



Water Policy Interim Committee

69th Montana Legislature

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July 21, 2025

TO: Water Policy Interim Committee
FROM: Alexis Sandru, Staff Attorney
RE: Administrative Rule Report – July 2025 Meeting (MAR Issues 9 through 13)

This report summarizes administrative rules concerning the quality or quantity of water that have been proposed or adopted by the Department of Environmental Quality (DEQ), the Department of Fish, Wildlife, and Parks (FWP), and the Department of Natural Resources and Conservation (DNRC) since the 69th Legislature adjourned on April 30, 2025. Rule notices are available at <https://rules.mt.gov>.

PROPOSAL NOTICES

MAR Notice Number: 2025-157.1 (Issue 13, July 11, 2025)

Subject: Water right permitting

Summary: The DNRC is proposing to adopt seven new rules and to amend six existing rules pertaining to water right permitting. Much of the proposed rulemaking implements the following bills from the 2025 session:

- HB 432 (Rep. Darling, effective Oct. 1, 2025) "An act revising water laws concerning exceptions to the change in appropriation right process; providing rulemaking authority; and amending sections 3-7-224, 85-2309, 85-2-402, and 85-2-407, MCA";
- HB 441 (Rep. Miner, effective Oct. 1, 2025) "An act revising water laws to align provisional water rights with final decrees; clarifying processes for post-decree petitions to reduce, modify, or revoke permits; clarifying post-decree verification of permits and changes in appropriation rights; and amending sections 85-2-313, 85-2-315, and 85-2-402, MCA";
- HB 681 (Rep. J. Fitzpatrick, effective Jan. 1, 2026) "An act revising laws related to local and state regulation of subdivisions and determinations of water availability; revising subdivision review criteria involving the availability of water; clarifying the definition of water right; revising processes for issuance of a certificate of water right for an appropriation of groundwater that is exempt from permitting requirements; amending sections 76-3501, 76-3-604, 76-3-608, 76-3-622, 76-4-104, 85-2-102, and 85-2-306, MCA; and providing a delayed effective date and an applicability date"; and
- SB 178 (Sen. Vinton, effective Oct. 1, 2025) "An act providing for temporary leases of a water right; revising a definition; extending rulemaking authority; and amending sections 85-2-102 and 85-2-404, MCA."

The new rules proposed to be adopted are:

- Rule 1, establishing requirements for the submission and content of public comment on draft preliminary determinations and how the DNRC will respond to public comment;
- Rules 2 through 6, implementing HB 441 and providing requirements for project completion notices, permit verifications, change verifications, verification decisions, and hearings and final actions on verification decisions; and
- Rule 7, implementing SB 178 and setting forth requirements for an application for the temporary lease of a water right.

The proposed amendments include:

- Inserting definitions of “aquifer”, “aquifer system”, “project completion notice”, “substantial accordant”, and “verification”;
- Revising DNRC forms to include new forms associated with 2025 legislation;
- Revising filing fees associated with various forms (see proposal notice for fiscal impact statement);
- Revising the domestic water use standard;
- Revising the existing objection process to (1) include objections made via HB 432 and SB 178; (2) allow electronic submittal of objections; and (3) clarify what constitutes a correct and complete objection; and
- Clarifying current DNRC policy to accept permanent and temporary change components in a single change application and, per HB 432, exempting stock tanks from the full change application process.

Notes/Hearing: A public hearing is scheduled on July 31, 2025, at 9 a.m. at the DNRC building, Montana conference room, 1539 11th Avenue, Helena, Montana, and via Zoom. Written public comment is due by 5 p.m. on August 8, 2025.

ADOPTION NOTICES

None.