



**Economic Affairs Interim Committee**  
**66th Montana Legislature**

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March 12, 2020

To: Economic Affairs Interim Committee  
From: Jameson Walker, Legislative Attorney  
Re: Administrative Rule Report, March 2020

The Economic Affairs Interim Committee (EAIC) is responsible for reviewing administrative rules promulgated by several state agencies for compliance with the Montana Administrative Procedure Act (MAPA).<sup>1</sup> 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:** 4-20-264

**Subject:** Adoption and amendment of rules pertaining to the Student Loan Assistance Program.

**Summary:** The department proposes to adopt New Rules I through V:

New Rule I: Objectives
New Rule II: Application Procedures for Loan Repayment Assistance Program
New Rule III: Eligibility and Documentation Requirements
New Rule IV: Annual Monitoring and Disbursements
New Rule V: Repayment

The new rules implement House Bill 431, which established the Montana Farmer Loan Repayment Assistance Program. The department also proposes to amend 4.16.104 (council review process prior to loan or grant).

<sup>1</sup> 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, 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.

Notes/Hearing: The department held a hearing on February 21, 2020, to consider the notice.

**Department of Commerce and administratively attached entities**

**MAR Notice Number:** 8-94-178

Subject: Adoption of rules pertaining to the Coal Board.

Summary: The department proposes to adopt New Rule I (public participation). The department proposes to adopt the rule to ensure compliance with 2-3-103 (public participation -- governor to ensure guidelines adopted)

Notes/Hearing: The department does not anticipate the need to conduct a public hearing for the notice.

**MAR Notice Number:** 8-22-179

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

Summary: The department proposes to amend 8.22.2301, 8.22.2401, 8.22.2701, 8.22.2813, 8.22.3001, and 8.22.3901. The rule amendments seek to update outdated references, adhere to the national racing industry standardized racing colors, and update minimum safety equipment requirements.

Notes/Hearing: The department does not anticipate the need to conduct a public hearing for the notice.

**MAR Notice Number:** 8-94-180

Subject: Amendment of rules pertaining to governing the submission and review of applications for funding under the Treasure State Endowment Program (TSEP).

Summary: The department proposes to amend 8.94.3814 and 8.94.3815. The department is updating the rules to incorporate updated information in the 2023 biennium administration manual.

Notes/Hearing: The department will hold a public hearing on March 20, 2020, to consider the notice.

**Department of Labor and Industry and administratively attached entities**

**MAR Notice Number:** 24-114-38

Subject: Amendment of rules pertaining to the Board of Architects and Landscape Architects.

Summary: The department proposes to amend 24.114.503 (licensure of applicants registered in another state) and 24.114.1404 (landscape architect licensure by endorsement). The board states that it is amending the rules to streamline the architect endorsement application process and align with standardized department licensure procedures. The board will not require applicants for a Montana architect license by endorsement to submit verifications from all jurisdictions where they are or previously were licensed. The board states that the NCARB certificate program will track an individual's licensing history and any incurred discipline. The proposed amendments also streamline the endorsement application process for landscape architects.

Notes/Hearing: The department held a hearing on February 27, 2020, to consider the notice.

**MAR Notice Number: 24-155-8**

Subject: Amendment and adoption of rules pertaining to the Board of Massage Therapy.

Summary: The board proposes to amend 24.155.608 (licensure of out-of-state applicants) and 24.155.901 (unprofessional conduct). The board proposes to adopt New Rule I (records) and New Rule II (standards of practice and code of ethics). The board is amending the rules to align with the department's standardized application procedures and facilitate effective and timely processing of applications. The board is adopting New Rules I and II to establish requirements for licensee record keeping and clearly establish licensee standards of practice and ethical guidelines to enhance the profession and elevate public health, safety, and welfare.

Notes/Hearing: The department held a hearing on March 11, 2020, to consider the notice.

**MAR Notice Number: 24-168-44**

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

Summary: The board proposes to amend 24.168.411 (general practice requirements), 24.168.2101 (continuing education requirements – audit), 24.168.2104 (approved continuing education), and 24.168.2301 (unprofessional conduct). The board states that the amendments result from several board discussions. The amendments will more accurately align with modern optometry practice while still ensuring public protection. The board states that the public is better served when optometric health care decisions are made by optometrists and medical doctors. The board proposes to repeal of 24.168.203 (board meetings). The board states that it is repealing the rule as unnecessary since written requests are now obsolete and the provisions are adequately addressed in standardized department procedures.

Notes/Hearing: The department held a hearing on March 9, 2020, to consider the notice.

**MAR Notice Number: 24-171-40**

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

Summary: The board proposes to amend 24.171.408 (outfitter records), 24.171.412 (safety and first aid provisions), 24.171.520 (operations plans and amendments), and 24.171.2301 (unprofessional conduct and misconduct). The board states that the amendments are to revise references to reporting requirements for certain private lands. The board additionally states that the rule amendments are necessary following recent news stories involving client deaths from drowning, and at the request of associations that represent fishing outfitters and guides that the board impose a higher duty on guides and outfitters to protect clients. The amendments seek to implement safety provisions and prohibit the use of marijuana and marijuana derivatives by licensees.

Notes/Hearing: The department held a hearing on March 11, 2020, to consider the notice.

**MAR Notice Number: 24-177-35**

Subject: Amendment of rules pertaining to the Board of Physical Therapy Examiners.

Summary: The board proposes to amend 24.177.401 (fees), 24.177.504 (temporary permit), and 24.177.2105 (continuing education). The board states that the amendments implement House Bill 105 from the 2017 session. This bill allowed the board to join the Interstate Physical Therapy Licensure Compact. The board is proposing a compact privilege fee to encourage potential

applicants to participate in the compact, account for department staff time needed to process compact licenses at the board's expense, and offset potential lost revenue to the board from compact privilege applicants who otherwise might have applied to practice in Montana as out-of-state applicants.

Notes/Hearing: The department held a hearing on March 6, 2020, to consider the notice.

**MAR Notice Number:** 24-201-53

Subject: Amendment of rules pertaining to the Board of Public Accountants.

Summary: The board proposes to amend 24.201.502 (accounting and auditing experience requirements), 24.201.516 (granting of examination credit), 24.201.723 (records), 24.201.2106 (basic continuing education requirement), and 24.201.2138 (credit for service as lecturer, instructor, technical reviewer, speaker, or report reviewer). The amendments seek to clarify experience for a CPA license requirements that is obtained from accounting or auditing experience, aid in reciprocity and remove potential barriers for Montana exam candidates and current licensees obtaining licenses from other states, clarify timeframes for new licensees to complete their initial CPE requirement, and clarify that instructors are limited to earning CPE credit for preparation and teaching a course once during a three-year reporting period.

Notes/Hearing: The department will hold a hearing on March 13, 2020, to consider the notice.

**MAR Notice Number:** 24-219-35

Subject: Amendment, adoption, and repeal of rules pertaining to the Board of Behavioral Health.

Summary: The board proposes to amend 24.101.413, 24.219.301, 24.219.401, 24.219.415, 24.219.421, 24.219.422, 24.219.423, 24.219.501, 24.219.502, 24.219.504, 24.219.505, 24.219.512, 24.219.604, 24.219.605, 24.219.704, 24.219.705, 24.219.907, 24.219.923, 24.219.2301, 24.219.5008, and 24.219.5013. The board proposes to adopt New Rules I through IV. The board proposes to repeal of 24.219.405, 24.219.409, 24.219.507, 24.219.509, 24.219.607, 24.219.609, 24.219.708, 24.219.709, 24.219.807, 24.219.905, 24.219.921, 24.219.925, 24.219.927, 24.219.929, 24.219.931, 24.219.2001, 24.219.2201, 24.219.2305, 24.219.2309, 24.219.5002, 24.219.5012, 24.219.5015, 24.219.5016, 24.219.5017, 24.219.5018, and 24.219.5019. Generally, the rule notice pertains to application and licensing rules for licensed clinical social workers (LCSW), licensed baccalaureate social workers (LBSW), licensed master's social workers (LMSW), licensed clinical professional counselors (LCPC), licensed marriage and family therapists (LMFT), licensed addiction counselors (LAC), and certified behavioral health peer support specialists (CBHPSS). The board states that the rule notice implements House Bill 626 from 2019, which generally created new license types. The notice will establish license requirements consistent with national standards for the new license types created in House Bill 626.

Notes/Hearing: The department held a hearing on March 10, 2020, to consider the notice.

**Department of Revenue, Liquor Control Division**

There are no pending rules.

**Department of Livestock and administratively attached entities**

**MAR Notice Number:** 32-19-302

Subject: Adoption of rules pertaining to federal-state poultry grading service -- shell eggs.

Summary: The department proposes to adopt New Rule I (federal-state poultry grading service -- shell eggs). The department states that the rule will provide regulatory authority for fees and expenses.

Notes/Hearing: The department does not contemplate the need to conduct a public hearing on the notice.

**MAR Notice Number:** 32-19-306

Subject: Amendment of rules pertaining to definitions and adoption of Grade A pasteurized milk ordinance and associated documents.

Summary: The departments proposes to amend 32.8.101 to conform with federal regulations. The department states that the rule updates references to federal materials and removes redundant references.

Notes/Hearing: The department does not contemplate the need to conduct a public hearing on the notice.

**State Auditor's Office**

There are no pending rules.

**Division of Banking & Financial Institutions**

There are no pending rules.

**Governor's Office of Economic Development**

There are no pending rules.

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