

85-2-420. Change in appropriation right for aquifer recharge or mitigation -- marketing. (1)

Subject to 85-2-402 and this section, an appropriator may apply for a change in appropriation right for the purpose of aquifer recharge or mitigation or for the purpose of marketing water for aquifer recharge or mitigation.

(2) During the completion period authorized by the department for a change pursuant to this section, the appropriator may continue to use the appropriation right for any authorized beneficial use provided that proportionate amounts of the appropriation right are retired as the mitigation or aquifer recharge beneficial use is perfected.

(3) (a) If the full amount of the appropriation right is not sold or marketed as mitigation or aquifer recharge prior to the completion date, the water right retains the beneficial uses authorized prior to the change approved pursuant to this section.

(b) For an appropriation right that retains the original beneficial uses pursuant to this section, the flow rate and volume of water allowed at the point of diversion must be equal to the flow rate and volume allowed under the initial beneficial uses minus the amount that was sold or marketed for mitigation or aquifer recharge.

(4) As part of a change in appropriation right approved pursuant to this section, the department shall:

(a) determine a period for the change in appropriation right to be completed that does not exceed 20 years; and

(b) require the appropriator to notify the department within 30 days each time a portion of the change is completed.