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## Montana Legislative Services Division

### Legal Services Office

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TO: Environmental Quality Council Members  
FROM: Helen Thigpen, Staff Attorney  
RE: EQC Administrative Rule Review  
DATE: August 29, 2011

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#### I. EQC Administrative Rule Review Webpage

The EQC reviews administrative rules proposed by the Department of Fish, Wildlife, and Parks, the Department of Environmental Quality, and the Department of Natural Resources and Conservation. EQC staff has created a new webpage that provides up-to-date information pertaining to administrative rule review. From the new EQC rules webpage, EQC members, agencies, and the public will find relevant information regarding the administrative rule review process and a description of the EQC's authority with respect to administrative rule review. The EQC rules website provides:

- A summary of the role of the EQC in the administrative rule review process.
- Helpful links to statutory authorizations for rule review authority.
- A summary of key points related to objections to administrative rules.
- Information on the publications in which administrative rules and notices are published, including the Montana Administrative Register.
- A link to the Secretary of State's administrative rules website.
- Up-to-date information on recent rulemaking activity from FWP, EQC, and DNRC.
- An easy to use chart for each proposed rule that provides the rule notice date, notice number, the agency, board or commission that proposed the rule, and a PDF link to a staff memo summarizing key points and outlining pertinent information for consideration by the EQC.

The new EQC rules webpage may be accessed from the following link:  
[http://leg.mt.gov/css/Services\\_Division/Lepo/Rules/rules.asp](http://leg.mt.gov/css/Services_Division/Lepo/Rules/rules.asp)

**II. Update on Current Agency Administrative Rulemaking Activity**  
 \*\*(Current through August 29, 2011)\*\*

**A. Department of Environmental Quality**

Visit <http://deq.mt.gov/dir/legal/default.mcp> for electronic access to DEQ rule notices.

*Notice of Proposed Rules with Upcoming Public Hearings:*

| MAR Notice No. | Public Hearing Date           | Where  | Comment Due Date              | Purpose   |
|----------------|-------------------------------|--|-------------------------------|---|
| 17-327         | September 14, 2011, at 2 p.m. | Room 35, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana | September 22, 2011, by 5 p.m. | (Subdivisions/On-Site Subsurface Wastewater Treatment) Notice of Public Hearing on Proposed Amendment - Application Contents - Review Procedures - Compliance With Local Requirements - Certificate of Approval - Certification of Local Department or Board of Health - Sewage Systems |

*Proposed Rules Post Public Hearing But Pre Final Adoption:*

| MAR Notice No. | Public Hearing Date        | Where   | Comment Due Date        | Purpose  |
|----------------|----------------------------|---|-------------------------|--|
| 17-317         | June 1, 2011, at 1:30 p.m. | Room 35, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana  | June 9, 2011, by 5 p.m. | (Asbestos) Notice of Second Public Hearing and Extension of Comment Period on Proposed Amendment, Adoption, and Repeal - Incorporation by Reference - OSHA Preclusion - Asbestos Project Management  |
| 17-322         | July 7, 2011 at 1 p.m.     | Room 111, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana | July 8, 2011, by 5 p.m. | (Board of Environmental Review) (Water Quality) Notice of Public Hearing on Proposed Amendment, Adoption, and Repeal - Montana Pollutant Discharge Elimination System Effluent Limitations and Standards - Standards of Performance - Treatment Requirements |
| 17-276         |                            |   | November 8, 2011.       | Notice of Extension of Comment Period on Proposed Amendment – Outstanding Resource Designation for the Gallatin River  |
| 17-323         | July 7, 2011 at 2 p.m.     | Room 111, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana | July 8, 2011, by 5 p.m. | (Board of Environmental Review) (Air Quality) Notice of Public Hearing on Proposed Amendment - Definitions -   |

|  |  |  |  |  |
|--|--|--|--|--|
|  |  |  |  | Ambient Air Increments - Major Stationary Sources - Source Impact Analysis - Source Information - Sources Impacting Federal Class I Areas - Definitions - When Air Quality Permit Required - Baseline for Determining Credit for Emissions - Air Quality Offsets |
|--|--|--|--|--|

*No public hearing contemplated*

| MAR Notice No. | Public Hearing Date  | Where | Comment Due Date  | Purpose  |
|----------------|--|-------|-------------------|--|
| 17-326         | No public hearing contemplated (may hold hearing if requested by a certain number of people) |       | September 8, 2011 | Notice of proposed amendment – (Motor Vehicle Recycling and Disposal) – <b>Citation Correction</b> |

**B. Department of Fish, Wildlife, and Parks**

Visit <http://fwp.mt.gov/news/publicNotices/armRules/> for electronic access to FWP rules notices.

*Notice of Proposed Rules with Upcoming Public Hearings:*

None

*Proposed Rules Post Public Hearing But Pre Final Adoption:*

| MAR Notice No. | Public Hearing Date      | Where  | Comment Due Date | Purpose  |
|----------------|--------------------------|--|------------------|--|
| 12-368         | June 16, 2011, at 6 p.m. | Fish, Wildlife, and Parks Region 2 office located at 3201 Spurgin Road, Missoula, Montana. | June 27, 2011    | (Fish, Wildlife and Parks Commission) Notice of Public Hearing on Proposed Amendment - Recreational Use Rules on the Bitterroot River, Blackfoot River, and Clark Fork River |

**C. Department of Natural Resources and Conservation**

Visit [http://dnrc.mt.gov/About\\_Us/notices.asp#AdminRules](http://dnrc.mt.gov/About_Us/notices.asp#AdminRules) for electronic access to DNRC rules notices.

*Notice of Proposed Rules with Upcoming Public Hearings:*

| <b>MAR Notice No.</b> | <b>Public Hearing Date</b>    | <b>Where</b>  | <b>Comment Due Date</b>       | <b>Purpose</b>  |
|-----------------------|-------------------------------|---|-------------------------------|---|
| 36-22-151             | September 15, 2011, at 2 p.m. | Director's Conference Room, 1625 11 <sup>th</sup> Avenue, Helena, Montana   | September 22, 2011, by 5 p.m. | (Board of Land Commissioners) Notice of Public Hearing on Proposed Amendment - Land Banking Programs                |
| 36-22-148             | September 12, 2011, at 7 p.m. | University of Montana Western, Lewis and Clark Room, Mathews Hall, 710 S. Atlantic, Dillon, Montana                   | September 30, 2011 by 5 p.m.  | (Board of Land Commissioners) Notice of Public Hearing on Proposed Amendment - Rental Rate for State Grazing Leases |
|                       | September 13, 2011, at 7 p.m. | MSU Great Falls Campus, College of Technology, Heritage Hall Auditorium, 2100 16th Avenue South, Great Falls, Montana |                               |   |
|                       | September 14, 2011, at 7 p.m. | Glasgow High School Auditorium, #1 Scotty Pride Drive, Glasgow, Montana   |                               |   |
|                       | September 15, 2011, at 7 p.m. | Miles City Community College, 2715 Dickinson Street, Room 106, Miles City, Montana                                    |                               |   |

*Proposed Rules Post Public Hearing But Pre Final Adoption:*

| <b>MAR Notice No.</b> | <b>Public Hearing Date</b> | <b>Where</b>   | <b>Comment Due Date</b>   | <b>Purpose</b>  |
|-----------------------|----------------------------|--|---------------------------|---|
| 36-22-154             | August 10, 2011, at 1 p.m. | Department of Natural Resources and Conservation, Fred Buck Conference Room (bottom floor), Water Resources Building, 1424 Ninth Avenue, Helena, Montana | August 11, 2011 by 5 p.m. | Notice of Public Hearing on Proposed Amendment - Water Right Permitting |