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HOUSE BILL NO. 720 INTRODUCED BY HURWITZ, BARRETT, RICE, RIPLEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS GOVERNING WATER USE PERMITS AND CHANGES IN APPROPRIATION RIGHTS; REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ADOPT RULES REGARDING DETERMINATION OF WHETHER OR NOT AN APPLICATION FOR A WATER USE PERMIT IS CORRECT AND COMPLETE; PROVIDING THAT AN APPLICATION MUST BE TREATED AS IF IT IS CORRECT AND COMPLETE IF DEFICIENCIES ARE NOT IDENTIFIED WITHIN 30 DAYS THE TIME PERIOD SPECIFIED BY DEPARTMENT RULE 180 DAYS; PROVIDING REQUIREMENTS FOR A CORRECT AND COMPLETE OBJECTION TO AN APPLICATION FOR A PERMIT OR CHANGE IN APPROPRIATION RIGHT THAT IS BASED ON ADVERSE EFFECTS ON USES OF INSTREAM FLOW FOR FISH, WILDLIFE, OR RECREATIONAL PURPOSES; AND AMENDING SECTIONS SECTION 85-2-302 AND 85-2-308, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-2-302, MCA, is amended to read:

- **"85-2-302. Application for permit.** (1) Except as provided in 85-2-306, a person may not appropriate water or commence construction of diversion, impoundment, withdrawal, or related distribution works except by applying for and receiving a permit from the department.
- (2) The department shall adopt rules ESTABLISHING A TIMEFRAME WITHIN WHICH THE DEPARTMENT IS

 REQUIRED TO ISSUE ITS DECISION ON WHETHER AN APPLICATION IS CORRECT AND COMPLETE AND RULES that are

 necessary to determine whether or not an application is correct and complete, based on the provisions applicable

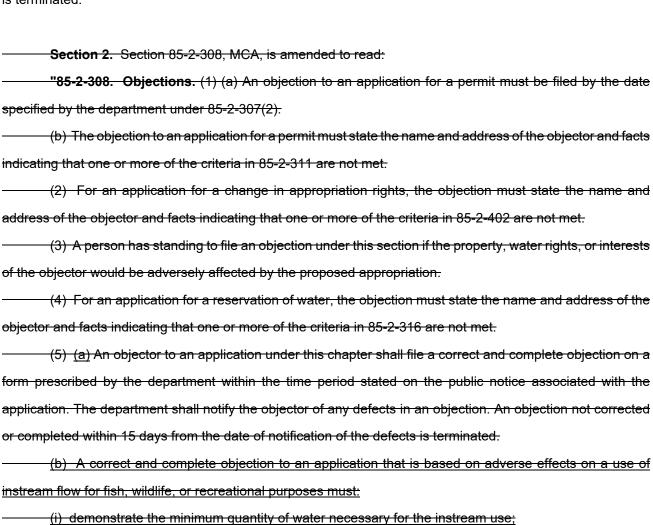
 to issuance of a permit under this part. The rules must be adopted in compliance with Title 2, chapter 4.
- (3) The application must be made on a form prescribed by the department. The department shall make the forms available through its offices.
- (4) The applicant shall submit a correct and complete application. The determination of whether an application is correct and complete must be based on rules adopted under subsection (2) that are in effect at the time the application is submitted.
- (5) The department shall notify the applicant of any defects in an application within 30 days THE TIMEFRAME ESTABLISHED BY RULE PURSUANT TO SUBSECTION (2) 180 DAYS. The defects must be identified by

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reference to the rules adopted under subsection (2). If the department does not notify the applicant of any defects within 30 days THE TIMEFRAME ESTABLISHED BY RULE PURSUANT TO SUBSECTION (2) 180 DAYS, the application must be treated as a correct and complete application.

(6) An application does not lose priority of filing because of defects if the application is corrected or completed within 30 days of the date of notification of the defects or within a further time as the department may allow, but not to exceed 90 days from the date of notification. If an application is made correct and complete after the mandated time period, but within 90 days of the date of notification of the defects, the priority date of the application is the date the application is made correct and complete.

(7) An application not corrected or completed within 90 days from the date of notification of the defects is terminated."



minimum quantity of water necessary for the instream use;

(ii) demonstrate that the proposed permit or change in appropriation right will adversely affect the

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(iii) identify the specific point in the water source where the instream use will be adversely affected; and

(iv) demonstrate the adverse effects on fish or wildlife populations or recreational use that are directly attributable to the proposed permit or change.

(6) An objection is valid if the objector has standing pursuant to subsection (3), has filed a correct and complete objection within the prescribed time period, and has stated the applicable information required under subsection (1), (2), or (4) this section."

<u>NEW SECTION.</u> **Section 2. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

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