



Montana Legislative Services Division

Legal Services Office

TO: Environmental Quality Council
FROM: Helen Thigpen
DATE: August 29, 2011
RE: Legislative Administrative Rule Review Report

Pursuant to 75-1-324 and 5-5-215, MCA, the Environmental Quality Council is responsible for reviewing administrative rules within its jurisdiction. Staff for the Environmental Quality Council has prepared this report for informational purposes only. This report does not represent any action or opinion of the Environmental Quality Council and does not preclude additional action that may be taken by the Environmental Quality Council pursuant to its authority under the Montana Administrative Procedure Act (Title 2, chapter 4, MCA).

MAR NOTICE NUMBER:

36-22-154

AGENCY/BOARD:

Department of Natural Resources and Conservation

RULE CLASSIFICATION: (e.g. substantive/interpretative/emergency/temporary)

Substantive

SUBJECT:

Water Use Act – implementation of SB 103 (exception for nonconsumptive geothermal use) and SB 128 (exception for local governmental fire agencies).

NOTICE DESCRIPTION: (e.g. proposal notice/adoption notice)

Notice of Public Hearing on Proposed Amendment

SUMMARY OF RULE(S):

The DNRC is proposing to amend rules that implement the Water Use Act. The DNRC is proposing to:

- Move the definition of “manifold” from 36.12.1701, subchapter 17, “Permit Application Requirements” to 36.12.101 “Definitions” under subchapter 1, “Montana Water Use Act.” DNRC states that the amendment is being moved because the definition of “manifold” applies throughout the chapter. The term

“manifold” is currently used in 36.12.101(13), which provides: "Combined appropriation" means an appropriation of water from the same source aquifer by two or more groundwater developments, that are physically manifold into the same system.”

- Amend 36.12.102 “Forms” to require: (1) Form No. 646 to implement SB 103, which provides an exemption from permitting for nonconsumptive geothermal use; (2) Form No. 647 to implement SB 128, which provides an exemption from permitting for local governmental fire agencies; (3) Form No. 644 to obtain information from water right owners who are replacing surface water points of diversion; and (4) Form No. 645 to obtain information from applicants who intend to appropriate groundwater in the National Park Service Compact Area.
- Amend 36.12.103 “Form and Special Fees” to make grammatical/style changes and to provide fees for permit registration for groundwater use within the National Park Service Compact Area (\$200), a geothermal heating/cooling notice of completion (\$200), and an emergency fire protection development notice of completion (\$125).
- Amend 36.12.1701, which addresses applications for beneficial water use permits to reflect the requirements of SB 103.

NOTES: (e.g. hearing dates)

The DNRC will hold a public hearing on August 10, 2011, at 1 p.m. in the Fred Buck Conference Room, Water Resources Building, 1424 Ninth Avenue, Helena, Montana. Comments to the DNRC are due by August 11, 2011, by 5 p.m.

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