



## Economic Affairs Interim Committee

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### 61st Montana Legislature

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## Rule Review Memo

TO: Economic Affairs Interim Committee

FROM: Bart Campbell, staff attorney

RE: April/May rule review

### Dept. of Agriculture

Proposes to adopt one new rule creating a Eurasian Watermilfoil Management Area covering Noxon and Cabinet Gorge reservoirs and the lower Clark Fork River to prevent the spread of the noxious weed.

### Dept. of Commerce, Board of Housing

Amending definition of low income housing qualified allocation plan to update reference to years in which plan is to be implemented.

### Dept. of Labor and Industry

- Amending and repealing existing rules and adopting two new rules all related the independent contractor exemption certificates and employment status. The proposed changes are reasonably necessary in order to update and clarify the rules of the Independent Contractor Central Unit (ICCU) and to ensure that the various substantive programs in the department have administrative rules that appropriately coordinate with the department's overall rules concerning independent contractors. The ICCU rules are being updated to reflect recent statutory changes, incorporate the experiences of the past 5 years of operations, and to generally update language by using consistent terminology throughout the rules.
- Adopting one new rule establishing a carbon monoxide detector standard as SB 161 of the 2009 session required carbon monoxide detectors in rented dwellings.
- Proposing to amend rules regarding employment of persons in an executive, administrative, or professional capacity. **Note:** this concerns who is an exempt employee and is on the agenda due to a question raised by former Senator Duane Grimes. The department in adopting the proposed changes accepted the suggestion to use the higher

federal salary level rather the Montana salary level thereby addressing the concerns of former Senator Grimes.

- Adopting 13 new rules pertaining to approved construction techniques for fire mitigation in response to SB 51 of the 2009 session, which requires the department to identify appropriate construction techniques for fire mitigation from which local government officials may select and enforce individually or in combination to mitigate identified fire hazards.

### **Board of Architects**

Repealing two rules on business entity practice and branch offices because the board has authority to license individuals but not firms and therefore lacks authority to enforce rules pertaining to entities.

### **Board of Plumbers**

Proposing to create or increase application and examination fees because the department, in providing administrative services to the board, has determined that the increases are needed or the board will be insolvent by fiscal year 2011. The increase will result in approximately \$102,110 in additional annual revenue and will affect approximately 1,493 persons.

### **Board of Private Security**

Proposes to increase licensure and renewal fees because the department has determined that without the increase the board will have a negative cash balance by 2010 fiscal year end. The proposed increase will generate \$78,960 and will affect approximately 2,308 persons. The board also proposes to amend rules pertaining to requalification, experience requirements, firearms licensure, and unprofessional conduct.

### **State Auditor and Commissioner of Insurance**

Adopting 6 new rules pertaining to the administration of a new risk pool by Comprehensive Health Care Association and Plan. The U.S. Department of Health and Human Services has requested that state insurance departments and high risk pools in those states take on the responsibility of administering a new temporary high risk pool described in and funded by the Patient Protection and Affordable Care Act. Establishing the Montana Affordable Care Plan (MACP) will be locally administered and the rules are needed for establishing the temporary high risk pool so that once established the MACP will be able to access the allocated federal funds.