



RULEMAKING OVERVIEW

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Introduction

In this 2023 proposed rulemaking, the DNRC Water Rights Bureau is proposing many updates to the New Appropriations rules. A major driver of this rulemaking is the passing of HB 114 during the 2023 Legislative Session. Drafted in response to stakeholder feedback, HB 114 overhauls the water right permit and change processes to make them more timely, transparent, streamlined, and consistent. The current New Appropriations rules reflect the current permit and change processes, and updates are required to make them consistent with the changes in HB 114, which will take effect January 1, 2024. DNRC also took this opportunity to reorganize the rules to better reflect the processes they implement, clarify the details and applicability of the rules, as well as update fees. The below Table of Contents shows all rules included in this proposed rulemaking. Note that the list below includes the rule numbers and names as they appear in the proposed rules; please refer to the full rule draft to view tracked edits.

New and Updated Rules Proposed in this Rulemaking

All Rules in ARM Chapter 36.12 – Water Rights Bureau

Subchapter 1: Montana Water Use Act	Subchapter 14: Form Modifications
36.12.101 Definitions	36.12.1401 Permit and Change Application Modification
36.12.102 Forms	Subchapter 15: Deficiency Letters and Termination
36.12.103 Forms and Special Fees	36.12.1501 Permit and Change Application Deficiency Letter and Termination
36.12.110 Legal Land Description Standards	Subchapter 16: Correct and Complete Determination
36.12.111 Map Standards	36.12.1601 Water Right Permit and Change Application Correct and Complete Determination
36.12.112 Period of Diversion and Period of Use Standards	Subchapter 17: Permit Application Requirements
36.12.113 Reservoir Standards	36.12.1702 Permit Application Criteria – Physical Surface Water Availability
36.12.115 Water Use Volume Standards	36.12.1703 Permit Application Criteria – Physical Ground Water Availability
36.12.116 Evaporation Standards	36.12.1704 Permit Application Criteria – Legal Availability
36.12.121 Aquifer Testing Requirements	36.12.1706 Permit Application Criteria – Adverse Effect
36.12.123 Variance Request (New Rule 1)	36.12.1707 Permit Application Criteria – Adequate Diversion Means and Operation
Subchapter 13: Form Acceptance	Subchapter 18: Permit and Change Applications
36.12.1302 Preapplication Meeting (New Rule 2)	36.12.1801 – Permit and Change Applications – Beneficial Use
36.12.1303 Technical Analyses (New Rule 3)	Subchapter 19: Change Applications
36.12.1304 Filing a Permit Application and Form Acceptance (New Rule 4)	36.12.1903 Change Application Criteria – Adverse Effect
36.12.1305 Filing a Change Application and Form Acceptance (New Rule 5)	36.12.1904 Change Application Criteria – Adequate Diversion Means and Operation

Rules Proposed to be Repealed in this Rulemaking

36.12.1301: Replaced by 36.12.1304 and 36.12.1305 (New Rules 4 and 5)

36.12.1701: Replaced by 36.12.1304 (New Rule 4)

36.12.1705: Incorporated into 36.12.1704

36.12.1901: Replaced by 36.12.1305 (New Rule 5)