

85-2-102. Definitions is amended to add:

"Combined appropriation" means two or more wells or developed springs under 85-2-306 from the same source aquifer that are:

- (a) physically manifolded together; or
- (b) diverting or discharging water to a single system; or
- (c) located within 1,320 feet of one another and on the same parcel; or
- (d) within a subdivision, as defined under 76-4-103, located within a basin closed pursuant to 85-2-330, 85-2-336, 85-2-341, 85-2-343, 85-2-344, or 85-2-319. The total combined appropriation for a subdivision, including any subsequent subdivision thereof, cannot exceed 10 acre feet.

76-4-104. Rules for administration and enforcement. (1) The department shall, subject to the provisions of 76-4-135, adopt reasonable rules, including adoption of sanitary standards, necessary for administration and enforcement of this part.

(2) The rules and standards must provide the basis for approving subdivisions for various types of public and private water supplies, sewage disposal facilities, storm water drainage ways, and solid waste disposal. The rules and standards must be related to:

- (a) size of lots;
- (b) contour of land;
- (c) porosity of soil;
- (d) ground water level;
- (e) distance from lakes, streams, and wells;
- (f) type and construction of private water and sewage facilities; and
- (g) other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation, and wildlife.

(3) (a) Except as provided in subsection (3)(b), the rules must provide for the review of subdivisions by a local department or board of health, as described in Title 50, chapter 2, part 1, if the local department or board of health employs a registered sanitarian or a registered professional engineer and if the department certifies under subsection (4) that the local department or board is competent to conduct the review.

(b) (i) Except as provided in 75-6-121 and subsection (3)(b)(ii) of this section, a local department or board of health may not review public water supply systems, public sewage systems, or extensions of or connections to these systems.

(ii) A local department or board of health may be certified to review subdivisions proposed to connect to existing municipal water and wastewater systems previously approved by the department if no extension of the systems is required.

(4) The department shall also adopt standards and procedures for certification and maintaining certification to ensure that a local department or board of health is competent to review the subdivisions as described in subsection (3).

(5) The department shall review those subdivisions described in subsection (3) if:

(a) a proposed subdivision lies within more than one jurisdictional area and the respective governing bodies are in disagreement concerning approval of or conditions to be imposed on the proposed subdivision; or

(b) the local department or board of health elects not to be certified.

(6) The rules must further provide for:

(a) providing the reviewing authority with a copy of the plat or certificate of survey subject to review under this part and other documentation showing the layout or plan of development, including:

(i) total development area; and

Comment [TD1]: This definition avoids people piping together multiple exempt wells that combined exceed the limits.

Comment [TD2]: This definition avoids multiple wells that combined exceed the limits from being used to irrigate a single field, diverting into an irrigation ditch, or discharging into a reservoir. Both (a) and (b) are regardless of whether or not the exempt wells are on the same parcel if they divert or discharge into a single system or manifolded together.

Comment [TD3]: This definition only applies if the distance is from another exempt well on the same parcel. The definition is based on the length and width of a square 40 acre parcel which would each be 1320 feet (5280/4) because 85-2-306(6) establishes a 40 acre parcel as a reasonable size in order to have an exempt stock pit. Multiple exempt wells are allowed within this distance but their combined appropriation would need to stay under the limits. This would still allow multiple exempt wells to not be considered a combined appropriation on a large parcel if they are spaced out. For example, it would allow up to 160 AF exempt from permitting if the exempt wells are spaced out correctly on section or 640 acres of land.

Comment [TD4]: This definition only impacts subdivisions with 20 acre or smaller lots. This definition could be limited to closed basins or stream depletion zones by statute.

(ii) total number of proposed dwelling units and structures requiring facilities for water supply or sewage disposal;

(b) adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed;

(c) evidence concerning the potability of the proposed water supply for the subdivision;

(d) adequate evidence that a sewage disposal facility is sufficient in terms of capacity and dependability;

(e) standards and technical procedures applicable to storm drainage plans and related designs, in order to ensure proper drainage ways;

(f) standards and technical procedures applicable to sanitary sewer plans and designs, including soil testing and site design standards for on-lot sewage disposal systems when applicable;

(g) standards and technical procedures applicable to water systems;

(h) standards and technical procedures applicable to solid waste disposal;

(i) adequate evidence that a proposed drainfield mixing zone is located wholly within the boundaries of the proposed subdivision where the drainfield is located or that an easement or, for public land, other authorization has been obtained from the landowner to place the proposed drainfield mixing zone outside the boundaries of the proposed subdivision where the drainfield is located. A mixing zone may extend outside the boundaries of the proposed subdivision onto adjoining land that is dedicated for use as a right-of-way for roads, railroads, or utilities. This subsection (6)(i) does not apply to the divisions provided for in 76-3-207 except those under 76-3-207(1)(b).

(j) criteria for granting waivers and deviations from the standards and technical procedures adopted under subsections (6)(e) through (6)(i);

(k) evidence to establish that, if a public water supply system or a public sewage system is proposed, provision has been made for the system and, if other methods of water supply or sewage disposal are proposed, evidence that the systems will comply with state and local laws and regulations that are in effect at the time of submission of the preliminary or final plan or plat. Evidence that the systems will comply with local laws and regulations must be in the form of a certification from the local health department as provided by department rule.

(l) evidence to demonstrate that appropriate easements, covenants, agreements, and management entities have been established to ensure the protection of human health and state waters and to ensure the long-term operation and maintenance of water supply, storm water drainage, and sewage disposal facilities.

(m) If the proposed water supply includes one or more wells or developed springs pursuant to 85-2-306 (3)(a)(i)(A), preapproval from the department of natural resources and conservation that the total water appropriated by the subdivision as planned should not exceed 10 acre-feet per year.

(7) If the reviewing authority is a local department or board of health, it shall notify the department of its recommendation for approval or disapproval of the subdivision not later than 45 days from its receipt of the subdivision application. The department shall make a final decision on the subdivision within 10 days after receiving the recommendation of the local reviewing authority, but not later than 55 days after the submission of a complete application, as provided in 76-4-125.

(8) Review and certification or denial of certification that a division of land is not subject to sanitary restrictions under this part may occur only under those rules in effect when a complete application is submitted to the reviewing authority, except that in cases in which current rules would preclude the use for which the lot was originally intended, the applicable requirements in effect at the time the lot was recorded must be applied. In the absence of specific requirements, minimum standards necessary to protect public health and water quality apply.

(9) The reviewing authority may not deny or condition a certificate of subdivision approval under this

part unless it provides a written statement to the applicant detailing the circumstances of the denial or condition imposition. The statement must include:

- (a) the reason for the denial or condition imposition;
- (b) the evidence that justifies the denial or condition imposition; and
- (c) information regarding the appeal process for the denial or condition imposition.

(10) The department may adopt rules that provide technical details and clarification regarding the water and sanitation information required to be submitted under 76-3-622.