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## Water Policy Interim Committee 65th Montana Legislature

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ERIN BILLS, Legal Staff

August 30, 2018

To: Water Policy Interim Committee Members  
From: Erin Bills, Legal Staff  
Re: Legislative Administrative Rule Review Report<sup>1</sup>

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MAR NOTICE NUMBER: 17-399

AGENCY/BOARD: Board of Environmental Review

RULE CLASSIFICATION: Notice of Public Hearing on Proposed Amendment

SUBJECT: Water Quality (401 Certification)

**SUMMARY OF RULE:** The Board of Environmental Review proposes to amend four rules concerning state water quality certification under section 401 of the federal Clean Water Act. Section 401 provides states with the authority to control the quality of water resources within their boundaries through a process known as water quality certification. In short, section 401 prohibits a federal agency from issuing a permit or license for an activity that may result in a discharge to waters of the United States until the state or tribe has granted or waived the 401 certification.

The Board proposes to amend rules pertaining to the application for certification, tentative determination by the department, public notice and final determination by the department, and the appeal process to the board.

**NOTE:** On September 18 at 1 p.m., the Board will hold a public hearing in Room 45 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana. The public comment period ends on September 21, 2018.

**FULL TEXT OF NOTICE:** The full text of the notice proposal may be found online at <http://mtrules.org/gateway/ShowNoticeFile.asp?TID=8759>.

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<sup>1</sup>Pursuant to 5-5-231(1)(e), MCA, the Water Policy Interim Committee (WPIC) is responsible for reviewing administrative rules within its jurisdiction. Staff for the WPIC has prepared this report for informational purposes only. This report does not represent any action or opinion of the WPIC and does not preclude additional action that may be taken by the WPIC pursuant to its authority under the Montana Administrative Procedure Act (Title 2, chapter 4, MCA).