

**FREQUENTLY ASKED QUESTIONS ABOUT
DNRC'S PROPOSED RULES DEFINING A "COMBINED APPROPRIATION" OF EXEMPT WELLS**

How does the proposed rule apply to existing subdivisions?

The proposed rules under subsections (13)(c) and (d) do not apply to land subdivided or divided prior to the effective date of the rule. This includes subdivisions that have received preliminary plat approval prior to the effective date of the rule. In other words, an existing subdivision or a subdivision that has received preliminary plat approval prior to the effective date of the rule will be able to have at least one exempt well, not to exceed 35 gallons a minute or 10 acre feet per year, per tract of record or parcel.

If I have an existing tract of record or parcel that is less than 40 acres in size can I still put in multiple exempt wells under the proposed rule?

Yes, at least one combined appropriation of two or more wells or developed springs under 10 acre feet per year will be allowed on tracts of record or parcels in existence on the effective date of the rule.

Why don't the proposed rules differentiate between open and closed basins?

The Department does not feel that it has the legal authority to differentiate between open and closed basins in the proposed rules because the underlying statutes under MCA 85-2-306(3)(a) do not differentiate between open and closed basins.

Does subsection (13)(a) under the proposed rules apply to a subdivision with multiple wells connected into a single system?

No, subsections (13)(c) and (d) apply to subdivisions or new tracts of record created after the effective date of the rules whether the wells are physically connected into a single system or not.

Would trucking water from two exempt wells, that are separated by several miles, and deposited into a single tank or cistern be considered a combined appropriation under the proposed rules?

No.

How does the 1,320 feet on an existing tract of record under subsection (13)(b) compare to the spacing of stockwater wells and how would it impact future stockwater wells?

The proposed rule would be unlikely to affect livestock producers because the distance between stockwater wells is approximately 4,590 feet for each owner based on a random sample of the water rights database. Additionally, the 1,320 feet distance is based on the existing 40 acre requirement for exempt stockpits under MCA 85-2-306(6).

Does the definition for "combined appropriation" apply only to exempt wells or to all wells and developed springs under the proposed rules?

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The definition of “combined appropriation” is only used in reference to exempt wells in the rules and under existing law. As a result, the definition of “combined appropriation” only applies to exempt wells under the proposed rules.

Doesn't the proposed rule stop me from putting in wells on my property if I cannot meet the standards as proposed in the rules?

No. If you cannot meet the standards for an exemption or exemptions under the proposed rules, then you can still apply for a water right. The proposed rules do not limit anyone from getting a water right.

Will new subdivisions or developments be able to use exempt wells after the proposed rules are adopted?

Yes. The examples below show some of the types of developments that would be able to use exempt wells under the proposed rules. These examples are in no way all-inclusive. Volumes of water are based on table below but do not include flow rates.

Example 1:

A minor subdivision of 20-acre parcel creating 5 4-acre lots

Billings – in-house use + up to 0.58 acres lawn and garden per lot

.28 AF/household x 5 homes = 1.4 AF (in-house use)

2.5 AF/acre x 3.44 acres = 8.6 AF lawn and garden

Total diverted volume = 10 AF

Bozeman – in house use + up to 0.72 acres lawn and garden per lot

.28 AF/household x 5 = 1.4 AF (in-house use)

2.0 AF/acre x 4.3 acres = 8.6 AF lawn and garden

Total diverted volume = 10 AF

Example 2:

40-acre farmstead with multiple uses totaling 10 AF – uses include in-house for 5 person family, ½-acre lawn and garden, shop, and stock watering

Billings

0.56 AF/household = 0.56 AF (in-house use)

2.5 AF/acre x ½ acre lawn and garden = 1.25 AF lawn & garden

0.11 AF/shop = 0.11 AF

0.017 AF/ animal unit x 475 animal units = 8.08 AF

Total Diverted Volume = 10 AF

Bozeman

0.56 AF/household = 0.56 AF (in-house use)

2.0 AF/acre x ½ acre lawn and garden = 1.00 AF lawn & garden

0.11 AF/shop = 0.11 AF

0.017 AF/ animal unit x 490 animal units = 8.33 AF

Total Diverted Volume = 10 AF

Example 3:

80-acre farmstead with multiple uses would have two exemptions totaling 20 AF – uses include one or more exempt wells located in close proximity to one another for in-house for 5 person family, ½-acre lawn and garden, shop, and stock watering and an additional exempt stock well located 1,500 feet from the nearest well.

Billings

0.56 AF/household = 0.56 AF (in-house use)

2.5 AF/acre x ½ acre lawn and garden = 1.25 AF lawn & garden

0.11 AF/shop = 0.11 AF

0.017 AF/ animal unit x 475 animal units = 8.08 AF for farmstead stock well

10 AF for additional stock well located 1500 feet from the nearest well

Total Diverted Volume = 20 AF

Bozeman

0.56 AF/household = 0.56 AF (in-house use)

2.0 AF/acre x ½ acre lawn and garden = 1.00 AF lawn & garden

0.11 AF/shop = 0.11 AF

0.017 AF/ animal unit x 490 animal units = 8.33 AF for farmstead stock well

10 AF for additional stock well located 1500 feet from the nearest well

Total Diverted Volume = 20 AF

Example 4:

80-acre subdivision with in-house use provided either by individual wells or by multiple wells connected into a public water supply system would have two exemptions and lawn & garden irrigation provided by changing the surface water right historically used for crop irrigation to lawn & garden irrigation and possible use of parallel distribution systems for potable and irrigation water

Billings

0.28 AF/household x 71 homes = 20 AF (in-house use)

Total Diverted Volume = 20 AF

Bozeman

0.28 AF/household x 71 homes = 20 AF (in-house use)

Total Diverted Volume = 20 AF

Example 5:

Commercial development with a motel, 1 restaurant (75 seats), and lawn & garden

Billings

100-room motel = 5.6 AF

Restaurant = 0.67 AF

2.5 AF/acre x 1.49 -acre lawn and garden = 3.73 AF

Total Diverted Volume = 10 AF

Bozeman

100-room motel = 5.6 AF

Restaurant = 0.67 AF

2.0 AF/acre x 1.86-acre lawn and garden = 3.72 AF

Total Diverted Volume = 10 AF

EXAMPLE OF THE GENERAL WATER USE REQUIREMENTS THE DEPARTMENT WOULD USE WHEN DETERMINING THE AMOUNT OF WATER UNDER THE PROPOSED RULES

PURPOSE	DIVERTED (acre-feet per yr)	ASSUMPTIONS
DOMESTIC (in-house use)	0.28 AF	- 2.5 persons / household - 100 gpd / household - 10% consumed w/standard drain field ¹
STOCK ➤ Per animal unit ➤ 100 animal units	.017 AF 1.7 AF	- 100% consumed
LAWN & GARDEN ➤ ¼ acre ➤ ½ acre ➤ 1 acre	Billings / Bozeman 0.6 AF / 0.5 AF 1.2 AF / 1.0 AF 2.5 AF / 2.0AF	- 80% efficiency - Billings – 24” net irrigation (IWR) - Bozeman – 19” net irrigation (IWR)
IRRIGATION ➤ 1 acre ➤ 4.34 acres ➤ 7 acres*	1.4 - 2.3 AF 10.0 AF 10.0 AF	- Pasture grass - Pertinent climatic area - 70% sprinkler efficiency
COMMERCIAL ➤ Restaurants (75 seats) ➤ Motels (100 rms) ➤ Retail / Mini-Mall	.67 AF 5.6 AF .08 AF	- 10% consumed Does not include landscape water - 8 gpd / patron - 50 gpd / 2-person - 5 retail shops w/ 2 sales persons each

*The flow rate necessary for 7 acres of irrigation will vary and may exceed 35 GPM depending on the type of sprinkler system.

		- 8 gpd / salesperson
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PURPOSE	DIVERTED (acre-feet per yr)	ASSUMPTIONS
INDUSTRIAL ➤ Dust control ➤ Gravel Operation (crushing/pug mill)	3.31 AF 8.4 AF	- 2 (3500 gal) trucks = 7000 gpd for 154 days = 1,780,000 gals. - Crusher 360,000 gals. (10 hrs./day for 60 days) - Dust Control 1,300,000 gals. (200 days) - Pug Mill 1,080,000 gals. (10 hrs./day for 60 days)