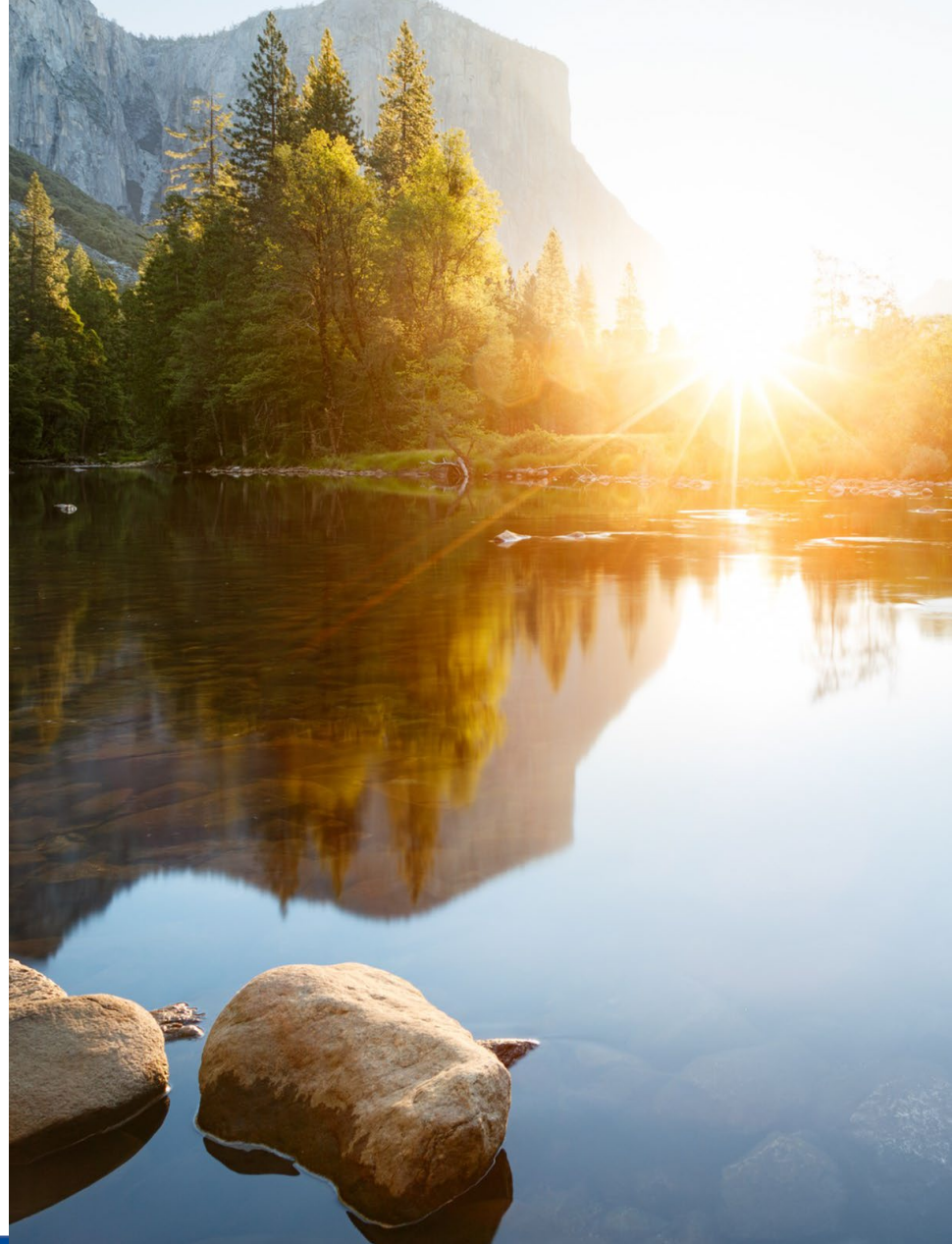


**November
15-16 2023**

SUBDIVISION TRAINING

- **Phase 2 Comprehensive Rule Update**



Phase 2 – Proposed Changes

Overview

Seven Subdivision bills adopted during 2023 Session:

- HB364: Independent reviewers
- HB592: Cut and fill systems
- SB215: Connection to Public Sewer Systems
- SB237: City Development Plans
- SB240: Subdivisions exempt from MEPA
- SB285: Aggregation exemption, storm water exception, previously approved facilities
- SB327: Source-specific well isolation zones and well envelope

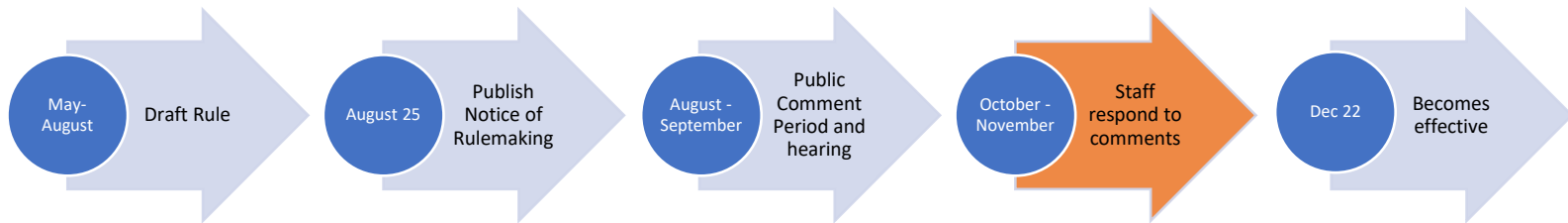
Two cleanup provisions

- Phase 1 cleanup for ESM key depth
- 2019 change to MFE statute



Phase 2 – Proposed Changes

Schedule



Phase 2 – Proposed Changes Independent Reviewers:

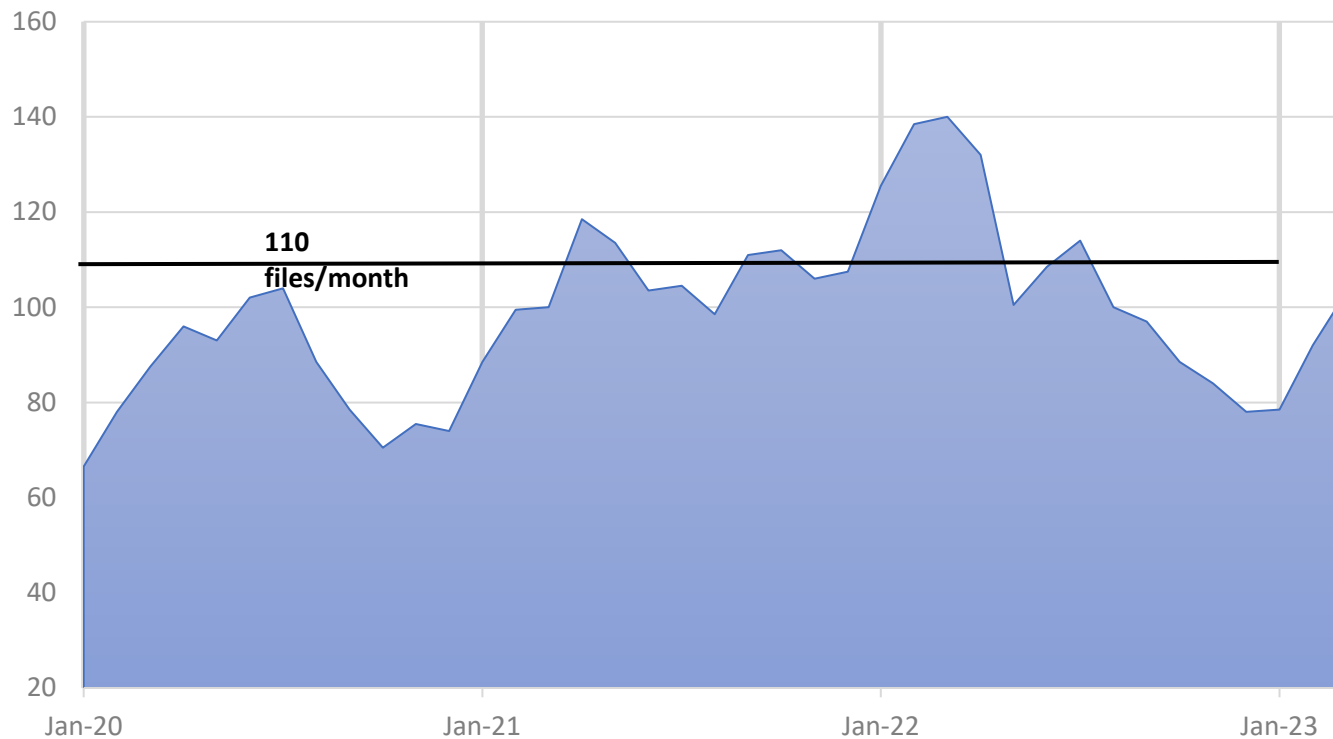
HB364

- **DEQ must contract with independent reviewers to do reviews when we receive 110 or more new files a month.**
- **Same training curriculum and fee reimbursement as Contracted Counties.**
- **IR has to do MEPA and Takings**
- **Applies to applications received after January 1, 2024 so rules need to be completed by then.**



Phase 2 – Proposed Changes

Independent Reviewers New File stats



Phase 2 – Proposed Changes

Cut and Fill Systems

HB 592

- Allow cut and fill for new systems.
- Cannot be used to overcome horizontal or vertical separation requirements like 4' separation to groundwater.
- Amend 17.36.321 and Circular DEQ-4
- Must meet the requirements of 2.2.3 Cut Systems and 2.2.4 Fill System





Phase 2 – Proposed Changes

Connection to Public Sewer Systems

SB 215

- Municipal and CWSD must accept connection if:
 - Within 1000' of sewer main
 - Immediately adjacent to surface water – sharing boundary or on-site surface water
 - Parent system has capacity and water rights to serve the subdivision
- Amend 17.36.123

Phase 2 – Proposed Changes

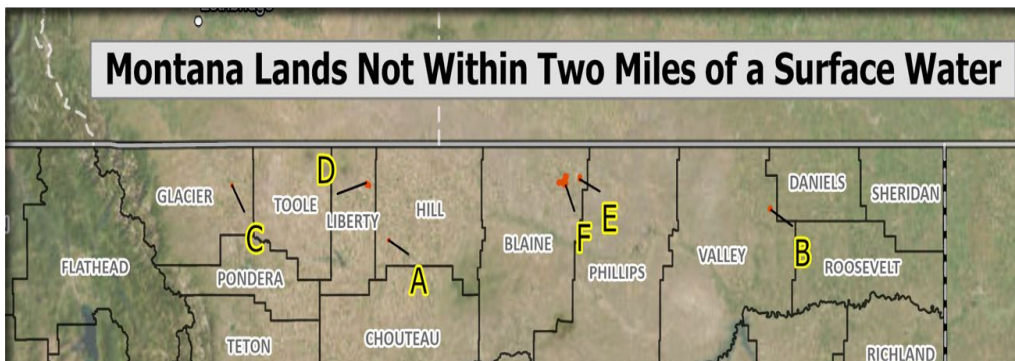
City Development Plans

SB 237

- Department will allow municipal systems to authorize connections beyond their current rated capacity with a department-approved development plan.
- "Development plan" means a planning document that outlines the current rated capacity of a water or wastewater system and the system's proposed capacity after upgrades, marked by milestones of construction activity as a percentage of existing capacity, are made to the system and includes a timeline for when the design, bidding, and construction of upgrades to an existing system will be completed.

Phase 2 – Proposed Changes

Subdivisions exempt from MEPA Review



SB240

- Subdivisions more than 2 miles from surface water,
- 14 or fewer residential living units.
- Cannot be expanded or adjacent to another exempt subdivision.

Phase 2 – Proposed Changes

Aggregation Exemption

SB285

- Aggregations are exempt from Sanitation Act review, regardless of whether the impacted parcels have a COSA.
- Repeal 17.36.605 (3).



Phase 2 – Proposed Changes

Storm Water Exception

SB285

- Lots that are using a 76-3-207 Platting Act exemption (except family transfers) do not need storm water review if they will be used for one living unit and each lot has no more than 25% impervious area.
- Amend 17.36.310



Previously Approved Facilities

SB285

Abbreviated review for facilities previously approved by local reviewing authority, if:

- *the facility is not proposed to be changed,*
- *is not affected by a proposed change to another facility,*
- *meets the design conditions of its existing approval,*
- *is operating properly,*
- *complies with all current setbacks established in rule, and*
- *meets the mixing zone and well isolation zone setbacks established in MCA 76-4-104 (7)(l) if the lot was created after the effective dates for those facilities.*



Phase 2 – Proposed Changes

Municipal Facilities Exemption

HB364 and 2019 HB55

- No longer limited to 1st and 2nd class cities.
- Cities can be trained to approve their own MFEs.
- Amend 17.36.610

Phase 2 – Proposed Changes

Source Specific Well Isolation Zones

SB327

- Department may approve well isolation zone less than 100’.
- Proposed: Individual and shared wells only, minimum of 50’.
- Submit documentation about hydrogeology, well and adjacent sources of pollution.
- Amend 17.36.101, 17.36.323, 17.36.918 and DEQ-20 – pages 2, 5, 8, and 13.

Phase 2 – Proposed Changes

Source Specific Well Isolation Zones



5. Source Specific Mixing Zones (to be adopted by January 1, 2024)

Circular DEQ-20, 1.8 The Department may approve a source specific well isolation zone (SSWIZ) for existing individual wells that have well logs if the requirements of this standard are met. Wells that were constructed in violation of 76-4-121 or 76-4-130 are not eligible for a source specific well isolation zone request.



Phase 2 – Proposed Changes

Source Specific Well Isolation Zones (Cont.)



- a. A request for a source specific well isolation zone of less than 100 feet must be in writing and must be accompanied by information substantiating the request and by the applicable fee. To support the request, the applicant must submit the following:
1. a driller's log of the well;
 2. total nitrogen and total coliform sample results from the well collected within the past 6 months;
 3. a lot layout or map showing the well location and potential sources of contamination within 200' of the well;
 4. the groundwater flow direction as determined by triangulation or published gradients;
 5. a virus attenuation analysis calculating the minimum horizontal distance needed to ensure the well is protected from sewage viruses;
 6. any additional information the applicant believes would substantiate the request; and
 7. if the request requires a variance from the Board of Water Well Contractors, the approved variance must be submitted with the request.

Phase 2 – Proposed Changes

Source Specific Well Isolation Zones (Cont.)



b. The applicant must demonstrate that the SSWIZ:

1. would be unlikely to cause pollution of state water in violation of 75-5-605, MCA;
2. 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
3. would not adversely affect public health, safety, and welfare.

Phase 2 – Proposed Changes

Fees

Multiple bills

- **Set fees for:**
 - **Pressure Dosed Drainfield (\$120.00 per drainfield), if design is being reviewed (\$180.00 per design)**
 - **Source-specific well isolation zones (\$250)**
 - **Storm Water exception (\$130 per project)**
 - **MEPA exemption evaluation (actual cost)**
 - **Previously approved facilities review (drainfield \$90, well \$110).**
- **Amend 17.36.810**

Phase 2 – Proposed Changes

Elevated Sand Mound key depth

- Continuation of Phase 1 Rule Package
- Allow key depth to be used in calculating 4' separation to groundwater.
- Changed in DEQ rules but not in Circular DEQ-4 or local health rules.
- Amend 17.36.914 and Circular DEQ-4.

THANK YOU

