

ENVIRONMENTAL QUALITY

CHAPTER 36

SUBDIVISIONS/ON-SITE  
SUBSURFACE WASTEWATER TREATMENT

Subchapter 6

Subdivision Waivers and Exclusions

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Subchapter 6

Subdivision Waivers and Exclusions

17.36.601 WAIVERS--DEVIATIONS (1) The department may grant a waiver from a requirement of this subchapter only if a waiver is specifically authorized for that requirement and the applicant demonstrates that the conditions in the specific waiver authorization and in (3) are met.

(2) The department may grant a deviation from a requirement of department circulars only if the applicant demonstrates to the department that all specific waiver conditions in the applicable circular and the conditions in (3) are met.

(3) A request for a waiver or deviation must be in writing and must be accompanied by information substantiating the request and by the appropriate fee. The applicant shall also demonstrate that the waiver or deviation:

(a) would be unlikely to cause pollution of state water in violation of 75-5-605, MCA;

(b) would protect the quality and potability of water for drinking water supplies and domestic uses and would protect the quality of water for other beneficial uses, including those uses specified in 76-4-101, MCA; and

(c) would not adversely affect public health, safety, and welfare. (History: 76-4-104, MCA; IMP, 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77; AMD, 1992 MAR p. 2145, Eff. 9/25/92; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2002 MAR p. 1465, Eff. 5/17/02.)

17.36.602 SUBDIVISIONS IN MASTER PLANNED AREA (REPEALED)  
(History: 76-4-104, MCA; IMP, 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77; AMD, 1984 MAR p. 1027, Eff. 7/13/84; AMD, 1992 MAR p. 2145, Eff. 9/25/92; TRANS, from DHES, 1996 MAR p. 1499; REP, 2002 MAR p. 1465, Eff. 5/17/02.)

Rules 17.36.603 and 17.36.604 reserved

17.36.605 EXCLUSIONS (1) The exclusions in this rule are in addition to the exclusions set out in 76-4-111 and 76-4-125(2), MCA. A subdivision excluded under 76-4-111 or 76-4-125(2), MCA, is subject to review under 76-4-130, MCA, if the subdivision causes facilities previously approved under Title 76, chapter 4, part 1, MCA, to deviate from the conditions of approval.

(2) The reviewing authority may exclude the following parcels created by divisions of land from review under Title 76, chapter 4, part 1, MCA, unless the exclusion is used to evade the provisions of that part:

(a) a parcel that has no facilities for water supply, wastewater disposal, storm drainage, or solid waste disposal, if no facilities will be constructed on the parcel;

(b) a parcel that has a previous approval issued under Title 76, chapter 4, part 1, MCA, if:

(i) no facilities other than those previously approved exist or will be constructed on the parcel; and

(ii) the division of land will not cause approved facilities to deviate from the conditions of approval, in violation of 76-4-130, MCA;

(c) a parcel that will be affected by a proposed boundary line adjustment, if the parcel has existing facilities for water supply, wastewater disposal, storm drainage, or solid waste disposal that were not subject to review, and have not been reviewed, under Title 76, chapter 4, part 1, MCA, and if:

(i) no facilities, other than those in existence prior to the boundary line adjustment, or those that were previously approved as replacements for the existing facilities, will be constructed on the parcel;

(ii) existing facilities on the parcel complied with state and local laws and regulations, including permit requirements, which were applicable at the time of installation; and

(iii) the local health officer determines that existing facilities are adequate for the existing use. As a condition of the exemption, the local health officer may require evidence that:

(A) existing septic tanks have been pumped within the previous three years;

(B) the parcel includes acreage or features sufficient to accommodate a replacement drainfield;

(C) existing wells are adequate for the proposed uses; and

(D) adequate storm drainage and solid waste disposal are provided.

(3) Aggregations of parcels are not subdivisions subject to review, except that an aggregation is subject to review under 76-4-130, MCA, if any parcel included in the aggregation has a previous approval issued under Title 76, chapter 4, part 1, MCA. (History: 76-4-104, MCA; IMP, 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77; AMD, 1984 MAR p. 1027, Eff. 7/13/84; AMD, 1992 MAR p. 2145, Eff. 9/25/92; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2002 MAR p. 1465, Eff. 5/17/02; AMD, 2013 MAR p. 265, Eff. 3/1/13; AMD, 2014 MAR p. 2098, Eff. 9/19/14.)

17.36.606 EXCLUSIONS--COMPLIANCE WITH PUBLIC WATER SUPPLY ACT (REPEALED) (History: 76-4-104, MCA; IMP, 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77; AMD, 1984 MAR p. 1027, Eff. 7/13/84; TRANS, from DHES, 1996 MAR p. 1499; REP, 2002 MAR p. 1465, Eff. 5/17/02.)

Subchapter 7 reserved

