

1 SENATE BILL NO. 164

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6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING NONDEGRADATION STANDARDS FOR NITRATES IN
7 A GROUND WATER MIXING ZONE; INCREASING THE MAXIMUM CONCENTRATION OF NITRATES
8 ALLOWED FROM ~~ALL PERMITTED~~ CERTAIN DISCHARGE SOURCES; AND AMENDING SECTION 75-5-
9 301, 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 75-5-301, MCA, is amended to read:

14 **"75-5-301. Classification and standards for state waters.** Consistent with the provisions of 80-15-
15 201 and this chapter, the board shall:

16 (1) establish the classification of all state waters in accordance with their present and future most
17 beneficial uses, creating an appropriate classification for streams that, due to sporadic flow, do not support an
18 aquatic ecosystem that includes salmonid or nonsalmonid fish;

19 (2) formulate and adopt standards of water quality, giving consideration to the economics of waste
20 treatment and prevention. When rules are adopted regarding temporary standards, they must conform with the
21 requirements of 75-5-312. Standards adopted by the board must meet the following requirements:

22 (a) for carcinogens, the water quality standard for protection of human health must be the value
23 associated with an excess lifetime cancer risk level, assuming continuous lifetime exposure, not to exceed 1×10^{-3}
24 in the case of arsenic and 1×10^{-5} for other carcinogens. However, if a standard established at a risk
25 level of 1×10^{-3} for arsenic or 1×10^{-5} for other carcinogens violates the maximum contaminant level
26 obtained from 40 CFR, part 141, then the maximum contaminant level must be adopted as the standard for that
27 carcinogen.

28 (b) standards for the protection of aquatic life do not apply to ground water.

1 (3) review, from time to time at intervals of not more than 3 years and, to the extent permitted by this
2 chapter, revise established classifications of waters and adopted standards of water quality;

3 (4) adopt rules governing the granting of mixing zones, requiring that mixing zones granted by the
4 department be specifically identified and requiring that mixing zones have:

5 (a) the smallest practicable size;

6 (b) a minimum practicable effect on water uses; and

7 (c) definable boundaries;

8 (5) adopt rules implementing the nondegradation policy established in 75-5-303, including but not
9 limited to rules that:

10 (a) provide a procedure for department review and authorization of degradation;

11 (b) establish criteria for the following:

12 (i) determining important economic or social development; and

13 (ii) weighing the social and economic importance to the public of allowing the proposed project against
14 the cost to society associated with a loss of water quality;

15 (c) establish criteria for determining whether a proposed activity or class of activities, in addition to
16 those activities identified in 75-5-317, will result in nonsignificant changes in water quality for any parameter in
17 order that those activities are not required to undergo review under 75-5-303(3). These criteria must be
18 established in a manner that generally:

19 (i) equates significance with the potential for harm to human health, a beneficial use, or the
20 environment;

21 (ii) considers both the quantity and the strength of the pollutant;

22 (iii) considers the length of time the degradation will occur;

23 (iv) considers the character of the pollutant so that greater significance is associated with carcinogens
24 and toxins that bioaccumulate or biomagnify and lesser significance is associated with substances that are less
25 harmful or less persistent.

26 (d) provide that changes of nitrate as nitrogen in ground water are nonsignificant if the discharge will
27 not cause degradation of surface water and the predicted concentration of nitrate as nitrogen at the boundary of
28 the ground water mixing zone does not exceed;

