



"Healthy environment, healthy people"

Montana Department of
ENVIRONMENTAL QUALITY

Steve Bullock, Governor
Tracy Stone-Manning, Director

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FEB 04 2014

**LEGISLATIVE ENVIRONMENTAL
POLICY OFFICE**

February 3, 2014

To All Interested Parties:

At some point in the past, you made a request of the Department of Environmental Quality (DEQ) to be notified of proposed changes to rules related to water quality. This letter is in response to that request.

This letter is to inform you about a proposed amendment to the temporary water quality standards applied to Daisy Creek, upper portions of the Stillwater River, and Fisher Creek within the New World Mine District near Cooke City, MT. The Montana Board of Environmental Review is proposing to amend the rule by extending the deadline for the temporary water quality standards until June 4, 2019. The notice of public hearing that accompanies this letter contains additional details regarding the proposed amendments.

The public hearing for this rulemaking will occur February 20, 2014, at 1:30 p.m., in Room 40 of the Department of Environmental Quality Metcalf Building, 1520 East 6th Avenue, Helena, MT 59620.

If you have any questions regarding the proposed amendment, please contact David Feldman at DEQ, PO Box 200901, Helena, MT 59620-0901; phone 406-444-6764; fax 406-444-6836; or email dfeldman@mt.gov.

Sincerely,

Eric Urban
Water Quality Standards Section Supervisor
(406)444-5320
urban@mt.gov

FEB 04 2014

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA LEGISLATIVE ENVIRONMENTAL
POLICY OFFICE

In the matter of the amendment of ARM) NOTICE OF PUBLIC HEARING ON
17.30.630 pertaining to temporary water) PROPOSED AMENDMENT
quality standards)
) (WATER QUALITY)

TO: All Concerned Persons

1. On February 20, 2014, at 1:30 p.m., the Board of Environmental Review will hold a public hearing in Room 40, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The board will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact Elois Johnson, Paralegal, no later than 5:00 p.m., February 14, 2014, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

17.30.630 TEMPORARY WATER QUALITY STANDARDS (1) Following are the temporary water quality standards and related provisions for New World Mining District:

(a) and (b) remain the same.

(c) Temporary water quality standards for Daisy Creek, from its headwaters to its confluence with the Stillwater River in the Yellowstone River Drainage, are as follows. No increase from existing conditions (no decrease for pH) is allowed at any point in Daisy Creek for any of the following parameters. These standards are in effect until June 4, ~~2014~~ 2019. Metals standards are in terms of micrograms per liter ($\mu\text{g/liter}$) total recoverable concentrations and pH standards are in standard units (su).

<u>Parameter</u>	<u>In Daisy Creek at its confluence with the Stillwater River, the following standards shall not be exceeded more than 3% of the time.</u>
	<u>$\mu\text{g/liter}$</u>
Aluminum	9,510.
Cadmium	4.
Copper	3,530.
Iron	6,830.
Manganese	1,710.
Zinc	540.

pH must be maintained above 4.6 su.

(d) Temporary water quality standards for a headwater portion of the Stillwater River, a tributary of the Yellowstone River, from Daisy Creek to the Absaroka-Beartooth wilderness boundary, are as follows. No increase from existing conditions (no decrease for pH) is allowed at any point in this reach of the Stillwater River for any of the following parameters. These standards are in effect until June 4, 2014 ~~2019~~. Metals standards are in terms of micrograms per liter (µg/liter) total recoverable concentrations and pH standards are in standard units (su).

<u>Parameter</u>	<u>In the Stillwater River at the Absaroka-Beartooth wilderness boundary, the following standards shall not be exceeded more than 3% of the time.</u>
	<u>µg/liter</u>
Aluminum	670.
Copper	200.
Iron	1,320.
Lead	13.
Manganese	86.
Zinc	49.
pH	must be maintained above 5.5 su.

(e) Temporary water quality standards for Fisher Creek, from its headwaters to its confluence with Lady of the Lake Creek, the headwaters of the Clark's Fork of the Yellowstone River, are as follows. No increase from existing conditions (no decrease for pH) is allowed at any point in Fisher Creek for any of the following parameters. These standards are in effect until June 4, 2014 ~~2019~~. Metals standards are in terms of micrograms per liter (µg/liter) total recoverable concentrations and pH standards are in standard units (su).

<u>Parameter</u>	<u>In Fisher Creek at its confluence with the Lady of the Lake Creek, the following standards shall not be exceeded more than 3% of the time.</u>
	<u>µg/liter</u>
Aluminum	470.
Copper	110.
Iron	750.
Lead	2.
Manganese	82.
Zinc	44.
pH	must be maintained above 5.7 su.

AUTH: 75-5-201, 75-5-312, MCA
IMP: 75-5-312, MCA

REASON: The U.S. Forest Service has conducted remediation in the vicinity of Daisy Creek, the Stillwater River, and Fisher Creek over the past 15 years to

mitigate contamination from historic mining. The board set temporary standards for these streams effective June 4, 1999, to allow the Forest Service to conduct remediation for the existing contamination in the streams. The temporary standards expire June 4, 2014.

An evaluation of data collected from 2003 to 2012 shows that water quality has improved significantly, but that several contaminants in the streams are still well above Department Circular DEQ-7 water quality criteria. If the temporary standards expire in 2014, the much more stringent DEQ-7 water quality criteria will apply and several water quality criteria will be exceeded.

According to 75-5-312, MCA, temporary standards are allowed for a maximum of 20 years. The board proposes to extend the expiration date to June 4, 2019, completing the 20-year maximum allowance for temporary standards. This will provide additional time to allow natural processes to occur and water quality to improve.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to ejohnson@mt.gov, no later than 5:00 p.m., February 27, 2014. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. Katherine Orr, attorney for the board, or another attorney for the Agency Legal Services Bureau, has been designated to preside over and conduct the hearing.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supply; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Elois Johnson at ejohnson@mt.gov, or may be made by completing a request form at any rules hearing held by the board.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North

JOHN F. NORTH

Rule Reviewer

BY: /s/ Robin Shropshire

ROBIN SHROPSHIRE

Chairman

Certified to the Secretary of State, January 21, 2014.