



ENVIRONMENTAL QUALITY COUNCIL

Exhibit 6
EQC 9/28/2023

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September 28, 2023

TO: Environmental Quality Council
FROM: Alexis Sandru, Substitute Staff Attorney
RE: Administrative Rule Report – Issue 18

In Issue 18 of the Montana Administrative Register (dated September 22, 2023), the FWP and DEQ each published one proposal notice.

PROPOSAL NOTICES

MAR Notice Number: 12-614

Subject: Grizzly bears

Summary: The Fish and Wildlife Commission is proposing to adopt 13 new rules and to amend an existing rule pertaining to grizzly bears. The proposed new rules, implementing SB 295 (2023), would:

- (1) provide definitions;
- (2) establish FWP's grizzly bear management objective;
- (3) provide that the Commission will establish an annual quota for delisted grizzly bears that may be taken, excluding bears taken by the FWP, wildlife services, or an individual acting in self-defense;
- (4) provide for a mortality threshold within the demographic monitoring area, in which all mortalities within the DMA will count toward the mortality threshold;
- (5) provide which grizzly bear mortalities apply to the quota and mortality threshold;
- (6) if a delisted grizzly bear population overlaps two or more states, apportion the mortality threshold by a percentage allocated to each state involved;
- (7) set forth allowable lethal measures for managing grizzly bears, including allowing livestock owners or authorized persons to take a grizzly bear attacking or killing livestock and allowing the FWP director to issue permits to persons to take a grizzly bear;
- (8) set forth allowable non-lethal measures or preventative measures for controlling grizzly bears;
- (9) prohibit a person from intentionally baiting a grizzly bear;
- (10) require that the FWP manage the delisted grizzly bear population for 5 years prior to imposing a hunting season or harvest;
- (11) require an annual grizzly bear report, beginning the first year after either the Northern Continental Divide Ecosystem or the Greater Yellowstone Ecosystem is delisted;

(12) require FWP to translocate grizzly bears for genetic and population augmentation; and (13) provide that the rules are effective on the date that the grizzly bear populations are delisted and no longer subject to federal jurisdiction.

The Commission is also proposing to amend an existing rule pertaining to grizzly bear policy to reflect current practices and to reflect that FWP is required to manage a delisted grizzly population for 5 years prior to instituting a hunting season.

Notes/Hearing: A public hearing is scheduled on October 20, 2023, at 9 a.m. via Zoom (see proposal notice for additional details). Written public comment is due no later than October 23, 2023. **Emailed agency rule reviewer re: whether primary bill sponsor was contacted.

MAR Notice Number: 17-432A

Subject: Transfer of rulemaking authority from Board of Environmental Review to DEQ

Summary: The DEQ is proposing to amend and repeal existing ARMs in order to implement SB 233 (2021), which transferred the rulemaking duties and powers of the Board of Environmental Review to the DEQ and also repealed 75-6-103, 75-10-106, 82-4-111, and 82-4-204, MCA. The proposed rulemaking replaces references to the Board with references to the DEQ and deletes references to the repealed MCA citations. The DEQ intends for the rulemaking to go into effect February 9, 2024.

Notes/Hearing: No public hearing is scheduled. Written public comment is due by 11:59 p.m. on December 1, 2023.