



**Montana Legislative Services Division**  
**Legal Services Office**

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TO: Water Policy Interim Committee Members  
FROM: Joe Carroll, Staff Attorney  
RE: Administrative Rule Report

Below please find summaries of proposed rulemaking by the Department of Environmental Quality (DEQ) and the Department of Natural Resources and Conservation (DNRC) for the Water Policy Interim Committee's review. Technical questions regarding Montana Administrative Procedures Act compliance may be directed to your committee staff. Substantive questions are best directed to the agency responsible for the rule proposal. Committee staff will gladly refer questions to the appropriate agency representative to ensure thorough and timely answers to members' questions.

**DEPARTMENT OF ENVIRONMENTAL QUALITY:**

**MAR Notice Number:** 17-422

**Notice Description:** Notice of Public Hearing on Proposed Amendment

**Subject:** Ground Water Under the Direct Influence of Surface Water Determinations – Standards for Public Water Supply Systems

**Summary:** 17-422 is a proposal to amend three existing rules: ARM 17.36.345, 17.38.101, and 17.38.209. The amendments ensure the DEQ is using the most recent department circulars. Additionally, 17-422 proposes changes to Circular DEQ-1 to clarify existing department procedures regarding ground water under the direct influence of surface water determinations and to reinsert a model system budget table that summarizes a 5-year projection cash flow. The table was developed to maintain state primacy and was omitted in 2006 for reasons that the DEQ cannot now ascertain.

**Notes/Hearing:** The DEQ scheduled a public hearing for June 17, 2022, and held the public comment period open until June 27, 2022.

**MAR Notice Number:** 17-427

**Notice Description:** Notice of Public Hearing on Proposed Adoption

**Subject:** Temporary Water Quality Standards Variances

**Summary:** 17-427 is a proposal to adopt one new rule regarding temporary water quality standards variances. This implements 75-5-320, MCA, which was enacted after the 2019 legislative session. The new rule would provide the criteria and procedures for the DEQ to issue temporary variances. A variance could be granted for one of six factors. To issue a variance, the department would seek approval from the Environmental Protection Agency and hold a public hearing. The department would review an issued variance every 5 years.

**Notes/Hearing:** A public hearing is scheduled for 10 a.m. on August 18, 2022, in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, MT. The hearing will also be conducted over Zoom.

**DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION:**

**MAR Notice Number:** 36-22-213

**Notice Description:** Notice of Public Hearing on Proposed Amendment and Repeal

**Subject:** Well fees, well capping, posting license renewals.

**Summary:** The Board of Water Well Contractors proposes to amend ARM 36.21.415 to increase certain professional fees so that they are commensurate with the board's costs.

The board proposes to amend ARM 36.21.661 regarding well capping. The board determined the word "temporary" should be removed from the rule so that the protective effect of the rule applies to temporary capping and to the capping that occurs when a well is finished. Proposed new language in the rule deals with hardware that may be used for capping.

The board proposes to repeal ARM 36.21.413. That rule requires contractors to apply labels regarding the contractor's license renewal to drilling rigs. The board determined the rule is outdated and impractical.

**Notes/Hearing:** The DNRC scheduled a public hearing for May 17, 2022, and held the public comment period open until that date.

**MAR Notice No.:** 36-22-214

**Notice Description:** Notice of Public Hearing on Proposed Amendment

**Subject:** Horse Creek Controlled Groundwater Area

**Summary:** 36-22-214 is a proposal to amend ARM 36.12.905 regarding the Horse Creek Controlled Groundwater Area. The amendment would reflect the closure of the National Weather Service Station at Fishtail and change from a 3-month standard precipitation index to a 90-day standard precipitation index.

**Notes/Hearing:** The DNRC scheduled a public hearing for June 21, 2022, and held the comment period open until June 22, 2022.

**DEPARTMENT OF FISH, WILDLIFE, AND PARKS:**

None.