

Unofficial Draft Copy

As of: July 2, 2018 (8:08am)

LCw003

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act allowing an applicant to extend a response deadline during an application for a permit for a change in appropriation right; and amending section 85-2-302, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-2-302, MCA, is amended to read:

"85-2-302. Application for permit or change in appropriation right. (1) Except as provided in 85-2-306 and 85-2-369, a person may not appropriate water or commence construction of diversion, impoundment, withdrawal, or related distribution works unless the person applies for and receives a permit or an authorization for a change in appropriation right from the department.

(2) The department shall adopt rules that are necessary to determine whether or not an application is correct and complete, based on the provisions applicable to issuance of a permit under this part or a change in appropriation right pursuant to Title 85, chapter 2, part 4. The rules must be adopted in compliance with Title 2, chapter 4.

(3) The application must be made on a form prescribed by the department. The department shall make the forms available

through its offices.

(4) (a) Subject to subsection (4)(b), the applicant shall submit a correct and complete application. The determination of whether an application is correct and complete must be based on rules adopted under subsection (2) that are in effect at the time the application is submitted.

(b) If an application is for a permit to appropriate water with a point of diversion, conveyance, or place of use on national forest system lands, the application is not correct and complete under this section until the applicant has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water under the permit.

(5) The department shall notify the applicant of any defects in an application within 180 days. The defects must be identified by reference to the rules adopted under subsection (2). If the department does not notify the applicant of any defects within 180 days, the application must be treated as a correct and complete application.

(6) An application does not lose priority of filing because of defects if the application is corrected or completed within 30 days of the date of notification of the defects or within a further time as the department may allow, but not to exceed 90 days from the date of notification. If an application is made correct and complete after the mandated time period, but within

Unofficial Draft Copy

As of: July 2, 2018 (8:08am)

LCw003

90 days of the date of notification of the defects or, if the deadline is extended pursuant to subsection (7)(b) by the date set pursuant to subsection (7)(b), the priority date of the application is the date the application is made correct and complete.

(7)(a) Unless an applicant elects to extend this deadline pursuant to subsection (b), an An application not corrected or completed within 90 days from the date of initial notification of the defects is terminated.

(b) An applicant electing to extend this deadline shall set a date for response to the department. The applicant shall promptly notify the department of this deadline. The department shall terminate an application not corrected or completed by this date.

(8) Pursuant to 85-20-1902, the provisions of this section do not apply within the exterior boundaries of the Flathead Indian reservation."

{*Internal References to 85-2-302:*

x85-2-102 *	x85-2-310	x85-2-314	x85-2-316
x85-2-329	x85-2-335	x85-2-340	x85-2-342
x85-2-344	x85-2-401 *	x85-20-1401	x85-20-1901
x85-20-1901	x85-20-1901		

- END -

{Name : Jason Mohr
Title : Research analyst
Agency : Legislative Environmental Policy Office
Phone : 444-1640
E-Mail : jmohr2@mt.gov}