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## Montana Legislative Services Division

### Legal Services Office

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TO: Environmental Quality Council  
FROM: Helen Thigpen, Staff Attorney  
RE: Summary of Recent Rulemaking Activity from DEQ, FWP, and DNRC  
DATE: December 16, 2013

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The following is a brief summary of administrative rules that were recently proposed or adopted by DEQ, FWP, and DNRC. Staff provides regular updates on rulemaking at the following website: <http://leg.mt.gov/css/Committees/Interim/2013-2014/EQC/Rules/rules-table.asp>.

#### A. Department of Environmental Quality

- **For electronic access to DEQ rule notices visit:**  
<http://deq.mt.gov/dir/legal/default.mcp>

*Pending Administrative Rules:*

None

*Adopted Administrative Rules:*

- **Water Quality -- Subdivisions/On-Site Subsurface Wastewater Treatment -- Public Water and Sewage System Requirements -- Department Circular DEQ-4. MAR notice number 17-343.** Adopted November 14, 2013. BER and DEQ published notice of the proposed rules on December 20, 2012. A notice of extension of comment period was published on January 31 and June 6, 2013, respectively. The Board received hundreds of comments in response to the proposal, which are summarized in the adoption notice. The rules were amended exactly as they were proposed.

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

- **For electronic access to FWP rule notices visit:**  
<http://fwp.mt.gov/news/publicNotices/armRules/>

*Pending Administrative Rules:*

- **State Land Access Tax Credit. MAR notice number 12-402.** The Commission is proposing to adopt a new rule on March 13, 2014, to implement HB 444 (2013), which established a program allowing a private landowner to receive a tax credit if the landowner provides public access to a parcel of state land. HB 444 required the

Commission to adopt rules to implement the bill, which takes effective January 1, 2014, and terminates December 31, 2018. No public hearing is scheduled. Public comments will be accepted through December 27, 2013.

- **Gray Wolf Management.** MAR notice number 12-401. The Commission is proposing to amend rules pertaining to gray wolf management. The Commission is proposing to clarify references within the rules to the delisting of wolves; clarify the Commission's authority to establish harvest seasons; remove language addressing specific management objectives and tools; clarify the Department's responsibility and oversight of wolf conservation and management; and clarify rules in response to SB 200 (2013), which allows lethal control by landowners. Several hearings were held throughout the month of December. Comments will be accepted through December 20, 2013.
- **Recreational use on Lake Alva, Harpers Lake, and Lake Marshall.** MAR notice number 12-385. On May 9, 2013, the Commission published a proposal notice to amend rules regarding recreational use on Lake Alva, Harpers Lake, and Lake Marshall. The Commission held a public hearing on June 5, 2013. On September 5, 2013, the Commission extended the comment period on the proposal and accepted public comments through September 20, 2013.

*Adopted Administrative Rules:*

- **Salvage Permits.** MAR notice number 12-392. Adopted November 4, 2013. The Commission adopted rules to implement HB 247 (2013), which allows individuals to salvage certain animals killed in vehicle collisions. The rules adopted by the Commission allow deer, elk, moose, or antelope accidentally killed by a vehicle collision to be salvaged if a permit is obtained. A permit may be obtained from a peace officer or a department regional office or through an electronic application. The Department received 86 comments regarding the rules.

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

- **For electronic access to DNRC rule notices visit:**  
<http://dnrc.mt.gov/PublicInterest/Notices/Default.asp>

*Pending Administrative Rules:*

- **Cabinsite Sales.** MAR notice number 36-22-173. DNRC held two hearings regarding the adoption of new rules for cabinsite sales on November 6 in Seeley Lake and on November 8 in Helena. The rules are being proposed to implement SB 369 (2013), which established procedures for the sale of cabin sites and home sites on state land. The proposed rules describe the sale process established by SB 369. Public comment was accepted through November 14, 2013. The rules were adopted by the Land Board on December 16, 2013.

**NOTE:** *Combined Appropriation Rules*

- **Water Rights – Definition of “Combined Appropriation”.** MAR notice number 36-22-175. On August 22, 2013, the Department published notice of a proposal to amend the “combined appropriation” definition. The Department held a hearing on September 19, 2013. The Environmental Quality Council formally objected to the proposal on September 13, 2013. The Department withdrew the proposal on November 4, 2013, to “further evaluate and propose rules regarding water right combined appropriation”.

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