

Superseded 3/24/2022

73-3-21.1 Priorities between appropriators.

(1) As used in this section:

- (a) "Military facility" means an installation, base, air field, camp, post, station, yard, center, or other facility owned, leased, or operated by, or under the jurisdiction of, the United States Department of Defense or the National Guard.
- (b) "Temporary water shortage emergency" means a shortage of water:
 - (i) whether caused by drought, manmade, or naturally caused;
 - (ii) for which the governor has declared an emergency; and
 - (iii) that may not exceed in duration more than two consecutive calendar years.

(2)

- (a) Appropriators shall have priority among themselves according to the dates of their respective appropriations, so that each appropriator is entitled to receive the appropriator's whole supply before any subsequent appropriator has any right.
 - (b) Notwithstanding Subsection (2)(a), if there is a temporary water shortage emergency, the use of water for drinking, sanitation, and fire suppression has a preferential right over any other water right for the duration of the temporary water shortage emergency if:
 - (i) the water is used by:
 - (A) an individual water user;
 - (B) a county or municipality;
 - (C) a public water supplier, as defined in Section 73-1-4; or
 - (D) a military facility that was in operation on March 10, 2011; and
 - (ii) the water is used without unnecessary waste.
 - (c) Notwithstanding Subsection (2)(a), if there is a temporary water shortage emergency, the use of water for agricultural purposes, including irrigation and livestock water, has a preferential right over any other right, except as provided in Subsection (2)(b).
- (3) A person using water preferentially during a temporary water shortage emergency shall pay annually to the appropriator whose water use is interrupted the reasonable value of the water use interrupted, crop losses, and other consequential damages incurred as a result of the interruption.