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Montana Legislative Services Division

Legal Services Office

TO: Water Policy Interim Committee Members
FROM: Cori Hach, Staff Attorney
RE: Administrative Rule Report for May 2020 Meeting

Since the March, 2020 meeting of the Water Policy Interim Committee, the Department of Environmental Quality has filed the following notices with the Secretary of State for publication in the Montana Administrative Register (MAR). The Department of Natural Resources and Conservation and Department of Fish, Wildlife, and Parks have not filed any notices related to water quality or quantity since the March meeting. Full text for both notices summarized below is available at <http://www.mtrules.org> (search by notice number).

DEPARTMENT OF ENVIRONMENTAL QUALITY:

MAR Notice Number: 17-411

Notice Description: Notice of public hearing on proposed amendment

Subject: Amendment of ARM 17.30.1202, 17.30.1203, 17.30.1304, 17.30.1322, 17.30.1331, 17.30.1340, 17.30.1341, 17.30.1342, 17.30.1344, 17.30.1345, 17.30.1346, 17.30.1350, 17.30.1354, 17.30.1361, and 17.30.1372 pertaining to MPDES program updates

Summary: The Board of Environmental Review (board) is proposing a number of changes in ARM Title 17, chapter 30, part 13 for cleanup and update purposes, including to: (1) maintain consistency with federal water quality rules that were recently amended to improve application consistency, accuracy, and usability; (2) eliminate references to repealed statutes; (3) eliminate redundant and obsolete regulatory provisions; (4) maintain consistency with current Secretary of State formatting procedures; and (5) correct erroneous or confusing cross-references.

Notes: On June 16, 2020, at 1:00 p.m., the board will hold a public hearing in Room 111 of the Metcalf Building, 1520 E. Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

MAR Notice Number: 17-412

Notice Description: Notice of public hearing on proposed adoption of a new rule

Subject: Adoption of a new rule pertaining to natural and nonanthropogenic water quality standards

Summary: Section 75-5-222, MCA, states that the DEQ may not apply a standard to a water body for water quality that is more stringent than the nonanthropogenic condition of the water body. For such bodies of water where the natural level for certain conditions is elevated above the otherwise applicable water quality standards, the nonanthropogenic condition is the standard. The Yellowstone River is one such water body because nearby geothermal sources cause the naturally occurring arsenic concentrations to exceed the otherwise applicable state water quality standards.

The proposed new rule establishes nonanthropogenic-based water quality standards based on the existing concentrations of arsenic in certain segments of the Yellowstone River. It also establishes a framework so that other waterbodies, waterbody segments, or groups of waterbodies within specific geographic regions can all be incorporated into the rule at a later time.

Notes: A hearing is scheduled on the new rule on June 17, 2020, at 10:00 a.m., the Board of Environmental Review will hold a public hearing in Room 111 of the Metcalf Building, 1520 E. Sixth Avenue, Helena, Montana.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION:

None.

FISH, WILDLIFE AND PARKS:

None.