



ENVIRONMENTAL QUALITY COUNCIL

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December 20, 2017

To: Environmental Quality Council Members
 From: Erin Bills, Legal Staff
 Re: Legislative Administrative Rule Review Report¹

A. Department of Environmental Quality/Board of Environmental Review

MAR Notice No.	Public Hearing Date	Where	Comment Due Date
17-394	Nov. 29, 2017	DEQ, Rm 111, Metcalf Building, 1520 East Sixth Avenue, Helena, MT	Dec. 7, 2017

Purpose: Notice of public hearing on proposed adoption of new rules pertaining to Wind Generation Facility Decommissioning and Bonding. The department is proposing the following under this notice: (1) definitions; (2) decommissioning deadline if owner demonstrates good cause; (3) decommissioning plan requirements; (4) determination of bond amount and use of bond monies; (5) that the bond shall be payable to the State of Montana; (6) enforcement provisions; (7) bond replacement; (8) adequacy of bond amount; (9) bond instrument adequacy; (10) criteria for acceptable surety bonds; (11) criteria for an acceptable letter of credit; (12) allowing for owner to use a certificate of deposit; (13) granting department authority to forfeit bonds as necessary to decommission an abandoned facility; and (14) providing public notice.

¹The Environmental Quality Council (EQC) is responsible for reviewing administrative rules from the following agencies and the entities that are attached to these agencies for administrative purposes: (1) the Department of Environmental Quality (DEQ); (2) the Department of Fish, Wildlife, and Parks (FWP); and (3) the Department of Natural Resources and Conservation (DNRC). For electronic access to rule notices, visit: www.mtrules.org.

17-393	No public hearing contemplated		Nov. 24, 2017
Purpose: The Board of Environmental Review provided notice of proposed amendments to air quality rules providing: (1) incorporation by reference; (2) definitions; (3) applicability; (4) an operating permit program overview; and (5) applicability of air quality rules.			
17-391	NA	NA	Nov. 17, 2017
Purpose: Amended notice and extension of comment period on proposed adoption of a new subchapter codifying new rules for technologically enhanced naturally occurring radioactive materila (TENORM) waste.			
17-392	Oct. 13, 2017	DEQ, Rm 111, Metcalf Building, 1520 East Sixth Avenue, Helena, MT	Oct. 20, 2017
Purpose: Notice of public hearing on proposed amendments to the subdivision review process and adoption of a new version of the department circular DEQ-8.			

B. Department of Fish, Wildlife and Parks

MAR Notice No.	Public Hearing Date	Where	Comment Due Date
12-478	Dec. 5, 2017	FWP Region 4 Office, 4600 Giant Springs Road, Great Falls, MT	Dec. 8, 2017
Purpose: Notice of public hearing on proposed amendment to water restrictions on the Broadwater Bay of the Missouri River.			
12-473	NA	NA	NA
Purpose: On October 30, 2017, the department provided a notice of decision to not adopt the proposed new rule pertaining to dog training. Public hearings on the notice of the proposed adoption of the dog training rule were held on October 2, 2017, in Great Falls, Billings, Miles City, and Glasgow, and on October 10, 2017, in Helena, Kalispell, Missoula, and Bozeman.			
12-474	NA	NA	NA

Purpose: Response to a comment to clarify direction of FWP disease management to reduce transmission of brucellosis between elk and livestock in the matter of the amendment of ARM 12.3.109, 12.3.110, and 12.3.111.

C. Department of Natural Resources and Conservation

MAR Notice No.	Public Hearing Date	Where	Comment Due Date
36-22-196	October 6, 2017	DNRC, Ted Doney Conference Room, Water Resources Building, 1424 Ninth Avenue, Helena, MT	Oct. 6, 2017

Purpose: The department proposed to amend 36.12.101 (definitions), 36.12.105 (temporary emergency appropriations), 36.12.107 (filing fee refunds), 36.12.117 (objection to application), 36.12.121 (aquifer testing requirements), 36.12.1301 (permit and change application acceptance), 36.12.1501 (permit and change application deficiency letter and termination), 36.12.1702 (permit application criteria -- physical surface water availability), and 36.12.1801 (permit and change applications -- beneficial use). The department proposes to repeal 36.12.106 (testing and monitoring). The department states that 36.12.106 restates statutory language in 85-2-369, MCA, and is not necessary.

Note: The Water Policy Interim Committee (WPIC) informally objected to the proposed rule on October 10, 2017. The WPIC's objection effectively delayed the adoption of the rule until publication of the last issue of the Montana Administrative Register that is within the 6-month period: the adoption of MAR notice number 36-22-196 (published September 8, 2017) is delayed until March 30, 2018. If the committee takes no further action prior to this date, the DNRC may proceed with adoption of the rule as proposed.

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