

BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 36.12.905 regarding the Horse) PROPOSED AMENDMENT
Creek Controlled Groundwater Area)

TO: All Concerned Persons

1. On June 21, 2022, at 6:00 p.m., the Department of Natural Resources and Conservation will hold a public hearing at the Cobblestone Community Center, 203 S. Woodward Avenue, Absarokee, Montana, to consider the proposed amendment of the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on May 27, 2022, to advise us of the nature of the accommodation that you need. Please contact Jamie Price, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, MT 59620-1601, 406-444-6615, or e-mail jsprice@mt.gov.

3. The rule proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

36.12.905 HORSE CREEK CONTROLLED GROUNDWATER AREA

(1) and (1)(a) remain the same.

(b) a map of the area within the HCCGWA is posted on the department's website at ~~<http://dnrc.mt.gov/divisions/water/water-rights/controlled-ground-water-areas/horse-creek>~~.

(2) through (6) remain the same.

(7) Water use for lawn and garden irrigation under all water rights issued after the effective date of this rule that do not have mitigation will be discontinued when the 90-day ~~three-month~~ standard precipitation index (SPI) is less than or equal to -1.

(a) The 90-day ~~three-month~~ SPI will be taken at the center of section 15, T4S, R18E, from the Upper Missouri River Basin (UMRB) Drought Indicators Dashboard, calculated by the department using precipitation data from the National Weather Service station in Fishtail, Montana, which is available at ~~<http://mesowest.utah.edu/index.html>~~.

(b) The department will post on the department's website the 90-day ~~three-month~~ SPI and the link to the UMRB website at the beginning of each of the irrigation season months of May, June, July, August, and September, at ~~http://www.dnrc.mt.gov/wrd/water_rts/cgwa/horsecreek/default.asp~~.

(8) remains the same.

AUTH: 85-2-506, 85-2-508, MCA

IMP: 85-2-506, 85-2-508, MCA

REASON: The National Weather Service station at Fishtail, Montana, has been discontinued. The SPI (standard precipitation index) is available from an alternative source and no change to the metric for low precipitation would be required. No restrictions on lawn and garden watering can be initiated without a source for the 90-day SPI. The proposed new data source uses a 90-day average rather than three months necessitating the interval change.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted in writing to: Martin Balukas, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, MT 59620-1601, 406-444-6835, or e-mail at MBalukas@mt.gov, and must be received no later than 5:00 p.m. on June 22, 2022.

5. Martin Balukas, Department of Natural Resources and Conservation, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 2 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Amanda Kaster
Amanda Kaster
Director
Natural Resources and Conservation

/s/ Brian Bramblett
Brian Bramblett
Rule Reviewer

Certified to the Secretary of State May 3, 2022.