

SENATE BILL NO. 48

INTRODUCED BY T. RICHMOND

BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING VARIANCES TO WATER QUALITY  
6 STANDARDS FOR POLLUTION DISCHARGERS; ~~CONSOLIDATING EXISTING PROVISIONS FOR~~  
7 ~~VARIANCES TO WATER QUALITY STANDARDS; CREATING ADDITIONAL PROVISIONS FOR VARIANCES~~  
8 ~~TO WATER QUALITY STANDARDS; REQUIRING PERIODIC REVIEW OF VARIANCES; LIMITING THE~~  
9 ~~LENGTH OF VARIANCES; CREATING CONDITIONS, CRITERIA, EVALUATIONS, AND OTHER~~  
10 ~~REQUIREMENTS FOR WATER QUALITY STANDARDS VARIANCES; REQUIRING PUBLIC NOTICE~~  
11 ~~PROVISIONS FOR VARIANCE APPLICATIONS; CREATING A STANDARDS VARIANCE WORK GROUP;~~  
12 ~~REQUIRING REPORTS TO THE LEGISLATURE; REVISING CERTAIN WATER QUALITY DEFINITIONS; AND~~  
13 ~~PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 75-5-103, 75-5-222, 75-5-305, 75-5-314,~~  
14 ~~AND 75-5-319, MCA; AND REPEALING SECTION 75-5-313, MCA."~~

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

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20 **NEW SECTION. Section 1. Temporary water quality standards variances.** (1) Except as provided  
21 in 75-5-222(2) and 75-5-313, the department may adopt rules providing criteria and procedures for the  
22 department to issue a temporary variance to water quality standards if:

- 23 (a) a variance will not result in a lowering of currently attained, ambient water quality;
- 24 (b) the department rules are consistent, as necessary, with federal rules that authorize states to adopt  
25 variances from standards, including but not limited to 40 CFR 131.14; and
- 26 (c) (i) a permittee cannot reasonably expect to meet a water quality standard during the permit term for  
27 which the variance is approved; and
- 28 (ii) a permit compliance schedule is not feasible to preclude the need for a variance during the permit term  
29 for which the variance is approved.

30 (2) In order to receive a temporary variance, a permittee shall evaluate facility operations and

1 infrastructure to maximize pollutant reduction through an optimization study. The variance must require the  
2 implementation of optimization study actions as terms and conditions of the discharge permit.

3 (3) The department shall review a temporary variance issued pursuant to this section at least once every  
4 5 years and may continue, modify, or terminate the temporary variance as a result of the review.

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6 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an  
7 integral part of Title 75, chapter 5, part 3, and the provisions of Title 75, chapter 5, part 3, apply to [section 1].

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