

**Lt. Governor Kristen Juras Remarks on Regulatory Reform  
Section C Interim Budget Committee  
December 15, 2021**

Executive Order No. 2021-1

The day after Governor Gianforte took the oath of office, he issued his first executive order, creating the Red Tape Relief Task Force to conduct a comprehensive, top-to-bottom review of regulations in every state agency.

Burdensome, unnecessary red tape ties up our small businesses, farms, and ranches. Compliance with regulations costs time and money, inhibits job growth, delays expansion of existing businesses, impedes private sector investment, and increases prices paid by consumers for goods and services.

The Red Tape Relief Task Force was charged with developing a plan for the 13 agencies under the Governor's jurisdiction to identify:

- excessive, outdated, and unnecessary regulations,
- regulations that are burdensome on Montana's farmers, ranchers, and business owners and disproportionately impact small business;
- appropriate quantitative and qualitative metrics to measure implementation of regulatory reform within each agency.

The Task Force is comprised of the director and a designated rules representative from each of the thirteen agencies under the Governor's jurisdiction. Secretary of State Christi Jacobsen and her operations director, Angela Nunn, also participate on the Task Force. A copy of Task Force members is attached.

Ineffectiveness of Past Regulatory Reform Legislation

Regulatory reform is not a new concept in Montana.

Fifty years ago, in 1971, legislation was adopted requiring each agency to review its rules biennially and determine whether any should be modified or repealed. MCA § 2-4-314. Few agencies have implemented a biennial review program.

In 1977, the legislature found that "state government actions have produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules." MCA § 2-8-101. The legislature established a "system of periodic evaluation of the need for and the performance of agencies and programs," under which the governor would submit recommendations for agencies and programs to be terminated and subject to a performance audit.

It's not happening. In fact, the number of statewide boards and councils has increased to over 160, and each agency has established numerous other councils. Many of which are duplicative and all of which require taxpayer dollars and staff to support.

In 1981, the legislature passed the "Montana Small Business Licensing Coordination Act," providing for a single stop small business licensing center. MCA § 30-16-101.

It didn't happen. Our agencies and programs often operate as silos that don't share information.

In 1995 the legislature passed the "Federal Mandates Act," requiring agencies to identify federal statutes and regulations that are inconsistent with Montana policy or do not advance Montana policy in a cost-effective manner. Few agencies actively comply with this mandate.

I could go on with many other attempts by the legislature to initiate regulatory reform.

The point I am making is that unless you have a governor who is committed to regulatory reform, it isn't going to happen. I am here on behalf of Governor Gianforte to let you know that his administration is committed to regulatory reform. We are providing leadership, time and resources to this effort.

But we can't do it in a vacuum. The governor has appointed agency directors who are equally committed to regulatory reform, changing the culture of our agencies, and restoring customer service to state government. Under Governor Gianforte's direction, our directors have made regulatory reform a priority within their agencies. They have worked diligently to engage and empower employees in this effort. Employee response has been positive and productive. As one Task Force member recently stated: "We needed to hit pause, allow our people time to engage in and prioritize this effort, and create a lane for them to contribute and make a difference." Together, we're changing the way Helena does business.

### Timeframe for Implementation

The biggest hurdle to implementing comprehensive regulatory reform is the immensity of the task. With input from the Task Force, I created a framework that breaks down the components of regulatory reform into manageable segments. Following is an abbreviated summary:

**OBJECTIVE:** Implement in every state agency a comprehensive review and revision of excessive, outdated, and unnecessary regulations and statutes

Phase 1: Organization & Planning	Timeline
Develop a comprehensive agency plan for regulatory review and reform	Each agency delivers plan documents to LG by 7/30/2021
Conduct initial outreach to staff and stakeholders	Complete staff meetings by 9/30/2021 Complete stakeholder meetings by 10/31/2021
Phase 2: Inventory of Reform Candidates	Timeline
Compile and prioritize an inventory of regulations that are candidates for reform	Complete prioritized inventory of rules and statutes that are candidates for reform to LG by 12/31/2021
Phase 3: Administration Review	Timeline
Review reform candidates with governor and lieutenant governor	Complete meetings by 2/1/2022 Deliver final list to LG by 2/15/2022
Phase 4: Rulemaking Process	Timeline
Regulations identified as candidates for reform are revised through rulemaking process	Complete strategic work plan by 3/1/2022  Monthly status reports/dashboards Complete rulemaking by 10/1/2022
Phase 5: Ongoing evaluation	Timeline
Develop agency plan for ongoing evaluation of regulations	Deliver ongoing evaluation plan to LG by 12/31/2022

The work doesn't stop after one cycle. We have to wash, rinse and repeat. The rulemaking process will begin in 2022 with regulatory reform candidates prioritized as having high importance. Some reform projects will require legislative changes and will not proceed until after the 2023 legislative session. In 2024, the focus in many agencies will shift to internal policies and procedures.

Although quantity is important, our objective is not simply to reduce the number of regulations but to implement qualitative reforms. For example, our objectives include:

- reducing timeframes for decision-making;
- streamlining and simplifying processes and paperwork;
- decreasing errors;

- sharing data across agencies;
- creating one-shop licensing for businesses;
- reducing licensing barriers for professionals;
- reducing the number of boards and councils;
- eliminating unnecessary reports; and
- creating methods to measure regulatory reform.

Regulatory reform can only be accomplished with engagement from the citizens that are impacted by our regulatory framework. Over the past six months, Governor Gianforte and I have been traveling around the state seeking input from all Montanans. We have established a portal on the governor's website for the public to submit comments. Several agencies have also established portals to solicit comment.

### Progress to Date

The **organizational and planning stage of regulatory reform** has been completed. Each agency has submitted a plan to implement regulatory reform, which included:

- Drafting a project charter identifying key elements of the regulatory reform project;
- Preparing a communication strategy for internal staff and external stakeholders;
- Defining criteria and other metrics to identify rules and statutes that are candidates for reform;
- Developing standards to categorize reform candidates as high, medium, and low priority;
- Establishing workflow, timelines, and other project strategies;
- Engaging internal employees and external stakeholders.

Although each of these elements is important to implementing regulatory reform, I want to discuss two in particular.

To meaningfully involve **all employees**, each agency developed **criteria** to empower employees **to engage in identifying policies and regulations that were candidates for reform**. These criteria were then applied to each and every regulation promulgated by the agency, and will also be applied to internal policies and procedures. An example of the criteria developed by the Department of Environmental Quality is attached.

In addition to relying upon employees to identify candidates for reform, each agency has engaged in **stakeholder outreach** to solicit input from citizens, businesses, and organizations impacted by regulations in the course of their operations. Each agency

has developed its own strategy to engage stakeholders, including emails, newsletters, listening sessions, townhalls, and other opportunities for those impacted by regulations to provide input.

### Inventory of Internal Policies and Regulations for Reform

Currently, all agencies under the governor’s jurisdiction are in the process of compiling an inventory of internal policies, regulations, and related legislation that are candidates for regulatory reform. This is on top of each agency’s normal and ongoing rulemaking processes.

On or before December 31, 2021, each agency will deliver to the governor’s office a list of proposed rules and internal policies for reform. If a proposed internal policy or rule change cannot be accomplished without legislative authority, the agency will also recommend legislative proposals.

The Section C agencies are responsible for reviewing a total of 4,692 regulations:

<b>Agency</b>	<b># of Rules</b>
Agriculture	461
Environmental Quality	2,071
Fish, Wildlife & Parks	661
Livestock	361
Natural Resources & Conservation	853
Transportation	285

### Prioritization

In view of limited resources, each agency has identified criteria to prioritize where rulemaking should begin in 2022, and which projects can be delayed to 2023 and 2024. Regulatory reform rulemaking will be staged to begin in 2022 and will continue through the remaining years of this administration.

### Some Early Wins

I am pleased to report that every agency and their employees have embraced the Red Tape Relief Project. Many agencies quickly identified reforms that could be implemented immediately. Following are a few examples:

- The Department of Agriculture has eliminated an outdated (and unenforced) internal policy that required huckleberry pickers to submit applications for licenses to pick huckleberries in specified areas that could not overlap with other huckleberry pickers areas.
- The Department of Environmental Quality has identified inconsistent and outdated rules governing asbestos and has been working with local governments to improve awareness of asbestos disposal rules in local landfills.



- Fish, Wildlife & Parks has improved and streamlined the process to obtain hunting and fishing licenses.
- The Department of Livestock has updated its internal policies to make 1- and 2-character brands more available. It is anticipated that an additional 20,000 1- and 2-character brands will be available for purchase by livestock owners.
- DNRC has implemented on-line auctions of oil and gas leases on state lands, abandoning the former practice of an oral, on-site auction which made bidding more difficult and less competitive.
- The Department of Transportation has moved to digital invoices and allows digital signatures and payments.
- All agencies and the Secretary of State's Office are working together to move the Administrative Rules of Montana (ARM) entirely to a printable, digital platform as authorized by the 2017 Montana legislature.

### Esper Software

The State has entered into a licensing agreement with Esper to implement a regulatory reform management platform across the 13 agencies under the governor's jurisdiction. The Esper software will:

- Provide a benchmark of existing Montana regulations so that we can measure changes;
- Develop a workflow and checklist to standardize rulemaking across agencies;
- Identify outdated rules and "broken links," such as references in the rules to repealed statutes or dead websites;
- Track real-time progress through approval phases, route work to the appropriate users, and use the platform as a repository of institutional knowledge through staff transitions;
- Provide "tags" to identify categories of regulations, such as "outdated" or "excessive";
- Provide better interface with the Secretary of State's office.

Esper is currently working with agencies to develop a standardized workflow. The software should be available for use both with regulatory reform and normal rulemaking in February.

### Conclusion

**Regulatory reform is a marathon, not a sprint.** The review of over 12,000 regulations promulgated by the 13 agencies under the governor's jurisdiction requires deliberate and disciplined action by hundreds of agency personnel throughout every agency program. Agency employees are undertaking this review on top of their normal rulemaking, enforcement, and other administrative responsibilities.

In addition to reviewing regulations, each agency is reviewing its internal policies that supplement rulemaking. The governor's office and the Department of Administration are

undertaking an effort to standardize policies across agencies (such as personnel policies and board codes of conduct), while allowing agencies to customize policies where necessary.

After receiving each agency's inventory of regulations and policies that are potential candidates for reform (December 31, 2021 deadline), the governor's office will review the agencies' recommendations and work with the agencies to prioritize rulemaking projects to begin in spring 2022 and continue through this administration.

Governor Gianforte extends his appreciation to all agency employees who have engaged in this project. We are well on our way to reducing regulatory burdens while protecting public health and consumer safety and ensuring economic stability and good-paying jobs for Montana families.

**RED TAPE RELIEF TASK FORCE MEMBERS**

<b>Agency</b>	<b>Director</b>	<b>Rules Review Rep</b>
Administration	Misty Giles	Don Harris
Agriculture	Christy Clark	Cort Jensen
		Chelsi Bay
Commerce	Scott Osterman	Adam Schafer
Corrections	Brian Gootkins	Andres Haladay
Fish Wildlife & Parks	Hank Worsesch	Becky Dockter
Environmental Quality	Chris Dorrington	Kari Smith
		Bob Habeck
Labor & Industry	Laurie Esau	Quinlan O'Connor
Livestock	Mike Honeycutt	Brian Simonson
Military Affairs	General Pete Hronek	Sundi West
		Mike Talia
Natural Resources & Cons	Amanda Kaster	Kerry Davant
Public Health & Human Serv	Adam Meier	Brenton Craggs
Revenue	Brendan Beatty	Tony Zammit
Transportation	Mack Long	Valerie Balukas
		Julie Brown
Secretary of State	Christi Jacobsen	Angela Nunn



## Regulatory Analysis Worksheet\*

### Excessive

	Yes	No
Is there more than one regulation with similar intent?	_____	_____
Do several programs interpret / use this regulation?	_____	_____
Are timeframes absent or longer than necessary?	_____	_____
Is the required data unnecessary for essential decisions?	_____	_____
Are customer requirements too frequent?	_____	_____

### Outdated

	Yes	No
Can current technology address requirements?	_____	_____
Does regulation require paper, postmarks, fax, emboss/seal?	_____	_____
Is there an easier way to accomplish the same requirements?	_____	_____
Is there a "work around" used to implement the regulation?	_____	_____
Is there an easier way to execute compliance?	_____	_____

### Unnecessary

	Yes	No
Is the environmental benefit not achievable?	_____	_____
Is the human health benefit not achievable?	_____	_____
Should the regulation be updated?	_____	_____
Are there other means to achieve the same outcome(s)?	_____	_____
Is consolidation of requirements feasible?	_____	_____

### Stakeholders

	Yes	No
Is it burdensome on farmers, ranchers, and business owners?	_____	_____
Does it disproportionately impact small businesses?	_____	_____
Does it have significant stakeholder concerns?	_____	_____

## Priority Categories

**High** = Regulations having over eight (8) 'Yes' responses.

**Med** = Regulations having between five (5) to eight (8) 'Yes' responses.

**Low** = Regulations having between one (1) to four (4) 'Yes' responses.

**NA** = Regulations reviewed with a finding of no priority, i.e. 'No Action'.

\***Note:** This worksheet of reform criteria and priority categories is intended as a basic guideline to assist with the programs' regulatory review. The definitions of priority categories are not envisioned to be strictly followed in all instances, especially in cases where the program is aware of other criteria it thinks warrants a different priority. Other criteria includes professional judgement, management direction, survey responses, direct communications, etc. Programs should consider any / all criteria when making its (initial) prioritizations.