

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF AMENDMENT
17.36.345 and 17.38.101 pertaining to)	
adoption by reference and plans for)	(WATER QUALITY)
public water supply or public sewage)	(SUBDIVISIONS/ON-SITE
system)	SUBSURFACE WASTEWATER
)	TREATMENT)
)	(PUBLIC WATER AND SEWAGE
)	SYSTEM REQUIREMENTS)

TO: All Concerned Persons

1. On February 13, 2014, the Board of Environmental Review and the Department of Environmental Quality published MAR Notice No. 17-354 regarding a notice of public hearing on the proposed amendment of the above-stated rules at page 267, 2014 Montana Administrative Register, Issue Number 3.

2. The department has amended ARM 17.36.345 exactly as proposed and the board has amended ARM 17.38.101 exactly as proposed. The only changes made in response to these comments are made to the Circulars and not the rules.

3. The following comments were received and appear with the board's and department's responses:

COMMENT NO. 1: In DEQ-1 Standard 3.2.1.3(a)(2), if the "well exclusion zone" and "well continued protection zone" mean the same thing, only one term should be used.

RESPONSE: The board and department concur with this recommendation and, to ensure clarity and consistency between public water and subdivision rules, have replaced both terms with "well isolation zone" and have added the statutory definition of "well isolation zone" found in 76-4-102, MCA, to the Glossary.

COMMENT NO. 2: Sources of viral contamination should be identified in DEQ-1 Standard 3.2.5.2(d) and DEQ-3 Standard 3.2.5.1(d).

RESPONSE: The board and department concur with this recommendation and have changed the language to state "sources of viral or bacterial contamination from human or animal waste."

COMMENT NO. 3: In DEQ-1 Standard 3.2.5.7(b)(3) and DEQ-3 Standard 3.2.5.5(b)(2)(c), the period of time that work is to be discontinued is specified by the Board of Water Well Contractors in ARM 36.21.654(1)(d) and should be referenced in this standard.

RESPONSE: The board and department concur with this recommendation and have added the language "in accordance with ARM 36.21.654(1)(d)" to these standards.

COMMENT NO. 4: In DEQ-1 Standard 3.2.5.7(b)(4) and DEQ-3 Standard 3.2.5.5(b)(2)(d), for sealing materials, the proper density and percent should be as specified by the Board of Water Well Contractors in ARM 36.21.634(34).

RESPONSE: The board and department concur with this recommendation and have added the language "and must be applied in accordance with the definitions in ARM 36.21.634" to these sections.

COMMENT NO. 5: Two commenters stated that, in DEQ-1 Standard 3.2.5.7(b)(6) and DEQ-3 Standard 3.2.5.5(b)(2)(f), there are some soil conditions where the drill and drive method provides the best surface seal. There is no proof that the drill and drive method does not provide a good surface seal. The method of drill and drive placement of bentonite is allowed by the Board of Water Well Contractors for private wells. The drill and drive method saves money and time.

RESPONSE: The board and department concur that there may be situations where the drill and drive method provides an appropriate surface seal, depending on the specific lithology at a proposed well site. The board and department prefer to address those situations through the deviation process to ensure site-specific information can be analyzed. In order to clarify that the board and department may consider a deviation to allow drill and drive, in lieu of the required 1.5 inches of exterior grout, DEQ-1 Standard 3.2.5.7(b)(6) and DEQ-3 Standard 3.2.5.5(b)(2)(f) have been deleted.

COMMENT NO. 6: Regarding DEQ-1 Standard 3.2.5.7(b)(6), the Missoula Water Quality District feels the addition of improved grouting requirements in Chapter 3 is considerably more protective of ground water quality and public health than the previous requirement of continuous feed grouting. The Missoula Water Quality District fully supports this change to Circular DEQ-1.

RESPONSE: The board and department concur that the proposed grouting standard is more protective of ground water quality in most circumstances, but has deleted DEQ-1 Standard 3.2.5.7(b)(6) and DEQ-3 Standard 3.2.5.5(b)(2)(f) to clarify that deviations from this standard may be considered under appropriate circumstances. See Response to Comment No. 5, above.

COMMENT NO. 7: With regard to DEQ-1 Standard 3.2.6.5(c), gravel refill pipes are not typically used and this option should be eliminated.

RESPONSE: The board and department concur with this recommendation and have deleted DEQ-1 Standards 3.2.6.5(c) and (d).

COMMENT NO. 8: In DEQ-1 Standard 3.2.7.4, the description of the pitless adapter and pitless unit are combined in description and use. This section should be rewritten to match industry standards and definitions.

RESPONSE: The department interprets this comment to mean that, although the title in DEQ-1 Standard 3.2.7.4 is "pitless well units," it includes both pitless well

units and pitless adapters. This section should be rewritten to clarify that the standards in (a), (b), and (c) only apply to pitless well units and that pitless adapters can be used in lieu of pitless well units. Definitions for pitless well units and pitless adapters also should be added.

The board and department concur with this recommendation and have amended the title of this section to state "Pitless Well Units and Adapters," added definitions for both "pitless adapter" and "pitless unit" to the glossary, and added a new (d) that states "pitless adapters may be used in lieu of pitless units."

COMMENT NO. 9: In DEQ-1 Standard 3.2.7.8, clarify what types of liners are covered under this standard.

RESPONSE: The board and department concur with this recommendation and have changed the title of this section to "Well Liners" to clarify the intent of the standard.

COMMENT NO. 10: In DEQ-3 Standard 3.2.5.2(b), this section should match DEQ-1 Standard 3.2.5.3(b) and require a drive shoe when driven.

RESPONSE: The board and department concur with this recommendation and have changed this standard to match the language in DEQ-1 to ensure consistent standards.

4. No other comments or testimony were received.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North
JOHN F. NORTH
Rule Reviewer

By: /s/ Robin Shropshire
ROBIN SHROPSHIRE
Chairman

Certified to the Secretary of State, July 28, 2014.