

1 SENATE BILL NO. 324

2 INTRODUCED BY M. CUFFE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING SELENIUM STANDARDS FOR LAKE KOOCANUSA
5 AND THE KOOTENAI RIVER; DIRECTING THE AMENDMENT OF ARM 17.30.602; REPEALING ARM
6 17.30.632; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

9
10 NEW SECTION. Section 1. The Department of Environmental Quality shall amend ARM 17.30.602 to
11 read: "17.30.602 DEFINITIONS

12 In this subchapter the following terms have the meanings indicated below and are supplemental to the
13 definitions given in 75-5-103, MCA:

14 (1) "Bioconcentrating parameters" means the parameters listed in department Circular DEQ-7 which
15 have a bioconcentration factor greater than 300.

16 (2) "Carcinogenic parameters" means the parameters categorized as carcinogens in department
17 Circular DEQ-7.

18 (3) "Chlorophyll a" means the mass of chlorophyll a pigment after correction for phaeophytins.

19 (4) "Conduit" means any artificial or natural duct, either open or closed, capable of conveying liquids or
20 pollutants.

21 (5) "Conventional water treatment" means in order of application the processes of coagulation,
22 sedimentation, filtration, and disinfection. If determined necessary by the department it also includes taste and
23 odor control and lime softening.

24 (6) "Dewatered stream" means a perennial or intermittent stream from which water has been removed
25 for one or more beneficial uses.

26 (7) "Electrical conductivity (EC)" means the ability of water to conduct an electrical current at 25°C. The
27 electrical conductivity of water represents the amount of total dissolved solids in the water and is expressed as
28 microSiemens/centimeter ($\mu\text{S}/\text{cm}$) or micromhos/centimeter ($\mu\text{mhos}/\text{cm}$) or equivalent units and is corrected to

1 25°C.

2 (8) "Discharge" means the injection, deposit, dumping, spilling, leaking, placing, or failing to remove any
3 pollutant so that it or any constituent thereof may enter into state waters, including ground water.

4 (9) "EPA" means the US Environmental Protection Agency.

5 (10) "Ephemeral stream" means a stream or part of a stream which flows only in direct response to
6 precipitation in the immediate watershed or in response to the melting of a cover of snow and ice and whose
7 channel bottom is always above the local water table.

8 (11) "Geometric mean" means the value obtained by taking the Nth root of the product of the measured
9 values where zero values for measured values are taken to be the detection limit.

10 (12) "Harmful parameters" means parameters listed as harmful in department Circular DEQ-7.

11 (13) "Intermittent stream" means a stream or reach of a stream that is below the local water table for at
12 least some part of the year, and obtains its flow from both surface run-off and ground water discharge.

13 (14) "Mixing zone" is defined in 75-5-103, MCA, and also means a limited area of a surface water body
14 or a portion of an aquifer, where initial dilution of a discharge takes place and where water quality changes may
15 occur and where certain water quality standards may be exceeded.

16 (15) "MPDES" means the Montana pollutant discharge elimination system.

17 (16) "NPDES" means the national pollutant discharge elimination system.

18 (17) "Naturally occurring" means conditions or material present from runoff or percolation over which
19 man has no control or from developed land where all reasonable land, soil and water conservation practices
20 have been applied. Conditions resulting from the reasonable operation of dams in existence as of July 1, 1971,
21 are natural.

22 (18) "Nonpoint source" means the source of pollutants which originates from diffuse runoff, seepage,
23 drainage, or infiltration.

24 (19) "Outstanding resource water" or "ORW" has the meaning set out in 75-5-103, MCA.

25 (20) "Pesticide" means insecticides, herbicides, rodenticides, fungicides, or any substance or mixture of
26 substances intended for preventing, destroying, controlling, repelling, altering life processes, or mitigating any
27 insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life.

28 (21) "Phaeophytins" means the degradation products of chlorophyll.

1 (22) "Pollutants" means sewage, industrial wastes, and other wastes as those terms are defined in 75-
2 5-103, MCA.

3 (23) "Reasonable land, soil, and water conservation practices" means methods, measures, or practices
4 that protect present and reasonably anticipated beneficial uses. These practices include, but are not limited to,
5 structural and nonstructural controls and operation and maintenance procedures. Appropriate practices may be
6 applied before, during, or after pollution-producing activities.

7 (24) "Seasonal lake or pond" means a natural depression in the land surface that periodically holds
8 water from precipitation or snow and ice melt in the immediate watershed.

9 (25) "Sodium adsorption ratio (SAR)" means a value representing the relative amount of sodium ions to
10 the combined amount of calcium and magnesium ions in water using the following formula: $SAR =$
11 $[Na]/((Ca+Mg)/2)^{1/2}$, where all concentrations are expressed as milliequivalents of charge per liter.

12 (26) "Secondary contact recreation" means activities in or on the water where the potential for
13 immersion or ingestion of water is low, such as wading or boating.

14 (27) "Sediment" means solid material settled from suspension in a liquid; mineral or organic solid
15 material that is being transported or has been moved from its site of origin by air, water, or ice and has come to
16 rest on the earth's surface, either above or below sea level; or inorganic or organic particles originating from
17 weathering, chemical precipitation, or biological activity.

18 (28) "Semi-permanent lake or pond" means a natural depression in the land surface, not including
19 reservoirs, that receives ground water in addition to precipitation runoff from the immediate watershed, and
20 occasionally goes dry.

21 (29) "Settleable solids" means inorganic or organic particles that are being transported or have been
22 transported by water from the site or sites of origin and are settled or are capable of being settled from
23 suspension.

24 (30) "Sewer" means a pipe or conduit that carries wastewater or drainage water.

25 (31) "Surface waters" means any waters on the earth's surface including, but not limited to, streams,
26 lakes, ponds, and reservoirs; and irrigation and drainage systems discharging directly into a stream, lake, pond,
27 reservoir, or other surface water. Water bodies used solely for treating, transporting, or impounding pollutants
28 shall not be considered surface water.

1 ~~(32)~~ "Steady state" means, for the purposes of ARM 17.30.632, conditions whereby there are no
2 activities resulting in new, increasing, or changing selenium loads to the lake or river aquatic ecosystem, and
3 selenium concentrations in fish living in the aquatic ecosystem have stabilized.

4 ~~(33)~~(32) "Storm sewer" or "storm drain" means a pipe or conduit that carries storm water and surface
5 water and street washings.

6 ~~(34)~~(33) "Total nitrogen" means the sum of all nitrate, nitrite, ammonia, and organic nitrogen, as N, in
7 an unfiltered water sample. Total nitrogen in a sample may also be determined by the persulfate digestion or as
8 the sum of total kjeldahl nitrogen plus nitrate plus nitrite.

9 ~~(35)~~(34) "Total phosphorus" means the sum of orthophosphates, polyphosphates, and organically
10 bound phosphates, as P, in an unfiltered water sample. Total phosphorus may also be determined directly by
11 persulfate digestion.

12 ~~(36)~~(35) "Toxic parameters" means those parameters listed as toxins in department Circular DEQ-7.

13 ~~(37)~~(36) "True color" means the color of water from which the turbidity has been removed.

14 ~~(38)~~(37) "Turbidity" means a condition in water or wastewater caused by the presence of suspended
15 matter resulting in the scattering and absorption of light rays.

16 ~~(39)~~(38) "Use attainability analysis" means a scientific assessment and analysis of the factors affecting
17 the attainment of a use(s). Information that may be used include chemical, physical and biological data, as well
18 as photo documentation and comparison to reference conditions, that are of sufficient detail to accurately
19 portray the level and potential level of use support of a waterbody. The use attainability analysis is required by
20 the US EPA according to 40 CFR 131.10(g), (h) and (j).

21 ~~(40)~~(39) "DEQ-7" means the department circular that is adopted and incorporated by reference in ARM
22 17.30.619 and is entitled "Montana Numeric Water Quality Standards." This circular establishes water quality
23 standards for toxic, carcinogenic, bioconcentrating, radioactive, and harmful parameters, and also establishes
24 human health-based water quality standards for the following specific nutrients with toxic effects:

25 (a) nitrate;

26 (b) nitrate + nitrite; and

27 (c) nitrite.

28 ~~(44)~~(40) "DEQ-12A" means the department circular that is adopted and incorporated by reference in

1 ARM 17.30.619 and is entitled "Montana Base Numeric Nutrient Standards." This circular contains numeric
2 water quality standards for total nitrogen and total phosphorus in surface waters.

3 ~~(42)~~(41) "DEQ-12B" means the department circular that is adopted and that is entitled "Montana Base
4 Numeric Nutrient Standards Variances." This circular describes procedures for receiving a variance from the
5 standards and will document recipients of individual variances."

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7 NEW SECTION. **Section 2. Repealer.** ARM 17.30.632 is repealed.

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

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