

1 HOUSE BILL NO. 52

2 INTRODUCED BY D. ANKNEY

3 BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING RULEMAKING AUTHORITY TO THE BOARD OF
6 ENVIRONMENTAL REVIEW TO REGULATE RECLAIMED WASTEWATER FROM PUBLIC SEWAGE
7 SYSTEMS; DEFINING "RECLAIMED WASTEWATER"; AUTHORIZING THE ADOPTION OF TREATMENT
8 STANDARDS AND MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS; AND AMENDING
9 SECTIONS 75-6-102 AND 75-6-103, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **Section 1.** Section 75-6-102, MCA, is amended to read:

14 **"75-6-102. Definitions.** As used in this part, unless the context clearly indicates otherwise, the following
15 definitions apply:

16 (1) "Board" means the board of environmental review provided for in 2-15-3502.

17 (2) "Certified source water protection area" means an area certified by the department that identifies the
18 surface and subsurface area surrounding a source of water for a public water supply system through which
19 contaminants may move toward and reach the source of supply.

20 (3) "Community water system" means a public water supply system that serves at least 15 service
21 connections used by year-round residents or that regularly serves at least 25 year-round residents.

22 (4) "Contamination" means impairment of the quality of state waters by sewage, industrial waste, or other
23 waste creating a hazard to human health.

24 (5) "Cross-connection" means a connection between a public water supply system and another water
25 supply system, either public or private, or a wastewater or sewerline or other potential source of contamination
26 so that a flow of water into or contamination of the public water supply system from the other source of water or
27 contamination is possible.

28 (6) "Department" means the department of environmental quality provided for in 2-15-3501.

29 (7) "Drainage" means rainfall, surface, and subsoil water.

30 (8) "Industrial waste" means any waste substance from the processes of business or industry or from

1 the development of a natural resource, together with any sewage that may be present.

2 (9) "Maximum contaminant level" means the maximum permissible level of a contaminant in water that
3 is delivered to a user of a public water supply system.

4 (10) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime,
5 sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded
6 equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

7 (11) "Person" means an individual, firm, partnership, company, association, corporation, city, town, local
8 government entity, federal agency, or any other governmental or private entity, whether organized for profit or
9 not.

10 (12) (a) "Pollution" means contamination or other alteration of the physical, chemical, or biological
11 properties of state waters that exceeds that which is permitted by Montana water quality standards, including but
12 not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or
13 introduction of a liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to
14 create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or
15 welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

16 (b) A discharge that is authorized under the pollution discharge permit rules of the board is not pollution
17 under this chapter.

18 (13) "Public sewage system" means a system of collection, transportation, treatment, or disposal of
19 sewage that serves 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year.

20 (14) "Public water supply system" means a system for the provision of water for human consumption from
21 a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that has
22 at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a
23 calendar year.

24 (15) "Reclaimed wastewater" means wastewater that is treated by a public sewage system for reuse for
25 private, public, or commercial purposes.

26 ~~(15)~~(16) "Safe Drinking Water Act" means 42 U.S.C. 300f and regulations set forth in 40 CFR, parts 141
27 and 142.

28 ~~(16)~~(17) "Sewage" means water-carried waste products from residences, public buildings, institutions,
29 or other buildings, including discharge from human beings, together with ground water infiltration and surface
30 water present.

1 ~~(17)~~(18) "Source water protection program" means a program administered by the department to certify
2 source water protection delineation and assessment reports and source water protection plans and to review
3 source water protection ordinances.

4 ~~(18)~~(19) "State waters" means a body of water, irrigation system, or drainage system, either surface or
5 underground.

6 ~~(19)~~(20) "Transient noncommunity water system" means a public water supply system that is not a
7 community water system and that does not regularly serve at least 25 of the same persons for at least 6 months
8 a year."

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10 **Section 2.** Section 75-6-103, MCA, is amended to read:

11 **"75-6-103. Duties of board.** (1) The board has general supervision over all state waters that are directly
12 or indirectly being used by a person for a public water supply system or domestic purposes or as a source of ice.

13 (2) The board shall, subject to the provisions of 75-6-116 and as provided in 75-6-131, adopt rules and
14 standards concerning:

15 (a) maximum contaminant levels for waters that are or will be used for a public water supply system;

16 (b) fees, as described in 75-6-108, for services rendered by the department;

17 (c) monitoring, recordkeeping, and reporting by persons who own or operate public water supply
18 systems;

19 (d) requiring public notice to all users of a public water supply system when a person has been granted
20 a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

21 (e) the siting, construction, operation, and modification of a public water supply system or public sewage
22 system, including requirements to remedy:

23 (i) defects in the design, operation, or maintenance of a public water supply system or public sewage
24 system in order to prevent or correct introduction of contamination into water used for a public water supply
25 system, for domestic purposes, or as a source of ice;

26 (ii) fecal contamination in water used by a public water supply system; or

27 (iii) failure or malfunction of the sources, treatment, storage, or distribution portion of a public water supply
28 system in order to prevent or correct introduction of contamination into water used for a public water supply
29 system, for domestic purposes, or as a source of ice;

30 (f) the review of the technical, managerial, and financial capacity of a proposed public water supply

1 system or public sewage system, as necessary to ensure the capability of the system to meet the requirements
2 of this part;

3 (g) the collection and analysis of samples of water used for drinking or domestic purposes;

4 (h) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act and
5 this part;

6 (i) administrative enforcement procedures and administrative penalties authorized under this part;

7 (j) standards and requirements for the review and approval of programs that may be voluntarily submitted
8 by suppliers of public water supply systems to prevent water supply contamination from a cross-connection,
9 including provisions to exempt cross-connections from the standards and requirements if all connected systems
10 are department-approved public water supply systems; ~~and~~

11 (k) (i) allowable uses of reclaimed wastewater and classification of those uses;

12 (ii) treatment, monitoring, recordkeeping, and reporting standards and requirements tailored to each
13 classification that must be met by the public sewage system to protect the uses of the reclaimed wastewater and
14 any receiving water; and

15 (iii) prohibition of reclaimed wastewater uses that are not allowable under subsection (2)(k)(i) or for which
16 the reclaimed wastewater has not been treated in compliance with rules adopted under subsection (2)(k)(ii); and

17 (IV) A REQUIREMENT THAT AN APPLICANT WHO PROPOSES TO USE RECLAIMED WASTEWATER PURSUANT TO THIS
18 SUBSECTION (2)(K) HAS OBTAINED ANY NECESSARY AUTHORIZATIONS REQUIRED UNDER TITLE 85 FROM THE DEPARTMENT
19 OF NATURAL RESOURCES AND CONSERVATION; AND

20 (l) any other requirement necessary for the protection of public health as described in this part.

21 (3) Board rules must provide for the following:

22 (a) except as provided in 75-6-131, a water supply or water distribution facility reviewed and approved
23 by the department is not subject to changes in department design and construction criteria for a period of 36
24 months after written approval of the facility is issued by the department;

25 (b) except for facilities subject to permit requirements under Title 75, chapter 5, part 4, and except as
26 provided under rules adopted pursuant to 75-6-131, a system of water supply, drainage, wastewater, or sewage
27 reviewed and approved under this section is not subject to changes in department design or construction criteria
28 for a period of 36 months after written approval is issued by the department;

29 (c) plans and specifications for a portion of a facility or system subject to a 36-month limit on criteria
30 changes pursuant to subsections (3)(a) and (3)(b), but not constructed within the 36-month timeframe, must be

1 resubmitted for department review and approval before construction of that portion of the facility;
2 (d) the provisions of this subsection (3) may not limit an applicant's ability to alter a proposed project that
3 is otherwise in conformance with applicable laws, rules, standards, and criteria.

4 (4) The board may issue orders necessary to fully implement the provisions of this part."

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