SENATE NATURAL RESOURCES
Exhibit No. 2
Date 2/13/15
Bill No. SB 112

Amendments to Senate Bill No. 112
1st Reading Copy

Requested by Senator Duane Ankney

For the Senate Natural Resources Committee

Prepared by Sonja Nowakowski
February 10, 2015 (3:32pm)

1. Title, page 1, line 7.
Strike: "AND PENALTIES FOR MISSING DEADLINES"
Insert: "; ALLOWING AN APPLICANT TO PROVIDE FUNDING FOR TMDL DEVELOPMENT UNDER CERTAIN CIRCUMSTANCES; ALLOWING FOR A HEARING BEFORE THE BOARD OF ENVIRONMENTAL REVIEW"

2. Page 3, line 15 through line 30.
Strike: subsection (9) in its entirety
Insert:

"(9)(a) When the department receives an application for a new individual permit to discharge into a surface water body or a segment of a surface water body pursuant to 75-5-401, the surface water body or segment of a surface water body has been listed pursuant to subsection (2) of this section, the discharge would contain a pollutant for which the water body or segment is threatened or impaired, and a TMDL has not been developed for that water body or segment, the department shall:

(i) within 30 days of the department's receipt of the application, initiate the development of a TMDL on the water body or segment; and

(ii) except as provided in subsection (9)(b), within 180 days of the department's receipt of the application, complete development of the TMDL pursuant to 75-5-703.

(b) If the department is not able to complete development of the TMDL in accordance with subsection (9)(a)(ii), the department shall, within 30 days of the department's receipt of the application, specify in writing to the applicant why the department is not able to complete development of a TMDL in accordance with subsection (9)(a)(ii). The department and the applicant shall make reasonable efforts to mutually agree in writing to a timeframe in which the department shall complete development of the TMDL. If the department specifies a lack of resources as a reason why the department cannot complete development of the TMDL in accordance with subsection (9)(a)(ii), the department shall clearly explain in its written specification what resources are not available, why those resources are not available, and when those resources will be available.

(c) If the department and the applicant cannot mutually agree to a timeframe in accordance with subsection (9)(b), the department shall, within 60 days of the department's receipt of the application, specify in writing to the applicant the

timeframe in which the TMDL will be completed by the department and the reasons why that timeframe is appropriate. If the department specifies a lack of resources as a reason why the department's timeframe is appropriate, the department may request the applicant provide funding for the development of the TMDL in order to accelerate the completion of the TMDL.

(d) The applicant may, within 15 days of the department's written specification provided in accordance with subsection (9)(c), request in writing a hearing before the board for the purpose of petitioning the board to reverse or modify the department's decision. The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to a hearing before the board under this subsection. If the parties to the contested case waive a formal proceeding pursuant to 2-4-603, the informal proceeding must be conducted within 30 days after the board's receipt of written request. After the hearing and in a reasonable time, the board shall affirm, modify, or reverse the action of the department, and the board shall make findings and conclusions that explain its decision. Pending the board's decision, the department shall develop the TMDL in accordance with the timeframe specified in subsection (9)(a)(ii).

(e) The department may not declare an application incomplete or deficient because a TMDL has not been prepared.

(f) If on [the effective date of this act], an application for a new individual permit to discharge into a surface water body or a segment of a surface water body pursuant to 75-5-401 is pending, the surface water body or segment of a surface water body has been listed pursuant to subsection (2) of this section, the discharge would contain a pollutant for which the water body or segment is threatened or impaired, and a TMDL has not been developed for the water body or segment, the department shall, except as provided in subsection (9)(g), complete a TMDL for the water body or segment within 180 days of [the effective date of this act].

(g) If the department is not able to complete development of the TMDL within 180 days of [the effective date of this act] pursuant to subsection (9)(f), then the timeframes established in accordance with subsections (9)(b), (9)(c), and (9)(d) apply to the application, but the timeframes are measured from [the effective date of this act], not from the date the department receives an application."

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