

# PD 3: Metering and Reporting Provisional Draft

WATER POLICY INTERIM COMMITTEE  
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## STAFF REVIEW & CONSIDERATIONS

As requested at the March 26, 2026, Water Policy Interim Committee, staff compiled a provisional draft of a committee bill to address measuring and reporting water use. PD 3 attempts to draft the concepts provided in the “[De Minimus Exemption to the Permit Process](#)” framework document<sup>1</sup> presented to the committee in March. The following is an outline of the bill sections with questions for further direction.

SECTION	REVIEW OF CHANGES
<p><b>1</b>, pg. 1 (44-4-1101: Water right enforcement account)</p>	<p>No substantial change; revises an internal reference</p>
<p><b>2</b>, pg. 2 (85-2-113: Dept. powers)</p>	<p>Removes DNRC prohibition from requiring meters  <b>Comment:</b> Removing this language may be considered sufficient by itself, if the intent is to allow DNRC discretion to require metering.</p>
<p><b>3</b>, pg. 3 (85-2-114: Judicial enforcement)</p>	<p>No substantial change; adds reference to new subsection added to 85-2-122</p>
<p><b>4</b>, pg. 4 (85-2-122: Penalties)</p>	<p>Adds a new penalty for owners of exempt wells who do not comply with required volume and flow rates  <b>Committee consideration:</b> Currently, the penalty is a fine of up to \$500 per 0.1 AF of excess water used.</p> <ul style="list-style-type: none"> <li>➤ <i>Is this sufficient, too harsh, too weak, or too narrow (i.e. should the penalty apply to other users, not only exempt well users)?</i></li> <li>➤ <i>The framework allowed for an opportunity to respond and correct a violation. Does the committee want to add this? If so, what would be the process? Are certain metrics used to determine if an owner is allowed a correction, or is it automatic? Is an owner allowed a certain number of times to respond and/or correct, or is it unlimited?</i></li> </ul>

<sup>1</sup> See item #4 in the document entitled “Metering, reporting, and enforcement”.

<p><b>5</b>, pg. 7 (85-2-306: Exemptions)</p>	<p>Adds a new subsection (4) that requires exempt wells completed after the effective date to measure and report water use annually to DNRC.</p> <p><b>Committee consideration:</b> The framework document mentioned allowing variances, but staff will need more direction on how a variance process would work:</p> <ul style="list-style-type: none"> <li>➤ <i>Who qualifies for a variance?</i></li> <li>➤ <i>What types of materials are required to submit a variance?</i></li> <li>➤ <i>Does DNRC develop this process in rule or with legislative direction?</i></li> </ul>
<p><b>6</b>, pg. 10 (85-2-311: Permit criteria)</p>	<p>Adds metering and reporting requirements to the list of criteria an applicant seeking a water right permit is required to prove.</p> <p><b>Committee consideration:</b> Language does not currently clarify who is responsible for installing and maintaining a metering device, but it may be inferred that the responsibility is on the applicant.</p> <ul style="list-style-type: none"> <li>➤ <i>Is further clarification needed?</i></li> </ul>
<p><b>7</b>, pg. 16 (85-2-506: CGWAs)</p>	<p>Allows control provisions of a Controlled Groundwater Area (CGWA) to include metering and reporting.</p>

### FURTHER COMMENT:

The framework also provided that DNRC may accept voluntary metering and reporting data for protection against abandonment. However, PD 3 requires metering and reporting on most new developments, both fully permitted water rights and exempt water rights, going forward.

- Would the committee like to add and clarify that owners of *existing* permits and exemptions may voluntarily meter and report to protect against abandonment?