

Effective 5/13/2014

73-3-18 Lapse of application -- Notice -- Reinstatement -- Priorities -- Assignment of application -- Filing and recording -- Constructive notice -- Effect of failure to record.

- (1) If an application lapses for failure of the applicant to comply with a provision of this title or an order of the state engineer, the state engineer shall promptly give notice of the lapse to the applicant by regular mail.
- (2) Within 60 days after notice of a lapse described in Subsection (1), the state engineer may, upon a showing of reasonable cause, reinstate the application with the date of priority changed to the date of reinstatement.
- (3) The original priority date of a lapsed application may not be reinstated, except upon a showing of fraud or mistake of the state engineer.
- (4) Except as provided in Section 73-3-5.6, Section 73-3-12, Section 73-3-20, or Subsection (2), the priority of an application is determined by the day on which the state engineer's office receives the written application.
- (5) Before the state engineer issues a certificate of appropriation, a right claimed under an application for the appropriation of water may be transferred or assigned by a written instrument.
- (6) An instrument transferring or assigning a right described in Subsection (5) shall be recorded in the office of the applicable county recorder to provide notice of the instrument's contents.
- (7) An instrument described in Subsection (6) that is not recorded as described in Subsection (6) is void against any subsequent assignee in good faith and for valuable consideration of the same application or any portion of the same application, if the subsequent assignee's own assignment is recorded as described in Subsection (6) first.

Amended by Chapter 369, 2014 General Session