

SB 358: Exempt Well Bill

| | |
|--|--|
| <p>Section 1 Department powers and duties 85-2-113(2)(b)</p> | <ul style="list-style-type: none"> - Modification allows for water use metering and data reporting for water rights on exempt wells. This change is necessary for the metering and reporting requirements for exempt wells on divided land pursuant to 85-2-306, in legislative aquifer closures or monitoring areas pursuant to [New Section 3], and controlled ground water areas pursuant to 85-2-506. |
| <p>Section 2 Exceptions to permit requirements 85-2-306(3)</p> | <ul style="list-style-type: none"> - Grandfathers exempt well use within the Rye Creek stream depletion zone and removes exempt well use as an option for all future stream depletion zones. |
| <p>85-2-306(4)</p> | <ul style="list-style-type: none"> - Adds that exempt wells are only allowed outside of the boundaries of a stream depletion zone or aquifer closure. |
| <p>85-2-306(4)(a)(i)-(v)</p> | <ul style="list-style-type: none"> - Clarifies that use of the exception for this subsection is limited to use when the ground water development occurs on land that is <u>not being divided</u>. - Also establishes the factors that DNRC will consider when evaluating combined appropriation of multiple ground water developments under the subsection. - Establishes that DNRC will honor the lots and volumes allocated in predetermination letters for parcels that received certificates of subdivision approvals (COSAs) from the Department of Environmental Quality (DEQ) prior to February 14, 2024. |
| <p>85-2-306(4)(a)(vi)</p> | <ul style="list-style-type: none"> - Establishes that use of the exception for this subsection is limited to use when the ground water development occurs on land that is <u>being divided</u>. - Establishes maximum use per lot for divisions of land after 10/17/2014. Also establishes maximum number of lots that can use exception before needing a permit. - Creates certainty for how exempt wells can be used when subdividing land - Establishes that DNRC will honor the lots and volumes allocated in predetermination letters for parcels that received certificates of subdivision approvals (COSAs) from the Department of Environmental Quality (DEQ) prior to February 14, 2024. Volumes and lots established in predetermination letters will count against the volume and lot limitations allowed under the exception for any future divisions of land. |
| <p>85-2-306(4)(b)</p> | <ul style="list-style-type: none"> - Establishes that all exempt well water use under this subsection must be measured and reported annually to DNRC. |
| <p>85-2-306(8)(c)</p> | <ul style="list-style-type: none"> - Clarifies that a water right issued for a stockwater impoundment or pit under the subsection cannot be changed to a different use. |
| <p>Section 3 Legislative Aquifer Closures and Monitoring Areas.</p> | <ul style="list-style-type: none"> - Establishes new legislative aquifer closure areas as designated by the Department. New ground water uses within the legislative aquifer closure areas must receive a water use permit from DNRC - Legislative aquifer areas to be established are: <ul style="list-style-type: none"> - The Gallatin Valley Aquifer |

| | |
|--|--|
| Section (3)(1) | <ul style="list-style-type: none"> - The Helena Valley Aquifer - Bitterroot Valley Aquifer - Missoula Valley Aquifer |
| Section (3)(2) | <ul style="list-style-type: none"> - Establishes control provisions for the legislative aquifer closures: <ul style="list-style-type: none"> - Provision preventing use of exceptions in 85-2-306 except for certain exceptions: <ul style="list-style-type: none"> o 0.5AF Single living unit on a tract of record in existence on January 1, 2025, and connection to public water and mitigation is infeasible; or Stockwater. - Provision requiring metering and reporting for all new water rights or change authorizations within the closure - Establishes that DNRC will honor the lots and volumes allocated in predetermination letters for parcels that received certificates of subdivision approvals (COSAs) from the Department of Environmental Quality (DEQ) prior to February 14, 2024. |
| Section (3)(3) | <ul style="list-style-type: none"> - Establishes new legislative aquifer monitoring areas as designated by the Department: <ul style="list-style-type: none"> - Flathead Valley Deep and Shallow Aquifer - Billings Terrace Aquifer |
| Section (3)(4) | <ul style="list-style-type: none"> - Establishes control provisions for legislative aquifer monitoring areas: <ul style="list-style-type: none"> - Water use metering and reporting for all new water rights or change authorizations within the legislative monitoring area - Requires biennial review of monitoring data to evaluate and determine if a change of status is needed |
| Section 4 Water right enforcement of ground water uses exempt from permitting – findings and purpose 85-2-381 | <ul style="list-style-type: none"> - Adjusts cross-reference to 85-2-306. |
| Section 5 Controlled ground water areas 85-2-506(1) | <ul style="list-style-type: none"> - Removes permanent or temporary designations for the controlled ground water areas from this subsection because the duration of the designation is being moved to be addressed later in Section 4. |
| 85-2-506(2) | <ul style="list-style-type: none"> - Establishes that there are six types of controlled ground water areas (two existing and four new). |
| 85-2-506(3) | <ul style="list-style-type: none"> - Establishes that rulemaking for designation or modification of a controlled ground water area or monitoring area may be initiated after a correct and complete petition. |

| | |
|---------------------|--|
| | <ul style="list-style-type: none"> - Updates who may file a petition for each of the types of controlled ground water area or monitoring area. |
| 85-2-506(4) | <ul style="list-style-type: none"> - Update to subsections that establish criteria for respective controlled ground water area types - Establishes that if a petition for a controlled ground water area or monitoring area for water quantity is received, and greater than 50% of the water right holders are represented on the petition, the department will collect the necessary data and analyze it to determine if the respective criteria are met. |
| 85-2-506(6) | <ul style="list-style-type: none"> - Existing controlled ground water area designation, renamed to controlled ground water area related to public health, safety, and welfare. Moves the control provisions previously in subsection (7) to this location. |
| 85-2-506(7) | <ul style="list-style-type: none"> - Existing temporary controlled ground water area, renamed to public health, safety, and welfare controlled groundwater area. |
| 85-2-506(8) | <ul style="list-style-type: none"> - Establishes that the department shall designate or modify a controlled ground water area for water quantity if the criteria are met. - Establishes the criteria which must be met for designation or modification a controlled ground water area for water quantity. - Establishes control provisions for controlled ground water area for water quantity. - Gives DNRC authority for rulemaking on additional control provisions that are determined to be appropriate. |
| 85-2-506(9) | <ul style="list-style-type: none"> - Establishes that the department shall designate or modify ground water monitoring areas for water quantity if the criteria are met. - Establishes the criteria which must be met for designation or modification a ground water monitoring area for water quantity. - Establishes control provisions for a ground water monitoring area for water quantity. - Establishes that the department shall, on a biennial basis, review monitoring data and monitoring plan to determine if a change in status for the monitoring area is needed. |
| 85-2-506(10) | <ul style="list-style-type: none"> - Establishes that the department shall designate or modify a controlled ground water area for water quality if the criteria are met. - Establishes the criteria which must be met for designation or modification of a controlled ground water area for water quality. - Establishes that control provisions are established through rulemaking and shall include those that the department determines are necessary. |
| 85-2-506(11) | <ul style="list-style-type: none"> - Establishes that the department shall designate or modify a ground water monitoring area for water quality if the criteria are met. - Establishes the criteria which must be met for designation or modification of a ground water monitoring area for water quality. - Establishes that control provisions are established through rulemaking and shall include those that the department determines are necessary. |
| 85-2-506(12) | <ul style="list-style-type: none"> - Establishes that the department may initiate rulemaking for modification or removal of a designated controlled ground water area for water quantity or |

| | |
|---|---|
| | <p>water quality, or a ground water monitoring area for water quantity or water quality if the designated area no longer meets the criteria applicable to the designation.</p> <ul style="list-style-type: none"> - Allows for a petition to be filed by the qualified entities identified in subsection (2) for modification or removal of a designation with facts showing how the criteria are no longer met. |
| <p>Section 6 Criteria for permit applications 85-2-524</p> | <ul style="list-style-type: none"> - - Adjusts cross-references to 85-2-506. |