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Economic Affairs Interim Committee

67th Montana Legislature

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June 7, 2022

TO: Economic Affairs Interim Committee
FROM: Jameson Walker, Staff Attorney
RE: Administrative Rulemaking and Rule Review, June 2022

The Economic Affairs Interim Committee (committee) is required to review administrative rules promulgated by the Department of Agriculture, the Department of Commerce, the Department of Labor and Industry, the Department of Revenue, Alcoholic Beverage Control Division and Cannabis Control Division, the Department of Livestock, the State Auditor's Office, the Division of Banking and Financial Institutions, and the Governor's Office of Economic Development for compliance with the Montana Administrative Procedure Act (MAPA). The following notices are filed with the Secretary of State's Office for publication in the Montana Administrative Register (MAR). Notices are available at <https://rules.mt.gov> (search by notice number).

PROPOSAL NOTICES

Department of Agriculture and administratively attached entities

There are no new pending rules.

Department of Commerce and administratively attached entities

MAR Notice Number: 8-94-198

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

Summary: The department proposes to amend 8.94.3728 by updating a reference to the April 2022 application guidelines. The department is also updating a reference to its website where copies may be obtained.

Notes/Hearing: The department held a public hearing on May 19, 2022, to consider the notice.

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-189-43

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

Summary: The board proposes to amend 24.189.401 (fee schedule) and 24.189.910 (behavior analyst experience and supervision). Specifically, the board is proposing to reduce fees to

comport with actual costs. Additionally, the board is proposing to remove some supervision requirements as those requirements exceed what is required in national standards.

Notes/Hearing: The board held a public hearing on May 6, 2022, to consider the notice.

MAR Notice Number: 24-207-46

Subject: Amendment of rules pertaining to the Board of Real Estate Appraisers.

Summary: The board proposes to amend 24.207.203 and 24.207.504, which pertain to real property appraiser qualification criteria and continuing education. Specifically, the board proposes to amend the reference date of its Real Property Appraiser Qualification Criteria from the 2021 version to the 2022 version. Additionally, the board is proposing to amend its rule to streamline the approval of continuing education courses.

Notes/Hearing: The department held a public hearing on May 9, 2022, to consider the notice.

MAR Notice Number: 24-301-351

Subject: Amendment and repeal of rules pertaining to uniform codes.

Summary: The department proposes to amend 24.301.109, 24.301.131, 24.301.138, 24.301.142, 24.301.146, 24.301.154, 24.301.161, 24.301.171, 24.301.172, 24.301.173, 24.301.175, and 24.301.181 (all pertaining to building codes incorporation by reference); 24.301.201, 24.301.202, 24.301.204, 24.301.205, 24.301.206, 24.301.207, 24.301.208, 24.301.210, 24.301.212, 24.301.213, and 24.301.231 (all pertaining to local government enforcement); 24.301.301, 24.301.351, and 24.301.371 (all pertaining to plumbing requirements); 24.301.401, 24.301.411, 24.301.431, and 24.301.451 (all pertaining to electrical requirements); 24.301.602, 24.301.603, 24.301.606, and 24.301.607 (all pertaining to the elevator code). The department proposes to repeal 24.301.209 (pertaining to special reports). Generally, the department states that the rule amendments are reasonably necessary to incorporate by reference the new editions of nationally recognized codes to recognize the 2021 updates. Additionally, the department states that a majority of the proposed changes only renumber sections or tables of the updated codes without substantive changes. The department proposes to repeal 24.301.209 as all reporting requirements have been relocated to keep all provisions in one location for ease of use.

Notes/Hearing: The department held a public hearing on May 6, 2022, to consider the notice.

MAR Notice Number: 24-2-390

Subject: Amendment, adoption, and repeal of rules pertaining to public participation and model rules.

Summary: The department proposes to amend 24.2.101 by updating rule references. The department proposes to adopt NEW RULE I (policies and objectives in providing public participation in the operation of the department of labor and industry), NEW RULE II (guidelines for determination of significant interest to the public), and NEW RULE III (notice and means for public participation). The department states that the new rules are reasonably necessary because it has not previously promulgated public participation rules pursuant to 2-3-103, MCA. Additionally, the department states that the rules are necessary as part of ongoing efforts to ensure compliance and conformity. The department proposes to repeal 24.2.105, 24.11.905, 24.11.906, and 24.29.201, all pertaining to public participation and model rules. Generally, the department proposes to repeal these rules because they are unnecessary or duplicative.

Notes/Hearing: The department held a public hearing on May 25, 2022, to consider the notice.

MAR Notice Number: 24-38-391

Subject: Amendment and adoption of rules relating to professional employer organizations.

Summary: The department proposes to amend 24.38.101, 24.38.105, and 24.38.111. The department is amending these rules to avoid the duplication of statutes in the administrative rules and to provide a process for the renewal of licenses. The department proposes to adopt NEW RULE I (provisional license) and NEW RULE II (professional employer organizations). The department states that the adoption of the rules is reasonably necessary to clarify statutory requirements for the submission of reports to the Unemployment Insurance Division.

Notes/Hearing: The department held a public hearing on May 24, 2022, to consider the notice.

MAR Notice Number: 24-138-82

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

Summary: The board proposes to amend 24.138.402 and 24.138.504 pertaining to fee schedules and clinical exam criteria. Specifically, the board is proposing to reduce certain fees to make the fees commensurate with costs. Additionally, the board is amending rules relating to dental hygienists training with simulated patients.

Notes/Hearing: The board held a public hearing on May 20, 2022, to consider the notice.

MAR Notice Number: 24-183-45

Subject: Amendment of rules relating to the Board of Professional Engineers and Professional Land Surveyors.

Summary: The board proposes to amend 24.183.404 pertaining to fee schedules. Specifically, the board is proposing to reduce certain fees to make the fees commensurate with costs.

Notes/Hearing: The board held a public hearing on May 25, 2022, to consider the notice.

MAR Notice Number: 24-22-393

Subject: Amendment and repeal of rules relating to the incumbent worker training program.

Summary: The department proposes to amend 24.22.322, 24.22.327, 24.22.331, and 24.22.335. Generally, the amendments remove duplicative definitions, provide flexibility in certain costs, and permit trainings that take place with a conference. The department proposes to repeal 24.22.338. The department states that the new application process for grants eliminates the need for the rule.

Notes/Hearing: The department will hold a public hearing on June 9, 2022, to consider the notice.

MAR Notice Number: 24-29-392

Subject: Amendment of rules relating to medical fee schedules and drug formulary for workers' compensation.

Summary: The department proposes to amend 24.29.1402, 24.29.1433, 24.29.1534, 24.29.1538, and 24.29.1616. Generally, the department states that the rule amendments are necessary to correct incorrect references, adopt a deadline for the timely filing of medical bills, incorporate the annually updated medical fee schedules and related materials to comply with statutes, and update references to the most recent version of the drug formulary.

Notes/Hearing: The department will hold a public hearing on June 8, 2022, to consider the notice.

MAR Notice Number: 24-159-92

Subject: Amendment, adoption, and repeal of rules relating to the Board of Nursing.

Summary: The board proposes to amend 24.159.910, 24.159.911, and 24.159.1412. The amendments remove references in the existing rules that will be duplicated in the new rules. The board proposes to adopt NEW RULE I (applications and renewals) and New Rule II (LPN and RN applications). The board states that the new rules will simplify the administrative rules and will make it easier for the public to find applicable requirements. The board proposes to repeal 24.159.406, 24.159.410, 24.159.416, 24.159.903, 24.159.1003, 24.159.1022, 24.159.1024, 24.159.1028, 24.159.1029, 24.159.1037, 24.159.1041, 24.159.1052, 24.159.1053, 24.159.1203, 24.159.1222, 24.159.1224, 24.159.1228, 24.159.1229, 24.159.1237, 24.159.1241, 24.159.1252, 24.159.1253, 24.159.1403, 24.159.1427, 24.159.1431, 24.159.1443, and 24.159.1601. Generally, the department states that the rules are no longer necessary, or the information may be more easily provided to the public in other ways, such as on the board's website.

Notes/Hearing: The board held a public hearing on June 3, 2022, to consider the notice.

MAR Notice Number: 24-225-42

Subject: Amendment and adoption of rules relating to the Board of Veterinary Medicine.

Summary: The board proposes to amend 24.101.413, 24.225.301, 24.225.401, 24.225.511, and 24.225.550. Generally, the board states that the rule amendments are reasonably necessary to implement Senate Bill 106 from the 2021 legislative session. The board proposes to adopt NEW RULE I (veterinary technician license requirements – original applicants) and NEW RULE II (LVT scope of practice-supervision). The board states that Senate Bill 106 requires the board to establish which veterinary practices may be performed by a licensee under direct, immediate, or indirect supervision.

Notes/Hearing: The board will hold a public hearing on June 21, 2022, to consider the notice.

Department of Revenue, Alcoholic Beverage Control Division and Cannabis Control Division

MAR Notice Number: 42-1048

Subject: Adoption of rules pertaining to marijuana and marijuana products packaging and labeling application and approval process.

Summary: The department proposes to create NEW RULE I, which will specify the application and approval process for the packaging and labeling of marijuana or marijuana products.

Notes/Hearing: This is an amended notice to the department's February 25, 2022, proposed rule. The department received commentary and testimony on the prior rule notice and decided to amend the proposed rule.

MAR Notice Number: 42-1046

Subject: Amendment of rules pertaining to department procedures involving penalties against alcoholic beverages licenses.

Summary: The department proposes to amend 42.12.222 to include an exception to revocation notice posting requirements. The department states that the amendments are necessary to address circumstances in which it may be impossible or impractical to post a notice, such as when a licensee no longer operates the business associated with the license. Other changes remove or clarify industry jargon. The department proposes to amend 42.13.101. The department states that the amendments will implement House Bill 705 from the 2021 legislative session.

Notes/Hearing: The department will hold a public hearing on June 22, 2022, to consider the notice.

Department of Livestock and administratively attached entities

MAR Notice Number: 32-22-328

Subject: Amendment of rules relating to the importation of camelids.

Summary: The department proposes to amend 32.3.225 by eliminating import testing requirements for brucellosis and tuberculosis for camelids entering Montana. The department states that the change is based on a lack of documented risk of either disease in camelids, the lack of validated tests for camelids for tuberculosis, and the value of aligning Montana's import requirements with other states.

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

State Auditor's Office

MAR Notice Number: 6-270

Subject: Amendment of rules relating to Credit for Reinsurance and Certified Assuming Insurers.

Summary: The department proposes to amend 6.6.3843 (certification of assuming insurers – filing requirements) and 6.6.3850 (certified assuming insurers – legal entity security rating). The department states that the amendments implement House Bill 80 from the 2021 legislative session. The department states that the proposed amendments will ensure uniformity with other states and are necessary to meet accreditation standards with the National Association of Insurance Commissioners.

Notes/Hearing: The department proposes to adopt the rules on September 1, 2022. The department does not anticipate the need to conduct a public hearing on the matter.

MAR Notice Number: 6-268

Subject: Adoption of rules relating to Group Capital Calculation.

Summary: The department proposes to adopt NEW RULE I (group capital calculation). The department states that the proposed rule is necessary to implement with 2021 National Association of Insurance Commissioners model regulations, which are anticipated to be adopted.

Notes/Hearing: The department proposes to adopt the rules on September 1, 2022. The department does not anticipate the need to conduct a public hearing on the matter.

Division of Banking and Financial Institutions

There are no new pending rules.

Governor's Office of Economic Development

There are no new pending rules.