



**MONTANA
ADMINISTRATIVE
REGISTER**



DEPARTMENT OF ADMINISTRATION

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-450.1

Summary

The department proposes to amend administrative rules pertaining to credit unions.

No Hearing Scheduled

If the agency receives requests for a public hearing on the proposed rulemaking from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed rulemaking; 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.

The estimated number of persons directly affected by the proposed rulemaking is one based on the nine Montana state-chartered credit unions.

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, September 19, 2025, at 5:00 p.m.

Accommodations

The agency 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. Requests must be made by Wednesday, September 3, 2025, at 5:00 p.m.

Contact

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General Reasonable Necessity Statement

As part of its required biennial review of rules, the department has identified necessary changes in these proposed amendments. These amendments encompass a variety of updates aimed at enhancing clarity and consistency within the rules.

Some of the proposed changes are technical in nature, such as amending punctuation, transitioning outdated two-word forms to commonly accepted single-word forms, such as "web site" to "website," updating the department's website address, and removing the division's physical address on forms as it will be relocating at a later date.

The department is changing references to the Division of Banking and Financial Institutions of the Department of Administration from "division" to "department" for consistency with other rules in ARM Title 2, chapter 59. The department proposes updating website references to remove "www" and "http" as these prefixes are not generally necessary to successfully navigate to the department's website.

Where additional specific bases for a proposed action exists, the department will identify those reasons immediately following that rule.

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

2.59.405 RETENTION OF CREDIT UNION RECORDS

- (1) Credit unions are required to retain records of member accounts, as defined in (7), for at least eight years after January 1 of the year following the time that the records are made; however, records showing unpaid balances in favor of members may not be destroyed.
- (2) The publication Montana Credit Union Records Retention Schedule, Appendix A to ARM 2.59.405 (Appendix A), establishes the minimum retention period for records

other than member account records for all state-chartered credit unions. Appendix A is maintained by the Commissioner of Banking and Financial Institutions, and may be updated not more than once a year by the commissioner. The August 11, 2014, edition of Appendix A is incorporated by reference as part of this rule. A copy of Appendix A can be obtained from the Division of Banking and Financial Institutions, Department of Administration, ~~301 South Park~~, P.O. Box 200546, Helena, MT 59620-0546 or found on the department's ~~web site~~ website at

~~banking.mt.gov/_docs/Credit-Union/Credit-Union-Records-Retention-Appendix-A-As-of-8-11-2014.pdf.~~ banking.mt.gov.

- (3) When a credit union ~~microfilms, photographs, or uses other electronic or computer-generated data~~ reproduces records in any manner in the regular course of business, the retention period of the ~~microfilm, photographs, electronic, or computer-generated data~~ reproduced records ~~is must be~~ the same as specified in Appendix A.
- (4) Credit unions must comply with all applicable federal laws and regulations concerning credit union records retention requirements. In the event that an applicable federal law or regulation conflicts with a retention period contained in this rule or in Appendix A, a credit union must comply with whichever retention period is longer. Credit unions must comply with other applicable state laws governing retention of personnel records, corporation records, etc.
- (5) If a credit union does not maintain records set forth in Appendix A, but maintains similar records with equivalent information, the credit union's similar records must be retained for the time specified within Appendix A.
- (6) Records not covered by this rule, Appendix A, or applicable federal laws and regulations must be retained for a period of time determined appropriate by the credit union's board of directors. The board's minutes must reflect the record retention periods determined appropriate and be maintained as a permanent part of the board's minutes.
- (7) "Member accounts" for record retention purposes means member deposit accounts including share savings accounts, share draft accounts, share certificates, safety deposit boxes, trust accounts, negotiable orders of withdrawal (NOW) accounts, and money market deposit accounts.

Authorizing statute(s): 32-3-201, MCA

Implementing statute(s): 32-3-204, MCA

Reasonable Necessity Statement

The department is proposing to amend this rule to update the wording to concise, commonly used, current language to reflect the current methods of document reproduction.

2.59.429 ADOPTION OF MODEL BYLAWS AND STATUTORY REFERENCE FOR CREDIT UNIONS

- (1) The department adopts by reference the model bylaws of credit unions dated ~~June 2020~~ April 2023 and the model credit union bylaws statutory reference dated ~~June 2020~~ April 2023, to be used by incorporators when they want to start a new credit union. Both can be found on the department's ~~web-site~~ website at ~~www.banking.mt.gov~~ banking.mt.gov.

Authorizing statute(s): 32-3-201, MCA

Implementing statute(s): 32-3-302, MCA

Reasonable Necessity Statement

Section 32-2-302, MCA requires the department to make model bylaws available to credit union incorporators and credit unions. The statutory reference is not required by law but may be of assistance to incorporators or credit unions. The updated model bylaws align with the National Credit Union Administration (NCUA) bylaws.

2.59.436 ORGANIZING A NEW CREDIT UNION

- (1) An applicant seeking to organize a new state-chartered credit union shall complete the Application for a Certificate of Approval to Organize a New Montana Credit Union dated ~~December 14, 2020~~ June 13, 2025, which is adopted and incorporated by reference and available on the department's website at banking.mt.gov.

Authorizing statute(s): 32-3-201, MCA

Implementing statute(s): 32-3-201, 32-3-301, MCA

Reasonable Necessity Statement

The department proposes to amend the Application for a Certificate of Authorization to Organize a New Montana Credit Union to include the following additional information:

- Page One - Executive Officers of the Board & Senior Management section: Added “The subscribers shall select at least five qualified persons who agree to serve on the board of directors and at least three qualified persons who agree to serve on the supervisory committee. A signed agreement to serve in these capacities until the first annual meeting or until the election of their successors, whichever is later, must be executed by the parties.”
- Page Two – Additional Exhibits – Exhibit 5: Added “. . . or other insurance approved by the commissioner of insurance and the department of administration.”

The additional language on page one serves as a reminder of the requirements outlined in 32-3-301(4), MCA. The additional language on page two clarifies that the provisions of 32-3-611, MCA, permit other insurance approved by the Commissioner of Insurance and the Department of Administration, rather than exclusively NCUSIF insurance.

2.59.437 ANNUAL REPORTS

- (1) The Report of Credit Union Management form dated ~~December 14, 2020~~ June 13, 2025, is adopted and incorporated by reference and available on the department's website at banking.mt.gov.
- (2) The Liabilities of Directors and Committee Members form dated ~~December 14, 2020~~ June 13, 2025, is adopted and incorporated by reference and available on the department's website at banking.mt.gov.

Authorizing statute(s): 32-3-201, MCA

Implementing statute(s): 32-3-201, 32-3-202, 32-3-404, MCA

Reasonable Necessity Statement

The department proposes to amend this rule to update the Report of Credit Union Management form to include the date of the last annual meeting. The department also proposes to amend this rule to update the Liabilities of Directors and Committee Members form to remove the valuation date for the share value of a director or committee member who is a borrower. The department assumes the share value will be the value as of February 1st of the submission year for the form.

Small Business Impact

The department adopts rules that primarily impact credit unions, banks, and other financial institutions and works in cooperation with these entities across the state to implement the

rules that are adopted. Given that the department does not work directly with small businesses, the small business impact analysis performed as required by 2-4-111, MCA indicates that no small businesses are likely to be directly impacted by the proposed rule changes. Documentation of the small business impact analysis is available upon request.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list must make a written request that includes the name, mailing address, and 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. Written requests may be mailed or delivered to the person listed in paragraph two or may be made by completing a request form at any rules hearing held by the department.

Rule Reviewer

Don Harris, Chief Legal Counsel

Approval

Misty Ann Giles, Director