

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);

8 (b) the direct or indirect withdrawal or diversion of water from state waters FOR A BENEFICIAL USE
9 PURSUANT TO TITLE 85, CHAPTER 2; or

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

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

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

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

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

18 (i) generating electricity;

19 (ii) producing gas derived from coal;

20 (iii) producing liquid hydrocarbon products;

21 (iv) refining crude oil or natural gas;

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

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

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

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

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

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

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

4 (b) surface waters that:

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

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

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

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

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

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

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

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

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

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

29 (22) "Nutrient standards variance" means numeric water quality criteria for nutrients based on a
30 determination that base numeric nutrient standards cannot be achieved because of economic impacts or because

1 of the limits of technology. The term includes individual, general, and alternative nutrient standards variances in
2 accordance with 75-5-313.

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

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

11 (25) "Outstanding resource waters" means:

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

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

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

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

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

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

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

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

29 (ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other
30 substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or

1 injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

2 (b) The term does not include:

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

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

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

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

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

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

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

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

21 (b) The term does not apply to:

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

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

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

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

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

3 (b) documented adverse pollution trends.

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

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

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

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

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

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

22 **75-5-103. (Effective on occurrence of contingency) Definitions.** Unless the context requires
23 otherwise, in this chapter, the following definitions apply:

24 (1) "Associated supporting infrastructure" means:

25 (a) electric transmission and distribution facilities;

26 (b) pipeline facilities;

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

28 (d) rail transportation;

29 (e) aqueducts and diversion dams;

30 (f) devices or equipment associated with the delivery of an energy form or product produced at an energy

1 development project; or

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

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

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

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

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

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

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

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

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

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

19 (b) the direct or indirect withdrawal or diversion of water from state waters FOR A BENEFICIAL USE
20 PURSUANT TO TITLE 85, CHAPTER 2; or

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

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

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

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

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

29 (i) generating electricity;

30 (ii) producing gas derived from coal;

- 1 (iii) producing liquid hydrocarbon products;
- 2 (iv) refining crude oil or natural gas;
- 3 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive
4 pursuant to Title 15, chapter 70, part 5;
- 5 (vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant
6 to 15-32-701; or
- 7 (vii) transmitting electricity through an electric transmission line with a design capacity of equal to or
8 greater than 50 kilovolts.
- 9 (b) The term does not include a nuclear facility as defined in 75-20-1202.
- 10 (12) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether
11 or not those uses are included in the water quality standards.
- 12 (13) "High-quality waters" means all state waters, except:
- 13 (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by
14 the board's classification rules; and
- 15 (b) surface waters that:
- 16 (i) are not capable of supporting any one of the designated uses for their classification; or
- 17 (ii) have zero flow or surface expression for more than 270 days during most years.
- 18 (14) "Impaired water body" means a water body or stream segment for which sufficient credible data
19 shows that the water body or stream segment is failing to achieve compliance with applicable water quality
20 standards.
- 21 (15) "Industrial waste" means a waste substance from the process of business or industry or from the
22 development of any natural resource, together with any sewage that may be present.
- 23 (16) "Interested person" means a person who has a real property interest, a water right, or an economic
24 interest that is or may be directly and adversely affected by the department's preliminary decision regarding
25 degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization
26 to degrade high-quality waters.
- 27 (17) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one
28 of its existing or future nonpoint sources or to natural background sources.
- 29 (18) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation
30 of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum

1 change that can occur from the best practicable condition in a surface water without causing a violation of the
2 surface water quality standards.

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

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

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

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

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

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

22 (25) "Outstanding resource waters" means:

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

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

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

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

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

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

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

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

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

13 (b) The term does not include:

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

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

18 (iii) contamination of ground water within the boundaries of a geologic storage reservoir, as defined in
19 82-11-101, by a carbon dioxide injection well in accordance with a permit issued pursuant to Title 82, chapter 11,
20 part 1;

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

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

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

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

29 (33) "Standard of performance" means a standard adopted by the board for the control of the discharge
30 of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best

1 available demonstrated control technology, processes, operating methods, or other alternatives, including, when
2 practicable, a standard permitting no discharge of pollutants.

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

5 (b) The term does not apply to:

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

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

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

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

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

17 (b) documented adverse pollution trends.

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

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

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

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

30 (41) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or

1 otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

2 (42) "Watershed advisory group" means a group of individuals who wish to participate in an advisory
3 capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development
4 of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in
5 an advisory capacity as provided in 75-5-704."
6

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

8 **"75-5-317. Nonsignificant activities.** (1) The categories or classes of activities identified in subsection
9 (2) cause changes in water quality that are nonsignificant because of their low potential for harm to human health
10 or the environment and their conformance with the guidance found in 75-5-301(5)(c).

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

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

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

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

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

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

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

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

30 (h) land application of animal waste, domestic septage, or waste from public sewage treatment systems

1 containing nutrients when the wastes are applied to the land in a beneficial manner, application rates are based
2 on agronomic uptake of applied nutrients, and other parameters will not cause degradation;

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

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

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

11 (l) oil and gas drilling, production, abandonment, plugging, and restoration activities that do not result
12 in discharges to surface water and that are performed in accordance with Title 82, chapter 10, or Title 82, chapter
13 11;

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

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

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

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

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

23 (o) solid waste management systems, motor vehicle wrecking facilities, and county motor vehicle
24 graveyards licensed and operating in accordance with Title 75, chapter 10, part 2, or Title 75, chapter 10, part
25 5;

26 (p) hazardous waste management facilities permitted and operated in accordance with Title 75, chapter
27 10, part 4;

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

30 (r) stream-related construction projects or stream enhancement projects that result in temporary changes

1 to water quality but do not result in long-term detrimental effects and that have been authorized pursuant to
2 75-5-318;

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

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

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

10

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

12

- END -