

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PROPOSED
2.11.203 pertaining to the adoption of a)	AMENDMENT
state plan of operation for federal)	
surplus property)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. On July 10, 2021, the Department of Administration proposes to amend the above-stated rule.

2. The Department of Administration 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 Administration no later than 5:00 p.m. on April 30, 2021, to advise us of the nature of the accommodation that you need. Please contact Tama Lutsko, Department of Administration, 16 W. Custer Avenue, Helena, Montana, 59601; telephone (406) 431-3104; TDD (406) 444-1421; or e-mail doasurplusproperty@mt.gov.

3. The rule proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

2.11.203 ADOPTION OF STATE PLAN OF OPERATION–FEDERAL SURPLUS PROPERTY (1) As authorized by 18-5-202, MCA, the department adopts and incorporates by reference the "~~State of Montana~~, Federal Surplus Property Program Montana State Plan of Operation" in Compliance ~~compliance~~ with ~~41 FR 101-44~~ 41 CFR 102-37 and Public Law 94-519" (State Plan of Operation) promulgated by the department and filed with the General Services Administration of the United States government on July 1, 1977, and as revised ~~March 19, 1984~~ February 23, 2021, pursuant to section ~~204~~203(j)(4) of the Federal Property and Administrative Services Act of 1949 (40 USC 484) as amended.

(2) The State Plan of Operation establishes the operating procedure and practices to be followed by the department for the fair and equitable distribution of federal surplus personal property ~~to those units of state and local government and certain nonprofit, tax-exempt, educational, and health institutions as are determined to be eligible to receive such surplus personal property under section 203(j) of the act~~ to all eligible participants within the state.

(3) Copies of the State Plan of Operation may be obtained from the Department of Administration, General Services Division, P.O. Box 200137, Helena, Montana 59620-0137.

AUTH: 18-5-202, MCA
IMP: 18-5-202, MCA

STATEMENT OF REASONABLE NECESSITY: The federal General Services Administration (GSA) reviewed the "Federal Surplus Property Program Montana State Plan of Operation" (State Plan of Operation) and recommended that the department update the plan. The department drafted a State Plan of Operation in compliance with 41 CFR 102-37 and Public Law 94-519 to comply with current federal management regulations and is now seeking comments from the public regarding the revised State Plan of Operation. To encourage public review and comment, an electronic copy of the State Plan of Operation may be viewed online at State Plan of Operations for the Federal Surplus Property Program.

The revised State Plan of Operation removes the appendices "Application for the Federal Surplus Property Program" and "Eligibility Update and Renewal Application," as recommended by GSA to allow the department to amend the application forms without seeking prior approval from GSA. If the applications remain in the State Plan of Operation, the department will be required to request GSA's approval before the forms could be amended. This would increase the administrative burden on both GSA and the department.

In addition to proposing revisions to the State Plan of Operation, the department proposes to amend (1) to match the title as shown on the first page of the State Plan of Operation. The department also proposes to correct and update citations to the federal regulations cited in (1). The department proposes to amend (2) to broaden the class of potentially eligible participants to match the "eligible participants" language used in 18-5-202, MCA. Using the broader terminology from statute will afford the department flexibility to adapt to changes in eligibility criteria at the federal level without requiring a corresponding change in administrative rule.

After the public comment period closes, the department will review all comments received and determine whether the State Plan of Operation or the administrative rules should be revised. The State Plan of Operation, including any proposed revisions, will then be submitted to GSA for approval. If GSA approves the State Plan of Operation, the department will formally adopt the plan and amend the administrative rules accordingly.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to Tama Lutsko, Department of Administration, P.O. Box 200137, Helena, Montana, 59620; telephone (406) 431-3104; or e-mail doasurplusproperty@mt.gov, and must be received no later than 5:00 p.m., May 17, 2021.

5. If persons who are directly affected by the proposed action 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 the person listed in 4 at the above address no later than 5:00 p.m., April 30, 2021.

6. If the General Services Division receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, 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 has been determined to be 45 persons based on the list of interested persons the division maintains.

7. The General Services Division 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 mailing list shall make a written request which includes the name and mailing address or e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. 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.

8. An electronic copy of this proposal notice is available through the department's website at <http://doa.mt.gov/administrativerules>. The department strives to make its online version of the notice conform to the official published version but advises all concerned persons that if a discrepancy exists between the official version and the department's online version, only the official text will be considered. In addition, although the department works to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

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

10. The department has determined that under 2-4-111, MCA, the proposed amendment will not significantly and directly affect small businesses.

By: /s/ Misty Ann Giles
Misty Ann Giles, Director
Department of Administration

By: /s/ Don Harris
Don Harris, Rule Reviewer
Department of Administration

Certified to the Secretary of State April 6, 2021.