



Water Policy Interim Committee

69th Montana Legislature

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October 10, 2025

TO: Water Policy Interim Committee
FROM: Alexis Sandru, Staff Attorney
RE: Administrative Rule Report – October 2025 Meeting (MAR Issues 14 through 18)

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 WPIC's July 2025 meeting. Rule notices are available at <https://rules.mt.gov>.

PROPOSAL NOTICES

None

ADOPTION NOTICES

MAR Notice Number: 2025-157.1 (Proposed Issue 13 (7/11/25); Adopted Issue 18 (9/26/25))

Subject: Water right permitting

Summary: The DNRC proposed to adopt seven new rules and to amend six existing rules pertaining to water right permitting. Much of the proposed rulemaking implemented 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 were:

- 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 included:

- Inserting definitions of “aquifer”, “aquifer system”, “project completion notice”, “substantial accordancy”, 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 submission 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 was held on July 31, 2025. Written public comment was due on August 8, 2025.

Adoption Notice Notes: The DNRC responded to over 66 public comments and, in response to public comment received, the DNRC adopted the rulemaking with some changes (see adoption notice for comments and responses). The rulemaking went into effect on October 1, 2025.