



Economic Affairs Interim Committee
65th Montana Legislature

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August 20, 2018

To: Economic Affairs Interim Committee
From: Jameson Walker, Legislative Attorney
Re: Updated Administrative Rule Report, August 2018

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 Commerce and administratively attached entities

MAR Notice Number: 8-2-158

Subject: Repeal of rules pertaining to the Quality Schools Grant Program.

Summary: The department proposes to repeal 8.2.501, 8.2.502, and 8.2.503. These rules implemented the Quality Schools Facility Grant Program, which was repealed by the 65th Legislature.

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

Department of Agriculture and administratively attached entities

MAR Notice Number: 4-18-248

Subject: Amendment and repeal of rules pertaining to pesticide registration regulations.

Summary: The department proposes to amend 4.10.701, 4.10.807, 4.10.1004, and 4.10.1009. The amendments include removing redundant statutory language and updating information and terminology for clarity. The department proposes to repeal ARM 4.10.702 and 4.10.709. The department states that these rules are no longer necessary.

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, Montana State Fund, 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 public hearing on May 22, 2018. It subsequently extended the public comment period.

MAR Notice Number: 4-18-249

Subject: Amendment and adoption of rules pertaining to the pesticide container recycling program and the waste pesticide disposal program.

Summary: The department proposes to amend 4.10.1803, 4.10.1804, and 4.10.1806. The department seeks to create a separate rule for selections for waste disposal, pesticide container recycling, and exchangeable pesticides. The rule amendments also make minor changes in style. New Rules I and II create the pesticide container recycling program and exchangeable pesticides as separate rules.

Notes/Hearing: The department held a public hearing on May 22, 2018. It subsequently extended the public comment period.

MAR Notice Number: 4-18-250

Subject: Adoption of rules pertaining to analytical laboratory fees.

Summary: The department proposes to adopt New Rules I through IV. The rules will provide an analytical lab fee schedule, pesticide sample fees, discounts, and contract work. The department states that the new rules are necessary because the Analytical Lab was housed partially under the administrative auspices of Montana State University and outside normal rulemaking. The department states that the fees are commensurate with the costs of operation of the lab.

Notes/Hearing: The department held a public hearing on July 31, 2018.

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-301-337

Subject: Adoption of new rules pertaining to the operation of the underground facilities protection program.

Summary: The department proposes to adopt New Rules I through VIII in order to administer House Bill 365 from the 2017 session. The new rules create definitions, procedures for collection of incident reports, procedures for assessment, collection, and dispute resolution for civil penalties, fines, and annual fees, provisions relating to training and education grants, and procedures for reports by grant recipients. The department estimates that the annual fees will total approximately \$60,000 to \$66,000 per year.

Notes/Hearing: The department held a public hearing on July 13, 2018.

MAR Notice Number: 24-162-41

Subject: Amendment and repeal of rules pertaining to the Board of Nursing Home Administrators.

Summary: The department proposes to amend 24.162.301 (definitions), 24.162.501 (application and documentation for licensure), 24.162.506 (temporary license), and 24.162.510 (licensure by credential). The department states that the rule amendments are necessary to correct terminology and remove superfluous material from the rules. The department proposes to repeal 24.162.402

(public information) stating that it is unnecessary because the department administers a standardized public information procedure for all professional and occupational licensure boards. Notes/Hearing: The department did not anticipate the need to hold a public hearing.

MAR Notice Number: 24-201-51

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

Summary: The department proposes to amend 24.201.410 (fee schedule), 24.201.415 (use of CPA/LPA designation), 24.201.503 (applicant for initial license), 24.201.510 (certified public accountant examination), 24.201.528 (out-of-state licensees seeking a Montana license), 24.201.529 (foreign licensees seeking a Montana license), 24.201.532 (application review), 24.201.1103 (peer review enrollment), 24.201.1108 (alternatives and exemptions), 24.201.1109 (approved peer review sponsoring organizations, programs, and peer review standards), 24.201.2124 (standards for CPE reporting), 24.201.2145 (reporting requirements), and 24.201.2154 (extension or hardship exception). Some of the amendments seek to administer House Bill 44 from 2015 and provide for clarity in the statutes by updating information.

Notes/Hearing: The department held a public hearing on August 14, 2018.

MAR Notice Number: 24-222-28

Subject: Amendment and repeal of rules pertaining to the Board of Speech-Language Pathologists and Audiologists.

Summary: The department proposes to amend 24.101.413 (renewal dates and requirements), 24.222.301 (definitions), 24.222.701 (supervisor responsibility), 24.222.703 (functions of speech-language pathology aides or assistants), 24.222.706 (functions of audiology aides or assistants), 24.222.910 (delivery of telepractice services), and 24.222.2102 (continuing education – speech-language pathologists and audiologists), 24.222.2402 (screening panel). Part of the amendments seek to administer House Bill 347 from 2017. Other amendments update language and references in the rules. The department proposes to repeal 24.222.514 (license renewal), 24.222.702 (schedule of supervision - contents), and 24.222.901 (definitions). The department states that these rules are unnecessary as the department has created universal rules for these purposes.

Notes/Hearing: The department held a public hearing on August 16, 2018.

MAR Notice Number: 24-26-338

Subject: Amendment and adoption of rules pertaining to the Board of Personnel Appeals.

Summary: The department proposes to amend 24.26.614 (employer counter petition), 24.26.620 (procedure following filing of petition for new unit determination and election), 24.26.655 (when election directed), and 24.26.667 (certification). The department states that the amendments are to eliminate mandatory election proceedings in all instances. The department states that this is in the interests of efficiency for workers, employers, and the board. The department proposes to adopt New Rule I (standard of review by the board on a notice of intent to dismiss complaint). The department states the new rule will clearly establish the standard of review the board applies when reviewing an objection to a notice of intent to dismiss.

Notes/Hearing: The department will hold a public hearing on August 31, 2018.

MAR Notice Number: 24-29-339

Subject: Amendment, adoption, and repeal of rules pertaining to workers' compensation.

Summary: The department proposes to adopt New Rule I and New Rule II, applying to the Subsequent Injury Fund (SIF). New Rule I establishes calculating SIF payments from April 1 of the previous year through March 31 of the current year. New Rule II allows for the use of signatures when documents are being electronically transmitted. The department proposes to amend 24.29.609, 24.29.616, 24.29.703, 24.29.902, 24.29.929, 24.29.956, 24.29.971, 24.29.1401A, 24.29.1801, 24.29.1821, 24.29.2614, 24.29.3103, 24.29.3107, 24.29.3117, 24.29.3124. The amendments generally implement and clarify workers' compensation laws. The department proposes to repeal 24.29.966, 24.29.1425, 24.29.1426, 24.29.1427, 24.29.1428, 24.29.1430, 24.29.1431, 24.29.1511, 24.29.1519, 24.29.1521, 24.29.1531, 24.29.1532, 24.29.1536, 24.29.1537, 24.29.1541, 24.29.1551, 24.29.1561, 24.29.1566, 24.29.1571, 24.29.1572, 24.29.1573, 24.29.1574, 24.29.1575, 24.29.1581, 24.29.1582, 24.29.1583, 24.29.1584, 24.29.1585, 24.29.1586, 24.29.1702, 24.29.1721, 24.29.1722, 24.29.1727, 24.29.1731, 24.29.1733, 24.29.1735, 24.29.1737. The department states that the repeal of these laws are necessary because the rules are outdated, implementing programs that are no longer in existence, or pertain to services or processes that have been superseded by the passage of time and subsequent statutes and rules.

Notes/Hearing: The department will hold a public hearing on August 31, 2018.

Department of Revenue, Liquor Control Division

There are no pending rules.

Department of Livestock and administratively attached entities

MAR Notice Number: 32-18-290

Subject: Amendment of a rule pertaining to the Board of Milk Control.

Summary: The department proposes to amend 32.24.480 (producer pricing rules). The proposed changes will have the bureau use the federal order advanced pricing factors to calculate the producer prices for all classes. The department states that the changes are to implement recommendations made by the Montana Milk Market Regulation Study Final Report.

Notes/Hearing: The department held a public hearing on August 3, 2018.

MAR Notice Number: 32-18-291

Subject: Amendment and repeal of rules pertaining to the department.

Summary: The department proposes to amend 32.3.108 (quarantine and release of quarantine), 32.3.201 (definitions), 32.3.206 (official health certificate), 32.3.207 (permits), 32.3.212 (additional requirements for cattle), 32.3.216 (horses, mules, and asses), 32.3.307 (department ordered pseudorabies testing), 32.3.311 (procedure upon detection of pseudorabies), 32.3.407 (department ordered brucellosis testing of animals), 32.3.411 (procedure upon detection of brucellosis), 32.3.412 (memorandum of understanding), 32.3.433 (designated surveillance area), 32.3.436 (vaccination within the counties in which the DSA is located), 32.3.1003 (contaminated premises), 32.4.101 (definitions), 32.4.202 (identification of omnivores and carnivores), and 32.4.601 (importation of alternative livestock). The department proposes to repeal of 32.3.224

(domestic bison), 32.3.430 (quarantine and retest of suspect animals in negative herd), and 32.3.2002 (swine identification code: assignment of codes). The department states that the rules are unnecessary and are not consistent with current scientific practice at the national level. Notes/Hearing: The department initially did not anticipate the need for a public hearing. It subsequently extended the public comment period.

State Auditor's Office

There are no pending rules.

Montana State Fund

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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