



ADMINISTRATIVE RULES OF MONTANA



36.12.1018 WILLOW CREEK BASIN CLOSURE

- (1) The Willow Creek Basin means the Willow Creek drainage area, a tributary of the Bitterroot River hydrologic basin, 76H, in Ravalli County, Montana. The Willow Creek Basin designated as the closure area is all that drainage and headwaters originating in the Sapphire Mountains, Township 6 North, Range 18 West, MPM and flowing westerly through Township 6 North, Range 19 West, to its confluence with the Republican Ditch, at a point in Section 4, Township 6 North, Range 20 West, MPM, Ravalli County, Montana. The entire Willow Creek drainage from its headwaters to its confluence with the Republican Ditch, including all tributaries, is contained in the closure area as outlined on file map page 5.
- (2) The department shall reject all surface water applications to appropriate water within the Willow Creek Basin for any diversions, including infiltration galleries, for any consumptive uses of water during the period from May 1 through September 30.
- (3) Applications for nonconsumptive uses during the closure period shall be received and processed. Any permit if issued shall be modified or conditioned to provide that there will be no decrease in the source of supply, no disruption in the stream conditions, and no adverse effect to prior appropriators within the reach of stream between the point of diversion and the point of return. The applicant for a nonconsumptive use shall provide sufficient factual information upon which the department can determine the applicants ability to meet the conditions imposed by this rule.
- (4) Applications for groundwater shall be accepted, however the applicant shall provide sufficient factual information upon which the department can determine whether or not the source of the groundwater is part of or substantially or directly connected to surface water. If it is found that the proposed diversion of groundwater could cause a calculable reduction in the surface water flow during the closure period the application shall be rejected. A calculable reduction means a theoretical reduction based on credible information as opposed to a measured reduction. If the applicant fails to submit sufficient factual information as required the application shall be considered defective and shall be processed pursuant to 85-2-302, MCA.
- (5) Temporary emergency appropriations of water as defined in ARM 36.12.101 and 36.12.105 shall be exempt from this rule.
- (6) This rule applies only to applications received by the department after the date of adoption of this rule.
- (7) The department may, if it determines changed circumstances justify it, reopen the basin to additional appropriations and amend this rule accordingly after public notice and hearing.

Authorizing statute(s): Sec. 85-2-112 and 85-2-319, MCA

Implementing statute(s): Sec. 85-2-319, MCA

History: NEW, 1994 MAR p. 2640, Eff. 9/23/94.