



Economic Affairs Interim Committee

66th Montana Legislature

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May 24, 2019

To: Economic Affairs Interim Committee
From: Jameson Walker, Legislative Attorney
Re: Administrative Rule Report, May 2019

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: 4-19-257

Subject: Amendment of rules relating to noxious weeds.

Summary: The department proposes to amend 4.5.208 to include *Ventenata* (*Ventenata Dubia*). The department states that the Noxious Weed Listing Workgroup recommended the weed be classified as a Priority 2A noxious weed. The department states that *Ventenata* is an aggressive winter annual grass that can outcompete native vegetation and other invasive plants.

Notes/Hearing: The department held a hearing May 22, 2019 to consider the notice.

Department of Commerce and administratively attached entities

MAR Notice Number: 8-94-165

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

Summary: The department proposes to amend 8.94.3817 to incorporate the 2020 Biennium Infrastructure Planning Grant Application and Administration Guidelines.

Notes/Hearing: The department held a hearing May 16, 2019 to consider the notice.

MAR Notice Number: 8-119-164

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, 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.

Subject: Amendment of rules relating to the Tourism Advisory Council.

Summary: The department proposes to amend 8.119.101 to incorporate the April 2019 reference guide entitled "Regulations and Procedures for Regional/CVB Tourism Organizations."

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

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-114-37

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

Summary: The board proposes to amend 24.114.501 (architect examination), 24.114.502 (architect licensure by examination), 24.114.1402 (education and experience required for landscape architect licensure), 24.114.2105 (architect continuing education requirements), and 24.114.2301 (unprofessional conduct). The amendments generally allow for candidates to meet educational requirements, amending supervision requirements, and aligning unprofessional conduct requirements to be aligned with other models.

Notes/Hearing: The department held a hearing April 9, 2019 to consider the notice.

MAR Notice Number: 24-171-39

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

Summary: The board proposes to amend 24.171.401 (fees), 24.171.408 (outfitter records), 24.171.412 (safety and first aid provisions), 24.171.509 (insurance for outfitters), and 24.171.602 (guide license). The board proposes changing fees by reducing some renewal fees, but also proposing a \$150 initial guide application fee. The board concluded that the amendments are necessary because projected revenues are exceeding expenses. The board also proposes to streamline data reporting requirements and amend first aid course material. The proposed amendment relating to insurance requires licensees to have insurance that will cover clients in all situations, including transportation.

Notes/Hearing: The department held a hearing April 9, 2019 to consider the notice.

MAR Notice Number: 24-29-343

Subject: Amendment of rules relating to workers' compensation.

Summary: The department proposes to amend 24.29.1611 (utilization and treatment guidelines). The proposed amendments update references to the 2019 Montana Utilization Treatment Guidelines, 6th edition.

Notes/Hearing: The department held a hearing April 19, 2019 to consider the notice.

MAR Notice Number: 24-30-344

Subject: Amendment of rules relating to occupational safety and health rules.

Summary: The department proposes to amend 24.30.102 (occupational safety and health code for public employment) and repeal of 24.30.105 (reporting of occupational injuries: purpose and scope), 24.30.106 (reporting of occupational injuries: definitions), and 24.30.107 (reporting of occupational injuries: log and summary). The department states that the proposed amendments will incorporate by reference federal reporting requirements and eliminate unnecessary rules.

Notes/Hearing: The department held a hearing April 19, 2019 to consider the notice.

MAR Notice Number: 24-29-345

Subject: Amendment of rules relating to workers' compensation.

Summary: The department proposes to amend 24.29.1433, 24.29.1534, and 24.29.1538, pertaining to medical fee schedules for workers' compensation purposes. The proposed amendments incorporate the annually updated medical fee schedules and related materials.

Notes/Hearing: The department held a hearing May 6, 2019 to consider the notice.

MAR Notice Number: 24-207-43

Subject: Amendment of rules relating to ad valorem tax appraisal experience.

Summary: The department proposes to amend 24.207.508 to eliminate the limitation that experience must be gained within 5 years prior to application. The department states that it is related to making the rules align with 37-54-105 and 37-54-303, which require the rules to be at least as stringent as the standards required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and established by the Appraisal Foundation and Appraisal Qualifications Board (AQB).

Notes/Hearing: The department held a hearing May 21, 2019 to consider the notice.

MAR Notice Number: 24-165-24

Subject: Amendment, adoption, and repeal of rules relating to the Board of Occupational Therapy Practice.

Summary: The board proposes to amend 24.165.302 (definitions), 24.165.401 (fees), 24.165.406 (military training or experience), 24.165.407 (examinations), 24.165.501 (supervision), 24.165.505 (deep modality endorsement), 24.165.506 (recognized educational programs), 24.165.507 (standards of practice), 24.165.509 (approved modality instruction), 24.165.510 (approved training), 24.165.514 (endorsement to apply topical medications), 24.165.516 (use of topical medications), 24.165.517 (protocols for use of topical medications), 24.165.518 (debriding agents protocols), 24.165.519 (anesthetic agents protocols), 24.165.520 (nonsteroidal anti-inflammatory agents protocols), 24.165.521 (antispasmodic agents protocols), 24.165.522 (adrenocortico-steroid agent protocols), 24.165.524 (protocol for use of an approved medication as a neuropathic pain agent), 24.165.601 (temporary practice permit), 24.165.604 (inactive status), 24.165.2101 (continuing education), 24.165.2102 (continuing education – exemption), and 24.165.2301 (unprofessional conduct). The board proposes to adopt a new rule relating to bactericidal agents and protocols. The department proposes to repeal 24.165.404 (applications for licensure), 24.165.410 (pass-fail criteria), 24.165.502 (supervision – methods), 24.165.511 (documentation of instruction and training), 24.165.513 (approval to use sound and electrical physical agent modalities endorsement), 24.165.525 (documenting education and competence to perform sound and electrical physical agent modalities – out-of-state practitioners). Generally, the board is proposing the amendment, adoption, and repeal of these rules to comply with Chapter 112, Laws of 2019 (Senate Bill 59). This act eliminated the requirement for occupational therapists to obtain an endorsement to utilize sound and electrical physical agent modalities in their practices. The board states that it determined it is reasonably necessary to amend and repeal certain rules to remove references to this modality and further implement the legislation.

Notes/Hearing: The department will hold a public hearing June 13, 2019 to consider the notice.

Department of Revenue, Liquor Control Division

There are no pending rules.

Department of Livestock and administratively attached entities

There are no pending rules.

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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