



ADMINISTRATIVE RULES OF MONTANA



36.12.1017 SHARROTT CREEK BASIN CLOSURE

- (1) Sharrott Creek Basin means the Sharrott Creek drainage area, a tributary of McCalla Creek located in the Bitterroot River hydrologic basin, 76H, in Ravalli County, Montana. The Sharrott Creek Basin designated as the closure area is all that drainage and head waters originating in the Bitterroot Mountains, Township 9 North, Range 21 West, MPM, and flowing easterly through Sections 19, 20, 28 & 29, Township 9 North, Range 20 West, MPM to its confluence with McCalla Creek at a point in Section 28, Township 9 North, Range 20 West, MPM Ravalli County, Montana. The entire Sharrott Creek drainage, from its headwaters to its confluence with McCalla Creek, including all tributaries is contained in the closure area, as outlined on file map labeled "1-B".
- (2) The department shall reject all surface water applications to appropriate water within the Sharrott Creek Basin for any diversions, including infiltration galleries, for any consumptive uses of water during the period from January 1 through December 31.
- (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 would 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) Emergency appropriations of water as defined in ARM 36.12.101(3) 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, 1993 MAR p. 1515, Eff. 7/16/93.