



Economic Affairs Interim Committee
64th Montana Legislature

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March 28, 2016

To: Economic Affairs Interim Committee
From: Jameson Walker, Legislative Attorney
Re: Administrative Rule Report, March 2016

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

There are no pending rules.

Department of Commerce and administratively attached entities

There are no pending rules.

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-126-35

Subject: Adoption, amendment, and repeal of rules pertaining to the Board of Chiropractors.

Summary: The proposed amendments are to ARM 24.126.411 (Patient Records Retention), 24.126.2103 (Continuing Education Requirements), 24.126.2105 (Approved Continuing Education), and 24.126.2301 (Unprofessional Conduct). The proposed new rule pertains to sexual relations with a patient and sexual misconduct. The Department proposes to repeal 24.126.405 (Board Meetings), 24.126.406 (Record of Minutes and Hearings), and 24.126.2101

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, and Governor's Office of Economic Development. 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.

(renewals). The proposed rules cover record retention requirements that align with the IRS, clear up renewal and advertising requirements, delineate the board's intent regarding sexual relations involving patients, and remove outdated rules.

Notes/Hearing: The department held a public hearing on March 11, 2016, to consider the proposed rules.

MAR Notice Number: 24-301-311

Subject: Adoption and repeal of rules pertaining building codes.

Summary: The proposed amendments are to ARM 24.301.501 (applicability of statutes and rules), 24.301.511 (definitions), 24.301.513 (commercial or business occupancy), 24.301.516 (third party inspections), 24.301.523 (reciprocity), 24.301.525 (requirements for data plate), 24.301.535 and 24.301.536 (application for review), 24.301.542 (plan review termination), 24.301.543 (quality control), 24.301.545 (changes to reviewed plans), 24.301.549 (unit identification), 24.301.550 (plan renewal), 24.301.557, 24.301.558, 24.301.560, 24.301.561, 24.301.562, and 24.301.566 (insignias), 24.301.565 and 24.301.567 (fees), and 24.301.607 (inspections - certificates - fees). The proposed rules to be repealed are ARM 24.301.512 (effective date), 24.301.524 (information required to dealer), 24.301.532, 24.301.533, and 24.301.534 (application for approval), 24.301.538 (model manufactured location), 24.301.539 (out-of-state applicant), 24.301.541 (evidence of review), and 24.301.548 (discontinuance of review). The notice generally seeks to update current building code laws and eliminate unnecessary administrative rules.

Notes/Hearing: The department held a public hearing on March 11, 2016, to consider the proposed rules.

MAR Notice Number: 24-159-82

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

Summary: The proposed amendments are to ARM 24.159.301 (definitions), 24.159.1601 (purpose), 24.159.1611 (criteria for delegation of nursing tasks), and 24.159.1625 (general nursing functions). The proposed repealed rules are ARM 24.159.411 (parliamentary authority), 24.159.1036 and 24.159.1236 (preparation of licenses), 24.159.1040, 24.159.1240, and 24.159.1430 (duplicate or lost licenses), and 24.159.1602, 24.159.1604, 24.159.1605, 24.159.1610, 24.159.1612, 24.159.1616, 24.159.1630, 24.159.1631, 24.159.1636, and 24.159.1640 (all relating to nursing delegation). Generally, the proposed notice seeks to remove unnecessary rules, clarify rule locations, and update current rules.

Notes/Hearing: The department will hold a public hearing on April 8, 2016.

Department of Livestock and administratively attached entities

MAR Notice Number: 32-16-272

Subject: Adoption of rules pertaining to the Board of Milk control and the Department of Livestock.

Summary: The proposed new rules seek to clarify administrative remedies available to Bureau staff to ensure a person's compliance with applicable laws. Specifically, the rules require Bureau

staff to take reasonable administrative actions to assist a person's compliance and providing that the board may refuse to grant a license, suspend a license, or revoke a license for certain violations.

Notes/Hearing: The does not anticipate a public hearing and proposes to adopt the rules on March 28, 2016. The Department will hold a public hearing if it receives enough requests for a public hearing on the proposed action.

MAR Notice Number: 32-16-273

Subject: Adoption of rules pertaining to department duties and requirements.

Summary: The proposed amendments are to ARM 32.3.221 (special requirements for alternative livestock), 32.3.2006 (intrastate movement of cattle: identification), 32.4.402 (elk-red deer hybridization tests), and 32.4.601 (importation of alternative livestock). The amendments seek to clarify that the brucellosis test applies to sexually intact animals, that the required age of backtagging is consistent with federal animal disease traceability standards, and that outdated language is removed.

Notes/Hearing: The department does not anticipate a public hearing and proposes to adopt the rules on April 18, 2016.

State Auditor's Office

MAR Notice Number: 6-219

Subject: Adoption and amendment of rules pertaining to Reporting by Holding Company Systems.

Summary: The proposed amendments are to ARM 6.6.3702 (forms -- general requirements), 6.6.3703 (forms -- incorporation by reference), 6.6.3705 (forms -- additional information), and 6.6.3717 (forms). The proposed new rule requires the ultimate controlling person of an insurer to file an enterprise risk report on the form provided by rule. The Auditor's Office states that the proposed rules are to implement House Bill 119 of the 2015 Legislative session and brings the office into compliance with NAIC accreditation standards.

Notes/Hearing: The department does not anticipate a public hearing and proposes to adopt the rules on March 28, 2016.

MAR Notice Number: 6-221

Subject: Amendment of rules pertaining to the Securities Restitution Fund.

Summary: The proposed amendment to ARM 6.10.703 seeks to increase fund payments to eligible persons 60 years and older. This bill implements House Bill 57 of the 2015 legislative session.

Notes/Hearing: The department held a public hearing on March 10, 2016, to consider the proposed rule.

Montana State Fund

There are no pending rules.

Division of Banking & Financial Institutions

MAR Notice Number: 2-59-542

Subject: Adoption, amendment, and transfer of rules pertaining to credit union investments.

Summary: The proposed amendments are to ARM 2.59.416 (net worth - calculation - determination) and 2.59.421 (director training). These changes seek to update the administrative rules in light that the Legislature repealed 32-3-412, MCA, in 2015. The proposed rule seeks to allow credit unions to invest in revenue bonds issued by the state of Montana or its political subdivisions.

Notes/Hearing: The department does not anticipate a public hearing and propose to adopt the rules on April 14, 2016.

MAR Notice Number: 2-59-543

Subject: Amendment of rules pertaining to semiannual assessments for banks.

Summary: The proposed amendment is to ARM 2.59.104. The update seeks to reduce the assessments that the division will receive in the first half of 2016. The rule is set to sunset on August 31, 2016.

Notes/Hearing: The department does not anticipate a public hearing and will adopt the rules on May 9, 2016.

Governor's Office of Economic Development

There are no pending rules.

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