

SENATE BILL NO. 347

INTRODUCED BY C. VINCENT

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A DIVERSION OR WITHDRAWAL OF WATER OR A MODIFICATION OF STREAM FLOW IS NOT DEGRADATION UNDER THE WATER QUALITY ACT; AMENDING SECTIONS 75-5-103 AND 75-5-317, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 75-5-103, MCA, is amended to read:

**"75-5-103. (Temporary) Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Associated supporting infrastructure" means:

- (a) electric transmission and distribution facilities;
- (b) pipeline facilities;
- (c) aboveground ponds and reservoirs and underground storage reservoirs;
- (d) rail transportation;
- (e) aqueducts and diversion dams;
- (f) devices or equipment associated with the delivery of an energy form or product produced at an energy

development project; or

(g) other supporting infrastructure, as defined by board rule, that is necessary for an energy development project.

(2) (a) "Base numeric nutrient standards" means numeric water quality criteria for nutrients in surface water that are adopted to protect the designated uses of a surface water body.

(b) The term does not include numeric water quality standards for nitrate, nitrate plus nitrite, or nitrite that are adopted to protect human health.

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

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

(5) "Council" means the water pollution control advisory council provided for in 2-15-2107.



1 (6) (a) "Currently available data" means data that is readily available to the department at the time a  
2 decision is made, including information supporting its previous lists of water bodies that are threatened or  
3 impaired.

4 (b) The term does not mean new data to be obtained as a result of department efforts.

5 (7) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a  
6 parameter. The term does not include:

7 (a) those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c); OR

8 (b) the direct or indirect withdrawal or diversion of water from state waters AND THE RESULTING DECREASE  
9 IN FLOW OR VOLUME IF THE WITHDRAWAL OR DIVERSION:

10 (i) IS FOR A BENEFICIAL USE PURSUANT TO TITLE 85, CHAPTER 2; or

11 (ii) WOULD NOT, IN THE DEPARTMENT'S DETERMINATION, HAVE A REASONABLE POSSIBILITY TO CAUSE A  
12 SIGNIFICANT ADVERSE IMPACT ON A FISH POPULATION.

13 ~~———— (c) modification of stream flow RELATED TO A BENEFICIAL USE PURSUANT TO TITLE 85, CHAPTER 2.~~

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

15 (9) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes  
16 sewage systems and treatment works.

17 (10) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of  
18 chemical, physical, biological, and other constituents that are discharged into state waters.

19 (11) (a) "Energy development project" means each plant, unit, or other development and associated  
20 developments, including any associated supporting infrastructure, designed for or capable of:

21 (i) generating electricity;

22 (ii) producing gas derived from coal;

23 (iii) producing liquid hydrocarbon products;

24 (iv) refining crude oil or natural gas;

25 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive  
26 pursuant to Title 15, chapter 70, part 5;

27 (vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant  
28 to 15-32-701; or

29 (vii) transmitting electricity through an electric transmission line with a design capacity of equal to or  
30 greater than 50 kilovolts.

1 (b) The term does not include a nuclear facility as defined in 75-20-1202.

2 (12) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether  
3 or not those uses are included in the water quality standards.

4 (13) "High-quality waters" means all state waters, except:

5 (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by  
6 the board's classification rules; and

7 (b) surface waters that:

8 (i) are not capable of supporting any one of the designated uses for their classification; or

9 (ii) have zero flow or surface expression for more than 270 days during most years.

10 (14) "Impaired water body" means a water body or stream segment for which sufficient credible data  
11 shows that the water body or stream segment is failing to achieve compliance with applicable water quality  
12 standards.

13 (15) "Industrial waste" means a waste substance from the process of business or industry or from the  
14 development of any natural resource, together with any sewage that may be present.

15 (16) "Interested person" means a person who has a real property interest, a water right, or an economic  
16 interest that is or may be directly and adversely affected by the department's preliminary decision regarding  
17 degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization  
18 to degrade high-quality waters.

19 (17) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one  
20 of its existing or future nonpoint sources or to natural background sources.

21 (18) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation  
22 of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum  
23 change that can occur from the best practicable condition in a surface water without causing a violation of the  
24 surface water quality standards.

25 (19) "Local department of health" means the staff, including health officers, employed by a county, city,  
26 city-county, or district board of health.

27 (20) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium,  
28 cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.

29 (21) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by  
30 the department where water quality standards may be exceeded, subject to conditions that are imposed by the

1 department and that are consistent with the rules adopted by the board.

2 (22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a  
3 determination that base numeric nutrient standards cannot be achieved because of economic impacts or because  
4 of the limits of technology. The term includes individual, general, and alternative nutrient standards variances in  
5 accordance with 75-5-313.

6 (23) "Nutrient work group" means an advisory work group, convened by the department, representing  
7 publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other interested  
8 parties that will advise the department on the base numeric nutrient standards, the development of nutrient  
9 standards variances, and the implementation of those standards and variances together with associated  
10 economic impacts.

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

14 (25) "Outstanding resource waters" means:

15 (a) state surface waters located wholly within the boundaries of areas designated as national parks or  
16 national wilderness areas as of October 1, 1995; or

17 (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316 and  
18 approved by the legislature.

19 (26) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point  
20 source.

21 (27) "Parameter" means a physical, biological, or chemical property of state water when a value of that  
22 property affects the quality of the state water.

23 (28) "Person" means the state, a political subdivision of the state, institution, firm, corporation,  
24 partnership, individual, or other entity and includes persons resident in Canada.

25 (29) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to  
26 any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating  
27 craft, from which pollutants are or may be discharged.

28 (30) (a) "Pollution" means:

29 (i) contamination or other alteration of the physical, chemical, or biological properties of state waters that  
30 exceeds that permitted by Montana water quality standards, including but not limited to standards relating to

1 change in temperature, taste, color, turbidity, or odor; or

2 (ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other  
3 substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or  
4 injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

5 (b) The term does not include:

6 (i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge  
7 permit rules adopted by the board under this chapter;

8 (ii) activities conducted under this chapter that comply with the conditions imposed by the department  
9 in short-term authorizations pursuant to 75-5-308;

10 (iii) contamination of ground water within the boundaries of an underground mine using in situ coal  
11 gasification and operating in accordance with a permit issued under 82-4-221.

12 (c) Contamination referred to in subsection (30)(b)(iii) does not require a mixing zone.

13 (31) "Sewage" means water-carried waste products from residences, public buildings, institutions, or  
14 other buildings, including discharge from human beings or animals, together with ground water infiltration and  
15 surface water present.

16 (32) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other  
17 wastes to an ultimate disposal point.

18 (33) "Standard of performance" means a standard adopted by the board for the control of the discharge  
19 of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best  
20 available demonstrated control technology, processes, operating methods, or other alternatives, including, when  
21 practicable, a standard permitting no discharge of pollutants.

22 (34) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or  
23 underground.

24 (b) The term does not apply to:

25 (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

26 (ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation  
27 or land application disposal system and the waters are not returned to state waters.

28 (35) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in  
29 combination with narrative information, that supports a finding as to whether a water body is achieving compliance  
30 with applicable water quality standards.

1 (36) "Threatened water body" means a water body or stream segment for which sufficient credible data  
2 and calculated increases in loads show that the water body or stream segment is fully supporting its designated  
3 uses but threatened for a particular designated use because of:

4 (a) proposed sources that are not subject to pollution prevention or control actions required by a  
5 discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

6 (b) documented adverse pollution trends.

7 (37) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for  
8 point sources and load allocations for both nonpoint sources and natural background sources established at a  
9 level necessary to achieve compliance with applicable surface water quality standards.

10 (38) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage,  
11 industrial wastes, or other wastes.

12 (39) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated  
13 to one of its existing or future point sources.

14 (40) "Water quality protection practices" means those activities, prohibitions, maintenance procedures,  
15 or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve  
16 the quality of state waters. Water quality protection practices include but are not limited to treatment requirements,  
17 standards of performance, effluent standards, and operating procedures and practices to control site runoff,  
18 spillage or leaks, sludge or water disposal, or drainage from material storage.

19 (41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or  
20 otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

21 (42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory  
22 capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development  
23 of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in  
24 an advisory capacity as provided in 75-5-704.

25 **75-5-103. (Effective on occurrence of contingency) Definitions.** Unless the context requires  
26 otherwise, in this chapter, the following definitions apply:

27 (1) "Associated supporting infrastructure" means:

28 (a) electric transmission and distribution facilities;

29 (b) pipeline facilities;

30 (c) aboveground ponds and reservoirs and underground storage reservoirs;

- 1 (d) rail transportation;  
 2 (e) aqueducts and diversion dams;  
 3 (f) devices or equipment associated with the delivery of an energy form or product produced at an energy  
 4 development project; or  
 5 (g) other supporting infrastructure, as defined by board rule, that is necessary for an energy development  
 6 project.

7 (2) (a) "Base numeric nutrient standards" means numeric water quality criteria for nutrients in surface  
 8 water that are adopted to protect the designated uses of a surface water body.

9 (b) The term does not include numeric water quality standards for nitrate, nitrate plus nitrite, or nitrite that  
 10 are adopted to protect human health.

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

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

14 (5) "Council" means the water pollution control advisory council provided for in 2-15-2107.

15 (6) (a) "Currently available data" means data that is readily available to the department at the time a  
 16 decision is made, including information supporting its previous lists of water bodies that are threatened or  
 17 impaired.

18 (b) The term does not mean new data to be obtained as a result of department efforts.

19 (7) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a  
 20 parameter. The term does not include:

21 (a) those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c); OR

22 (b) the direct or indirect withdrawal or diversion of water from state waters AND THE RESULTING DECREASE

23 IN FLOW OR VOLUME IF THE WITHDRAWAL OR DIVERSION:

24 (i) IS FOR A BENEFICIAL USE PURSUANT TO TITLE 85, CHAPTER 2; or

25 (ii) WOULD NOT, IN THE DEPARTMENT'S DETERMINATION, HAVE A REASONABLE POSSIBILITY TO CAUSE A  
 26 SIGNIFICANT ADVERSE IMPACT ON A FISH POPULATION.

27 ~~\_\_\_\_\_ (c) modification of stream flow RELATED TO A BENEFICIAL USE PURSUANT TO TITLE 85, CHAPTER 2.~~

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

29 (9) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes  
 30 sewage systems and treatment works.

1 (10) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of  
2 chemical, physical, biological, and other constituents that are discharged into state waters.

3 (11) (a) "Energy development project" means each plant, unit, or other development and associated  
4 developments, including any associated supporting infrastructure, designed for or capable of:

5 (i) generating electricity;

6 (ii) producing gas derived from coal;

7 (iii) producing liquid hydrocarbon products;

8 (iv) refining crude oil or natural gas;

9 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive  
10 pursuant to Title 15, chapter 70, part 5;

11 (vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant  
12 to 15-32-701; or

13 (vii) transmitting electricity through an electric transmission line with a design capacity of equal to or  
14 greater than 50 kilovolts.

15 (b) The term does not include a nuclear facility as defined in 75-20-1202.

16 (12) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether  
17 or not those uses are included in the water quality standards.

18 (13) "High-quality waters" means all state waters, except:

19 (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by  
20 the board's classification rules; and

21 (b) surface waters that:

22 (i) are not capable of supporting any one of the designated uses for their classification; or

23 (ii) have zero flow or surface expression for more than 270 days during most years.

24 (14) "Impaired water body" means a water body or stream segment for which sufficient credible data  
25 shows that the water body or stream segment is failing to achieve compliance with applicable water quality  
26 standards.

27 (15) "Industrial waste" means a waste substance from the process of business or industry or from the  
28 development of any natural resource, together with any sewage that may be present.

29 (16) "Interested person" means a person who has a real property interest, a water right, or an economic  
30 interest that is or may be directly and adversely affected by the department's preliminary decision regarding



1 degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization  
2 to degrade high-quality waters.

3 (17) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one  
4 of its existing or future nonpoint sources or to natural background sources.

5 (18) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation  
6 of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum  
7 change that can occur from the best practicable condition in a surface water without causing a violation of the  
8 surface water quality standards.

9 (19) "Local department of health" means the staff, including health officers, employed by a county, city,  
10 city-county, or district board of health.

11 (20) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium,  
12 cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.

13 (21) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by  
14 the department where water quality standards may be exceeded, subject to conditions that are imposed by the  
15 department and that are consistent with the rules adopted by the board.

16 (22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a  
17 determination that base numeric nutrient standards cannot be achieved because of economic impacts or because  
18 of the limits of technology. The term includes individual, general, and alternative nutrient standards variances in  
19 accordance with 75-5-313.

20 (23) "Nutrient work group" means an advisory work group, convened by the department, representing  
21 publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other interested  
22 parties that will advise the department on the base numeric nutrient standards, the development of nutrient  
23 standards variances, and the implementation of those standards and variances together with associated  
24 economic impacts.

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

28 (25) "Outstanding resource waters" means:

29 (a) state surface waters located wholly within the boundaries of areas designated as national parks or  
30 national wilderness areas as of October 1, 1995; or

1 (b) other surface waters or ground waters classified by the board under the provisions of 75-5-316 and  
2 approved by the legislature.

3 (26) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point  
4 source.

5 (27) "Parameter" means a physical, biological, or chemical property of state water when a value of that  
6 property affects the quality of the state water.

7 (28) "Person" means the state, a political subdivision of the state, institution, firm, corporation,  
8 partnership, individual, or other entity and includes persons resident in Canada.

9 (29) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to  
10 any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating  
11 craft, from which pollutants are or may be discharged.

12 (30) (a) "Pollution" means:

13 (i) contamination or other alteration of the physical, chemical, or biological properties of state waters that  
14 exceeds that permitted by Montana water quality standards, including but not limited to standards relating to  
15 change in temperature, taste, color, turbidity, or odor; or

16 (ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other  
17 substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or  
18 injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

19 (b) The term does not include:

20 (i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge  
21 permit rules adopted by the board under this chapter;

22 (ii) activities conducted under this chapter that comply with the conditions imposed by the department  
23 in short-term authorizations pursuant to 75-5-308;

24 (iii) contamination of ground water within the boundaries of a geologic storage reservoir, as defined in  
25 82-11-101, by a carbon dioxide injection well in accordance with a permit issued pursuant to Title 82, chapter 11,  
26 part 1;

27 (iv) contamination of ground water within the boundaries of an underground mine using in situ coal  
28 gasification and operating in accordance with a permit issued under 82-4-221;

29 (c) Contamination referred to in subsections (30)(b)(iii) and (30)(b)(iv) does not require a mixing zone.

30 (31) "Sewage" means water-carried waste products from residences, public buildings, institutions, or

1 other buildings, including discharge from human beings or animals, together with ground water infiltration and  
2 surface water present.

3 (32) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other  
4 wastes to an ultimate disposal point.

5 (33) "Standard of performance" means a standard adopted by the board for the control of the discharge  
6 of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best  
7 available demonstrated control technology, processes, operating methods, or other alternatives, including, when  
8 practicable, a standard permitting no discharge of pollutants.

9 (34) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or  
10 underground.

11 (b) The term does not apply to:

12 (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

13 (ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation  
14 or land application disposal system and the waters are not returned to state waters.

15 (35) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in  
16 combination with narrative information, that supports a finding as to whether a water body is achieving compliance  
17 with applicable water quality standards.

18 (36) "Threatened water body" means a water body or stream segment for which sufficient credible data  
19 and calculated increases in loads show that the water body or stream segment is fully supporting its designated  
20 uses but threatened for a particular designated use because of:

21 (a) proposed sources that are not subject to pollution prevention or control actions required by a  
22 discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

23 (b) documented adverse pollution trends.

24 (37) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for  
25 point sources and load allocations for both nonpoint sources and natural background sources established at a  
26 level necessary to achieve compliance with applicable surface water quality standards.

27 (38) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage,  
28 industrial wastes, or other wastes.

29 (39) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated  
30 to one of its existing or future point sources.

1 (40) "Water quality protection practices" means those activities, prohibitions, maintenance procedures,  
2 or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve  
3 the quality of state waters. Water quality protection practices include but are not limited to treatment requirements,  
4 standards of performance, effluent standards, and operating procedures and practices to control site runoff,  
5 spillage or leaks, sludge or water disposal, or drainage from material storage.

6 (41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or  
7 otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

8 (42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory  
9 capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development  
10 of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in  
11 an advisory capacity as provided in 75-5-704."

12

13 **Section 2.** Section 75-5-317, MCA, is amended to read:

14 **"75-5-317. Nonsignificant activities.** (1) The categories or classes of activities identified in subsection  
15 (2) cause changes in water quality that are nonsignificant because of their low potential for harm to human health  
16 or the environment and their conformance with the guidance found in 75-5-301(5)(c).

17 (2) The following categories or classes of activities are not subject to the provisions of 75-5-303:

18 (a) existing activities that are nonpoint sources of pollution as of April 29, 1993;

19 (b) activities that are nonpoint sources of pollution initiated after April 29, 1993, when reasonable land,  
20 soil, and water conservation practices are applied and existing and anticipated beneficial uses will be fully  
21 protected;

22 (c) use of agricultural chemicals in accordance with a specific agricultural chemical ground water  
23 management plan promulgated under 80-15-212, if applicable, or in accordance with an environmental protection  
24 agency-approved label and when existing and anticipated uses will be fully protected;

25 (d) changes in existing water quality resulting from an emergency or remedial activity that is designed  
26 to protect public health or the environment and is approved, authorized, or required by the department;

27 (e) changes in existing ground water quality resulting from treatment of a public water supply system,  
28 as defined in 75-6-102, or a public sewage system, as defined in 75-6-102, by chlorination or other similar means  
29 that is designed to protect the public health or the environment and that is approved, authorized, or required by  
30 the department;

1 (f) the use of drilling fluids, sealants, additives, disinfectants, and rehabilitation chemicals in water well  
2 or monitoring well drilling, development, or abandonment, if used according to department-approved water quality  
3 protection practices and if no discharge to surface water will occur;

4 (g) short-term changes in existing water quality resulting from activities authorized by the department  
5 pursuant to 75-5-308;

6 (h) land application of animal waste, domestic septage, or waste from public sewage treatment systems  
7 containing nutrients when the wastes are applied to the land in a beneficial manner, application rates are based  
8 on agronomic uptake of applied nutrients, and other parameters will not cause degradation;

9 (i) use of gray water, as defined in 75-5-325, from nonpublic gray water reuse systems for irrigation  
10 during the growing season in accordance with gray water reuse rules adopted pursuant to 75-5-305;

11 (j) incidental leakage of water from a public water supply system, as defined in 75-6-102, or from a public  
12 sewage system, as defined in 75-6-102, utilizing best practicable control technology designed and constructed  
13 in accordance with Title 75, chapter 6;

14 (k) discharges of water to ground water from water well or monitoring well tests, hydrostatic pressure  
15 and leakage tests, or wastewater from the disinfection or flushing of water mains and storage reservoirs,  
16 conducted in accordance with department-approved water quality protection practices;

17 (l) oil and gas drilling, production, abandonment, plugging, and restoration activities that do not result  
18 in discharges to surface water and that are performed in accordance with Title 82, chapter 10, or Title 82, chapter  
19 11;

20 (m) short-term changes in existing water quality resulting from ordinary and everyday activities of  
21 humans or domesticated animals, including but not limited to:

22 (i) such recreational activities as boating, hiking, hunting, fishing, wading, swimming, and camping;

23 (ii) fording of streams or other bodies of water by vehicular or other means; and

24 (iii) drinking from or fording of streams or other bodies of water by livestock and other domesticated  
25 animals;

26 (n) coal and uranium prospecting that does not result in a discharge to surface water, that does not  
27 involve a test pit located in surface water or that may affect surface water, and that is performed in accordance  
28 with Title 82, chapter 4;

29 (o) solid waste management systems, motor vehicle wrecking facilities, and county motor vehicle  
30 graveyards licensed and operating in accordance with Title 75, chapter 10, part 2, or Title 75, chapter 10, part

1 5;

2 (p) hazardous waste management facilities permitted and operated in accordance with Title 75, chapter  
3 10, part 4;

4 (q) metallic and nonmetallic mineral exploration that does not result in a discharge to surface water and  
5 that is permitted under and performed in accordance with Title 82, chapter 4, parts 3 and 4;

6 (r) stream-related construction projects or stream enhancement projects that result in temporary changes  
7 to water quality but do not result in long-term detrimental effects and that have been authorized pursuant to  
8 75-5-318;

9 ~~———(s) diversions or withdrawals of water established and recognized under Title 85, chapter 2;~~

10 ~~(t)~~(s) the maintenance, repair, or replacement of dams, diversions, weirs, or other constructed works that  
11 are related to existing water rights and that are within wilderness areas so long as existing and anticipated  
12 beneficial uses are protected and as long as the changes in existing water quality relative to the project are short  
13 term; and

14 ~~(u)~~(t) any other activity that is nonsignificant because of its low potential for harm to human health or to  
15 the environment and its conformance with the guidance found in 75-5-301(5)(c)."

16

17 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

18

- END -