of Public Health and Human Services 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 Department of Public Health and Human Services no later than 5:00 p.m. on October 14, 2021, to advise us of the nature of the accommodation that you need. Please contact Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

3. The rules as proposed to be adopted provide as follows:

NEW RULE I MODEL PROCEDURAL RULES (1) The Department of Public Health and Human Services, for purposes of establishing department public participation procedures, adopts and incorporates by reference the Attorney General's model procedural rules ARM 1.3.101 and 1.3.102.

AUTH: 2-3-103, 2-4-201, MCA

IMP: 2-3-103, 2-4-201, MCA

NEW RULE II PUBLIC PARTICIPATION (1) Public participation is encouraged and assisted to the fullest extent practicable. Participation must be consistent with other requirements of state law and the rights and requirements of personal privacy. The major objectives of such participation include:

(a) greater responsiveness of governmental actions to public concerns and priorities; and

(b) improved public understanding of official programs and actions.

(2) Prior to the adoption, amendment, or repeal of a rule or policy, the department shall, where the decision is of significant public interest, give adequate notice and opportunity to participate in the decision-making process.

AUTH: 2-3-103, 2-4-201, MCA

IMP: 2-3-103, 2-4-201, MCA

NEW RULE III ACTIONS CONSIDERED TO BE OF SIGNIFICANT PUBLIC INTEREST (1) The adoption, amendment, or repeal of any regulation or written policy that implements, interprets, or prescribes law or policy, or practice requirements of the department, are considered actions of significant public interest to require notice and opportunity for public participation in the decision-making process.

(2) In all other cases, whether the decision is one of significant public interest will be determined by the person within the department who is proposing the decision according to the following considerations:

- (a) the decision regards a matter which is controversial;
- (b) the number of persons who will be affected by the decision;
- (c) the fiscal impact the decision will have; or
- (d) the department has witnessed a high level of citizen interest.

AUTH: 2-3-103, 2-4-201, MCA

IMP: 2-3-103, 2-4-201, MCA

NEW RULE IV NOTICE AND MEANS FOR PUBLIC PARTICIPATION (1) If it is determined that significant public interest is involved, one or more of the following steps, as applicable, shall be taken to assist public participation in the decision-making process:

- (a) a proceeding or hearing is held in compliance with the provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, MCA;
- (b) a public hearing, after appropriate notice is given, is held pursuant to any other provision of state law, a local ordinance, or regulation; or
- (c) a news release, legal advertisement, or other method of publication will be given to news media within the area to be affected which shall include the name of a person within the department most familiar with the proposed action, that person's departmental address, and a telephone number where interested persons may submit their data, views, or arguments, orally or in written form, concerning the proposed action. This information will also be posted on the department's website.

AUTH: 2-3-103, 2-4-201, MCA

IMP: 2-3-103, 2-4-201, MCA

NEW RULE V PUBLIC REQUESTS FOR INFORMATION (1) Citizens desiring information about anything mentioned in these rules or about anything concerning the department and public participation should contact the Public Information Officer, Department of Public Health and Human Services, P.O. Box

4210, Helena, Montana 59604-4210, or visit the department's website at [dphhs.mt.gov](http://dphhs.mt.gov).

AUTH: 2-3-103, 2-4-201, MCA

IMP: 2-3-103, 2-4-201, MCA

#### 4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to adopt New Rules I through V which will develop procedures for permitting and encouraging public participation in agency decisions that are of significant interest to the public, therefore complying with 2-3-101 and 2-3-103(1)(a), MCA.

##### NEW RULE I

In this rule, the department proposes to adopt the attorney general model rules ARM 1.3.101 and 1.3.102 for public participation.

##### NEW RULE II

This rule outlines the major objectives for public participation.

##### NEW RULE III

This rule provides guidance on what actions are considered to be of significant public interest.

##### NEW RULE IV

This rule outlines the method of notice and means for public participation.

##### NEW RULE V

This rule provides contact information for the department's public information officer and directs the public to contact them with questions.

##### Fiscal Impact

The department anticipates no fiscal impact with the proposed rulemaking.

The department intends for these proposed new rules to be effective January 1, 2022.

5. 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: Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., November 5, 2021.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. The department 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 5 above or may be made by completing a request form at any rules hearing held by the department.

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

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

/s/ Ashley D. Morigeau  
Ashley D. Morigeau  
Rule Reviewer

/s/ Adam Meier  
Adam Meier, Director  
Public Health and Human Services

Certified to the Secretary of State September 28, 2021.