



Economic Affairs Interim Committee

65th Montana Legislature

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May 31, 2017

To: Economic Affairs Interim Committee
From: Jameson Walker, Legislative Attorney
Re: Administrative Rule Report, May 2017

The Economic Affairs Interim Committee is responsible for reviewing administrative rules promulgated by several state agencies for compliance with the Montana Administrative Procedure Act (MAPA).¹ The following notices are filed with the Secretary of State's Office for publication in the Montana Administrative Register (MAR). Notices are available at <http://www.mtrules.org> (search by notice number).

PROPOSAL NOTICES

Department of Agriculture and administratively attached entities

MAR Notice Number: 4-16-236

Subject: Amendment, adoption, and repeal of rules pertaining to pesticides.

Summary: The proposed amendments are to amendment of 4.10.201 (pesticide applicator licensing requirements), 4.10.203 (competency standards for certification of pesticide applicators), 4.10.205 (standards of competency for each applicator classification), 4.10.207 (records), 4.10.315 (applicator records), 4.10.401 (farm applicator certification), 4.10.501 (application for license), 4.10.503 (pesticide dealers requirements and standards), 4.10.701 (pesticide registration standards and classification), 4.10.807 (burning or incineration of pesticide containers), 4.10.1004 (other penalties), 4.10.1009 (noncompliance with pesticide worker protection standards and labeling), 4.10.1102 (general spill cleanup, reporting, and containment requirements), 4.10.1103 (general requirements at permanent storage), 4.10.1104 (primary containment standards for bulk pesticides), 4.10.1201 (general), 4.10.1204 (applicator classifications and requirements), 4.10.1803 (waste pesticide disposal program), 4.10.1804 (disposal program operation), and 4.10.1806 (fees). The department proposes two new rules

¹ The Committee reviews rules promulgated by the following entities: Department of Agriculture, Department of Commerce, Department of Labor and Industry, Department of Livestock, State Auditor's Office, Montana State Fund, Division of Banking & Financial Institutions, Governor's Office of Economic Development, and Department of Revenue, Liquor Control Division. This report does not represent any action or opinion of the Committee and does not preclude additional action that may be taken by the Committee pursuant to its authority under the Montana Administrative Procedure Act, Title 2, chapter 4, MCA.

pertaining to pesticide container recycling and exchangeable pesticides. The department proposes to repeal 4.10.702 (registration requirements), 4.10.709 (use of pesticides on pest infestations in alfalfa seed crops), 4.10.1801 (general).

Notes/Hearing: The department originally noticed these rules on December 9, 2016. The department is extending the comment period for the notice as groups requested additional time.

Department of Commerce and administratively attached entities

MAR Notice Number: 8-111-151

Subject: Amendment and repeal of rules pertaining to the Board of Housing.

Summary: The proposed amendments are to 8.111.303 (financing programs), 8.111.304 (conditions of financial assistance), 8.111.305 (approved lenders), 8.111.305A (approved servicers), 8.111.403 (counseling requirements), 8.111.404 (eligibility requirements), 8.111.406 (repayment of the loan), 8.111.602 (definitions), 8.111.603 (housing credit allocation procedure), 8.111.705 (lender and servicer requirements and limits), and 8.111.707 (loan terms and conditions). The proposed rule to be repealed is 8.111.203 (confidentiality and disclosure of information).

Notes/Hearing: The department held a public hearing May 9, 2017, to consider the proposed rules.

MAR Notice Number: 8-94-152

Subject: Amendment of rules pertaining to the Community Development Block Grant Program.

Summary: The proposed amendment is to 8.94.3817. The proposed change to the rule updates a reference to the 2019 biennium guidelines.

Notes/Hearing: The department will hold a hearing on June 1, 2017, to consider the proposed rules.

MAR Notice Number: 8-94-153

Subject: Amendment of rules pertaining to the Treasure State Endowment Program.

Summary: The proposed amendments are to 8.94.3729 (administration of the 2017 and 2018 Program Year Federal Community Development Block Grant Program – Public Facilities Projects), and 8.94.3730 (administration of the 2017 and 2018 Program Year Federal Community Development Block Grant Program – Affordable Housing Projects). The proposed rules will implement federal and state requirements for the program.

Notes/Hearing: The department will hold a hearing on June 1, 2017, to consider the proposed rules.

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-168-42

Subject: Amendment of rules pertaining to the Board of Optometry.

Summary: The proposed amendments are to 24.168.401 (fees) and 24.168.2101 (continuing education requirements). The department proposes increasing the annual renewal fee from \$125

to \$175 and increasing random audits of up to 50 percent of renewed licenses.

Notes/Hearing: The department held a public hearing March 10, 2017, to consider the proposed rules.

MAR Notice Number: 24-174-68

Subject: Amendment of rules pertaining to the Board of Pharmacy.

Summary: The proposed amendment is to 24.174.1712, relating to the prescription drug registry fee. The department states that the rule amendment is reasonably necessary to comply with Senate Bill 7 (2015) and Senate Bill 56 (2017).

Notes/Hearing: The department held a public hearing March 31, 2017, to consider the proposed rules.

MAR Notice Number: 24-210-43

Subject: Amendment, adoption, and repeal of rules pertaining to the Board of Realty Regulation.

Summary: The department proposes amending 24.210.641 (unprofessional conduct), 24.210.661 (new licensee mandatory continuing education -- salespersons), 24.210.666 (course provider), 24.210.674 (continuing real estate education -- course approval), 24.210.677 (continuing real estate education -- instructor approval), 24.210.825 (renewals), and 24.210.829 (new licensee mandatory continuing education -- property manager). The department proposes adopting a new rule pertaining to nonroutine applications and a new rule pertaining to the trust account course requirement. The proposed repeal is to 24.210.615 pertaining to applications for determination of equivalent experience for broker licensing.

Notes/Hearing: The department held a public hearing April 18, 2017, to consider the proposed rules.

MAR Notice Number: 24-29-322

Subject: Amendment of rules pertaining to workers' compensation.

Summary: The proposed amendments are to 24.29.1433 (facility service rules and rates for services), 24.29.1534 (professional fee schedule for services), and 24.29.1538 (conversion factors for services provided). The department states that the amendments to the rules are to comply with 39-71-704 requiring it to annually establish a schedule of fees for medical services provided to injured workers.

Notes/Hearing: The department held a public hearing May 5, 2017, to consider the proposed rules.

MAR Notice Number: 24-117-32

Subject: Amendment, adoption, and repeal of rules pertaining to professional boxing.

Summary: The proposed amendments are to 24.101.413 (renewal dates and requirements), 24.117.201 (procedural rules), 24.117.202 (public participation rules), 24.117.301 (definitions), 24.117.402 (fees), 24.117.403 (prohibitions), 24.117.406 (general licensing requirements), 24.117.409 (bout approval), 24.117.412 (fee abatement), 24.117.503 (promoter), 24.117.601 (contest regulations), 24.117.702 (boxing contestants), 24.117.703 (female contestants), 24.117.705 (managers), 24.117.709 (physical examination), 24.117.710 (ringside health care

professional requirements), 24.117.802 (number and duration of rounds), 24.117.803 (down), 24.117.805 (fouls), 24.117.806 (appeal of decisions of officials), 24.117.810 (hand wraps), 24.117.811 (official boxing gloves), 24.117.812 (mouthpiece), 24.117.815 (ring--equipment), 24.117.901 (officials required), 24.117.903 (judges), 24.117.905 (seconds/corners), 24.117.909 (referee), 24.117.2301 (unprofessional conduct). The department proposes to adopt rules pertaining to department representatives. The department proposes to repeal 24.117.404 (contracts and penalties), 24.117.405 (medical advisor), 24.117.602 (tickets), 24.117.706 (elimination-type events), 24.117.906 (inspectors), and 24.117.907 (announcer). Generally, the changes are to implement Senate Bill 401 (2015).

Notes/Hearing: The department held a public hearing May 5, 2017, to consider the proposed rules.

MAR Notice Number: 24-171-37

Subject: Amendment of rules pertaining to the Board of Outfitters.

Summary: The proposed amendments are to 24.171.408 (outfitter records), 24.171.412 (safety and first aid provisions), 24.171.413 (watercraft identification), 24.171.502 (outfitter qualifications), 24.171.504 (successorship), 24.171.505 (fishing outfitter operations plan), 24.171.520 (operations plans and amendments), and 24.171.2101 (renewals).

Notes/Hearing: The department held a public hearing May 9, 2017, to consider the proposed rules.

MAR Notice Number: 24-222-26

Subject: Amendment, adoption, and repeal of rules pertaining to the Board of Speech-Language Pathologists and Audiologists.

Summary: The proposed amendments are to 24.222.502 (speech-language pathologist and audiologist licenses), 24.222.504 (military training or experience), 24.222.506 (licensure of out-of-state applicants), 24.222.510 (examinations), 24.222.916 (establishing the practitioner-patient relationship), 24.222.920 (competence – practice limits – maintenance and retention of records), 24.222.2102 (continuing education – speech-language pathologists and audiologists). The proposed rule relates to nonroutine applications. The department proposes to repeal 24.222.404 (board standards and policy), 24.222.501 (applications for license), 24.222.503 (qualifications for active temporary license), 24.222.507 (temporary practice permits), 24.222.2101 (policy), 24.222.2103 (continuing education definitions), 24.222.2115 (renewals), and 24.222.2401 (complaint procedure).

Notes/Hearing: The department will hold a hearing on June 20, 2017, to consider the proposed rules.

Department of Livestock and administratively attached entities

MAR Notice Number: 32-17-283

Subject: Amendment and repeal of rules pertaining to identification marks.

Summary: The proposed new rule relates to special identification marks. The department states that adoption of the new rules consolidate language from several rules. The proposed rules to be

repealed are 32.18.103 (age tally mark), 32.18.103 (numeral mark), and 32.18.104 (placement of digits).

Notes/Hearing: The department does not contemplate a public hearing and will adopt the rules on June 9, 2017.

State Auditor's Office

There are no pending rules.

Montana State Fund

There are no pending rules.

Division of Banking & Financial Institutions

MAR Notice Number: 2-59-554

Subject: Amendment and repeal of rules pertaining to banking.

Summary: The proposed amendments are to 2.59.1706 (surety bond), 2.59.1708 (table funding), 2.59.1739 (application of financial standards), and 2.59.1743 (reporting forms for mortgage servicers). The proposed repealed rules are 2.59.1728 (standardized forms and procedures of the NMLS), and 2.59.1750 (clarification of definition).

Notes/Hearing: The department does not contemplate a public hearing and will adopt the rules on June 19, 2017.

MAR Notice Number: 2-59-558

Subject: Adoption of a new rule pertaining to banking.

Summary: The proposed new rule relates to annual financial statements and escrow activities reports. The department states that the proposed rule provides a form on which escrow businesses can report their financial condition and escrow activities.

Notes/Hearing: The department does not contemplate a public hearing and will adopt the rules on July 3, 2017.

Governor's Office of Economic Development

There are no pending rules.