

June 25, 2021

To: Transportation Interim Committee
From: Joe Carroll, Staff Attorney
Re: Administrative Rule Review

Overview: The Transportation Interim Committee (TIC) reviews administrative rules proposed by the Department of Transportation (MDT) and the Motor Vehicle Division (MVD) of the Department of Justice. TIC staff attorney will review proposed rules for compliance with the Montana Administrative Procedure Act (MAPA), and provide a report at each TIC meeting about all proposed rules. MAPA empowers TIC to take certain actions regarding proposed or adopted administrative rules.

Staff Rule Review: TIC staff will review each proposed rule from MDT and MVD for compliance with MAPA. This review will look for: a statement of authority and necessity; compliance with MAPA notice requirements; a small business impact statement; and compliance with other MAPA requirements that may apply, such as notice to a legislative sponsor, meeting requirements, and notice of a fee change.

If a potential issue is noted, staff will contact the agency rule reviewer to address the issue. If staff cannot resolve the issue with the agency, the issue will be brought to TIC's attention for further direction.

TIC's Role: TIC may:

- request an agency's rulemaking records to check for compliance with MAPA;
- prepare and submit to the agency written recommendations for the adoption, amendment, or rejection of a rule and submit oral or written testimony at a rulemaking hearing;
- require that a rulemaking hearing be held;
- participate in litigation involving MAPA;
- review the incidence and conduct of administrative proceedings under MAPA;
- poll the Legislature by mail to determine if a proposed rule is consistent with legislative intent;
- require an economic impact statement relating to the adoption of a rule;
- request publication of material adopted by reference in a rule;
- receive reports on litigation and request documents in litigation involving judicial construction of a rule or MAPA; or
- object to all or a portion of a proposed or adopted rule.

If a majority of TIC informs the chair in writing or by a vote that it objects to a proposed rule, then the agency cannot adopt the rule until 6 months after the rule was originally proposed, providing time for further review. TIC can object to a proposed rule for noncompliance with 2-4-302, -303, or -305, MCA, delaying adoption of the rule until *sine die* of the next session, allowing the Legislature to deal with the issue. TIC may also object to an adopted rule, impacting potential future litigation over the rule.

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This is the Transportation Interim Committee's administrative rule review for proposals by the Department of Transportation, and the Motor Vehicle Division.

A. Department of Transportation

MAR Notice No.	Public Hearing Date	Where	Comment Due Date	Purpose
18-184	n/a	n/a	May 28, 2021	Update Montana rules for motor carrier safety and transportation of hazardous materials to conform to the most recent federal rules

B. Motor Vehicle Division

Proposed Rules: **None**