



January 20, 2026

TO: Members of the Water Pollution Control Advisory Council and the public
FROM: Katie Makarowski, Standards and Modeling Section Supervisor, Montana DEQ
MEETING DATE: January 29, 2026
SUBJECT: Proposal of Rulemaking to Implement House Bill 685 (2025)

ACTION REQUESTED OF COUNCIL:

The council is requested to review the attached rulemaking documents in advance of the meeting on January 29, 2026, and provide comment as they see fit. The department's Water Quality Division will present a rulemaking summary and answer questions about the rulemaking that members may have.

BACKGROUND:

The Department of Environmental Quality (department) is initiating rulemaking to fulfill requirements of House Bill 685, adopted by the 69th Montana Legislature in 2025.

HB 685 changed the terminology used in several statutes including Montana's nondegradation policy to describe authorizations issued by the department to lower the quality of high-quality waters from "authorizations to degrade" to "feasibility allowances" and directed the department to amend ARM 17.30.707 and 17.30.708 to add references to feasibility allowances.

HB 685 also removed the requirement at 75-5-303(3)(b), MCA, that feasibility allowance applicants affirmatively demonstrate to the department that the proposed activity's economic or social benefit exceeds the costs to society of allowing degradation.

Additionally, HB 685 added language at 75-5-303(3)(b), MCA, that a feasibility allowance applicant must affirmatively demonstrate that a proposed project will result in important economic or social development "in the area that the high-quality waters are located."

To fulfill requirements of House Bill 685, the department is proposing to amend four rules (ARM 17.30.201, 17.30.706, 17.30.707, and 17.30.708) to align rule language with the HB 685 amendments.

RECOMMENDATION:

The recommendation being sought from the Council is to proceed with the rulemaking under the Water Quality Act (Title 75, Chapter 5, MCA).

Please contact the department with any questions:

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Attachments:

1. Proposed rule amendments("ProposedRuleAmendments_HB685_WPCAC_1.29.26.pdf")
2. House Bill 685

January 20, 2026

Proposed Rule Amendments

This document contains the rules proposed to be amended by the Department of Environmental Quality to implement House Bill 685, adopted by the 69th Montana Legislature in 2025, related to feasibility allowances under Montana's nondegradation policy. This document is being shared with Water Pollution Control Advisory Council (WPCAC) members prior to first publication to provide an opportunity for council members to comment on the proposed action (§ 75-5-307(1), MCA).

The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

17.30.201 PERMIT APPLICATION, DEGRADATION AUTHORIZATION, AND ANNUAL PERMIT FEES

- (1) The purpose of this rule is to provide fee schedules for use in determining fees to be paid to the department under 75-5-516, MCA. The types of fees provided under this rule are:
 - (a) application fees for individual permits (Schedule I.A);
 - (b) application fees for non-storm water general permits (Schedule 1.B);
 - (c) application fees for storm water general permits (Schedule 1.C);
 - (d) application fees for other activities (Schedule 1.D);
 - (e) degradation authorization fees (Schedule II);
 - (f) annual fees for individual permits (Schedule III.A);
 - (g) annual fees for non-storm water permits (Schedule III.B); and
 - (h) annual fees for storm water general permits (Schedule III.C).
- (2) For purposes of this rule, the definitions contained in ARM Title 17, chapter 30, subchapter 10 and subchapter 13 are incorporated by reference. The following definitions also apply in this rule:
 - (a) "domestic waste" means wastewater from bathrooms, kitchens, and laundry;
 - (b) "flow rate" means the maximum flow during a 24-hour period, expressed in gallons per day (gpd);
 - (c) "industrial waste," as defined in 75-5-103, MCA, means a waste substance from the process of business or industry or from the development of any natural resource, together with any sewage that may be present;
 - (d) "major permit" means a Montana pollutant discharge elimination system permit for a facility that is designated by the department as a major facility pursuant to ARM Title 17, chapter 30, subchapter 13;
 - (e) "minor permit" means a Montana pollutant discharge elimination system permit for

a facility that is not designated by the department as major pursuant to ARM Title 17, chapter 30, subchapter 13;

- (f) "multi-county," for pesticide permit fee purposes, means the general permit authorizing pesticide application within multiple contiguous counties, not to exceed 20, as identified by the applicant;
- (g) "municipal separate storm sewer system" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains, that discharges to surface waters and is owned or operated by the state of Montana, a governmental subdivision of the state, a district, association, or other public body created by or pursuant to Montana law, including special districts such as sewer districts, flood control districts, drainage districts and similar entities, and designated and approved management agencies under section 208 of the federal Clean Water Act, which has jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, and is:
 - (i) designed or used for collecting or conveying storm water;
 - (ii) not a combined sewer; and
 - (iii) not part of a publicly owned treatment works (POTW) as defined in ARM Title 17, chapter 30, subchapter 13;
- (h) "new permit" means a permit for a facility or activity that does not have an effective permit;
- (i) "non-traditional MS4" means a system similar to separate storm sewer systems in municipalities, such as systems at military bases, large educational, hospital, or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings;
- (j) "other wastes," as provided in 75-5-103, MCA, means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters;
- (k) "outfall" means a disposal system through which effluent or waste leaves the facility or site;
- (l) "pesticide" means:
 - (i) a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest;
 - (ii) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and
 - (iii) any nitrogen stabilizer, except that the term "pesticide" shall not include any article that is a "new animal drug" within the meaning of section 201(w) of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321(w), that has been determined by the United States Secretary of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed

within the meaning of section 201(x) of 21 U.S.C. 321(x) bearing or containing a new animal drug. The term "pesticide" does not include liquid chemical sterilant products (including any sterilant or subordinate disinfectant claims on such products) for use on a critical or semi-critical device, as defined in section 201 of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321. For purposes of the preceding sentence, the term "critical device" includes any device that is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body, and the term "semi-critical device" includes any device that contacts intact mucous membranes but that does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body.

- (m) "renewal permit" means a permit for an existing facility that has an effective discharge permit;
 - (n) "single county," for pesticide permit fee purposes, means the general permit authorizing pesticide application within one county; and
 - (o) "threshold," for pesticide permit fee purposes, means the area of surface water that is impacted annually by pesticide treatment, as designated in the Pesticide General Permit for specific pattern uses.
- (3) A person who applies for a permit, certificate, license, notice of intent, plan review, waiver, determination of significance, or other authorization required by rule under 75-5-201, 75-5-301, or 75-5-401, MCA, or for a modification or renewal of any of these authorizations, shall pay to the department an application fee as determined under (6).
 - (4) A person whose activity requires an application for a feasibility allowance to degrade state waters under 75-5-303, MCA, and ARM Title 17, chapter 30, subchapter 7 shall submit a ~~degradation authorization~~ feasibility allowance fee with the application, as determined under (7).
 - (5) A person who holds a permit, certificate, license, or other authorization required by rule under 75-5-201 or 75-5-401, MCA, shall pay to the department an annual permit fee as determined under (8).
 - (6) The fee schedules for new or renewal applications for, or modifications of, a Montana pollutant discharge elimination system permit under ARM Title 17, chapter 30, subchapter 11 or 13, a Montana ground water pollution control system permit under ARM Title 17, chapter 30, subchapter 10, or any other authorization under 75-5-201, 75-5-301, or 75-5-401, MCA, or rules promulgated under these authorities, are set forth below as Schedules I.A, I.B, I.C, and I.D. Fees must be paid in full at the time of submission of the application. For new applications under Schedule I.A, the annual fee from Schedule III.A for the first year must also be paid at the time of application. For new applications under Schedule I.B and I.C, the annual fee is included in the new permit amount and covers the annual fee for the calendar year in which the permit coverage becomes effective.
 - (a) Under Schedules I.A and I.B, the department shall assess a fee for each outfall, except that MS4 permit fees under Schedule I.A are based on population as provided in (6)(h). An application fee for multiple outfalls is not required if there are multiple outfalls from the same source that have similar effluent characteristics, unless the discharges are to different receiving waters or stream segments, or result in multiple or variable (flow

dependent) effluent limits or monitoring requirements.

- (b) For purposes of (6) and (7), if a resubmitted application contains substantial changes or deficiencies requiring significant additional review, the department shall require an application resubmittal fee under Schedule I.D. The resubmittal fee must be paid before any further review is conducted. The department shall give written notice of the assessment within 30 days after receipt of the resubmittal and provide for appeal as specified in (11). If the department does not receive a response to a deficiency notice within one year, the applicant shall submit a new application and associated fees in order for application processing to continue.
- (c) The department may assess an administrative processing fee under Schedule I.D when a permittee makes substantial alterations or additions, requiring significant additional review, to a sediment control plan, waste management plan, nutrient management plan, pesticide management plan, or storm water pollution prevention plan.
- (d) Application fees are nonrefundable except, as required by 75-5-516(1)(d), MCA, if the permit or authorization is not issued the department shall return a portion of the application fee based on avoided enforcement costs. The department shall return 25% of the application fee if the application is withdrawn or if the department waives federal Clean Water Act section 401 certification within 30 days after submittal.
- (e) Facilities with an expired permit must pay the new permit application fee for individual permit coverage as specified in Schedule I.A.
- (f) Applications for new permits or permit renewals for sources that constitute a new or increased source, as defined in ARM 17.30.702(17), must pay a significance determination fee for each outfall in addition to the application fee.
- (g) Discharges composed entirely of storm water from industrial activities or from mining and oil and gas activities, as defined in ARM 17.30.1105, may be incorporated into a permit application submitted under Schedule I.A. The application fee for each storm water outfall must be submitted to the department with the application.
- (h) The application fee for an individual permit for a municipal separate storm sewer system (MS4) is determined by population based on the latest decennial census from the United States Census Bureau. Applications for MS4 permits with co-permittees will receive a 10% reduction in the application fee.

Schedule I.A Application Fee for Individual Permits

Category	Renewal Fee	New Permit Fee
Publicly owned treatment works - major permit	\$ 4,800	\$ 5,000
Privately owned treatment works - major permit	5,000	5,000
Publicly owned treatment works - minor permit	1,500	2,500
Privately owned treatment works - minor permit	3,000	4,200

Ground water permit, domestic wastes flow rate - gallons
per day

0-10,000 gpd	1,200	2,500
10,001 to 30,000 gpd	1,500	2,500
more than 30,000 gpd	2,500	4,000

Ground water permit, industrial, or other wastes

0-1,000 gpd	1,000	1,500
1,001 to 5,000 gpd	1,500	2,500
5,001 to 10,000 gpd	2,500	3,500
more than 10,000 gpd	4,800	5,000

Concentrated animal feeding operation permit

600	600
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Storm water permit construction, industrial, and
mining, oil, and gas activities

2,000	3,200
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Traditional storm water municipal separate storm
sewer system (MS4) permit

population greater than 50,000	9,000	11,000
population 10,000 to 50,000	7,000	9,000
population less than 10,000	6,000	8,000
Non-traditional MS4 permit	5,000	7,000
Other MS4 permits	4,000	5,000
Significance determination	4,000	5,000
Storm water outfall - (integrated)	1,000	1,500

Schedule I.B Application Fee for Non-Storm Water General Permits

Category	Renewal Fee	New Permit Fee (includes initial annual fee)
Concentrated animal feeding operation	\$ 600	\$ 1,200
Construction dewatering	400	900
Fish farms	600	1,200
Produced water	900	1,200
Suction dredge	25	50
resident of Montana nonresident of Montana	100	200
Sand and gravel	900	1,200
Domestic sewage treatment lagoon	800	1,200
Disinfected water	800	1,200
Petroleum cleanup	800	1,200
Pesticides		
single county - less than threshold	25	50
multi-county - less than threshold	50	100
single county - greater than threshold	250	500
multi-county - greater than threshold	600	1,200
Ground water remediation or dewatering	800	1,400
Ground water potable water treatment facilities	800	1,400
Other general permit, not listed above	600	1,200

- (i) Application fees in Schedule I.C for authorizations under the general permit for storm water associated with construction activities are based on the total acreage of disturbed land. Renewal application fees will not be required during the general permit renewal cycle, unless the authorization has been in effect for more than four years.
- (j) Application fees in Schedule I.C for authorizations under the general permits for storm

water associated with industrial activities and mining, oil, and gas activities are based on the total size of the regulated facility or activity in acres.

- (k) Application fees in Schedule I.C for authorizations under a general permit for a municipal separate storm sewer system (MS4) are determined by population based on the latest decennial census from the United States Census Bureau. Applications for MS4 permit coverage with co-permittees will receive a 10% reduction in the application fee.
- (l) Modifications to authorizations under the general permit for storm water associated with construction activities will be processed under Schedule I.D as a minor modification if the modification is submitted within six months after the date of issuance of the authorization. Modifications, except for name changes, submitted six months or more after issuance of the authorization will be processed under Schedule I.C as a new permit application.
- (m) Modifications, except for name changes, to authorizations under a general permit other than the general permit for storm water associated with construction activities must be processed under Schedule 1.B and I.C as a renewed application.
- (n) A facility with a construction storm water no-exposure certification from the department must apply for and receive a new certification every five years in order to maintain a no-exposure status.

Schedule I.C Application Fee for Storm Water General Permits

Category	Renewal Amount	New Permit Amount (includes initial annual fee)
Storm water associated with construction 1 to 5 acres	\$ 900	\$ 900
more than 5 acres, up to 10 acres	1,000	1,000
more than 10 acres, up to 25 acres	1,200	1,200
more than 25 acres, up to 100 acres	2,000	2,000
more than 100 acres	3,500	3,500
Storm water associated with industrial activities		
small - 5 acres or less	1,200	1,500
medium - more than 5 acres, up to 20 acres	1,500	1,800
large - more than 20 acres	1,800	2,000
Storm water associated with mining, oil, and gas		
small - 5 acres or less		1,200
		1,500

medium - more than 5 acres, up to 20 acres	1,500	1,800
large - more than 20 acres	1,800	2,000
Traditional storm water municipal separate storm sewer system (MS4)		
population greater than 50,000 population	7,000	10,000
10,000 to 50,000	6,000	8,000
population less than 10,000	5,000	6,000
County MS4 permit	4,000	5,000
Non-traditional MS4 permit	2,000	3,000
Storm water no-exposure certification required		
once every five years	300	500
Storm water construction waiver		400

- (o) The minimum application fee under Schedule I.D for federal Clean Water Act section 401 certification is \$400 or 1% of the gross value of the proposed project, whichever is greater, and the maximum fee may not exceed \$20,000. If a fee is submitted for a 401 certification and the department waives certification, without review, because the project will require a department permit or authorization identified in ARM 17.30.105(2)(b), the department will credit the fee towards the cost of the applicable permit or authorization.

Schedule I.D Application Fee for Other Activities

Category	Amount
Short-term water quality standard, turbidity "318 authorization"	\$ 250
Short-term water quality standard, remedial activities and pesticide application "308 authorization"	250
Federal Clean Water Act section 401 certification	See ARM 17.30.201(6)(o)
Review plans and specifications to determine if permit 2,000 is necessary, pursuant to 75-5-402(2), MCA	
Major modification	Renewal fee from Schedule I.A
Minor modification, includes transfer of ownership	500
Resubmitted application fee	500
Administrative processing fee	500

- (7) The fee schedule for new or renewal ~~authorizations to degrade state waters~~ feasibility allowances under ARM Title 17, chapter 30, subchapter 7 is set forth in Schedule II. Payment of the ~~degradation authorization~~ feasibility allowance fee is due upon submittal of the applications. For the domestic sewage treatment and industrial activity categories, the department shall assess a fee for each outfall. If an application for ~~authorization to degrade state waters~~ a feasibility allowance is denied, the department shall return 15% of the fee submitted.

Schedule II Review of ~~Authorizations to Degrade~~ Feasibility Allowance Applications

Category	Amount
Domestic sewage treatment	\$5,000
Industrial activity	5,000

- (8) The annual permit fees are set forth in Schedules III.A, III.B, and III.C. No annual fee is required for activities listed in Schedule I.D.
- (a) Under Schedules III.A and III.B, the department shall assess a fee for each outfall, except that MS4 permit fees under Schedule III.A are based on population as determined by the latest decennial census from the United States Census Bureau. An annual fee for multiple outfalls is not required if there are multiple outfalls from the same source that have similar effluent characteristics, unless the discharges are to different receiving waters or stream segments, or the discharges result in multiple or variable (flow dependent) effluent limits or monitoring requirements. For ground water permits, the department shall assess a fee based on the annual average daily flow in gallons per day for each outfall.

Schedule III.A Annual Fee for Individual Permits

Category	Minimum Fee	Fee Per Million Gallons of Effluent per Day (MGD)
Publicly owned treatment works - major permit	\$ 3,000	\$ 3,000
Privately owned treatment works - major permit	3,000	3,000
Publicly owned treatment works - minor permit	1,500	3,000
Privately owned treatment works - minor permit		
discharge of non-contact cooling water	1,500	3,000
only	800	800
Ground water permit, domestic wastes annual average daily flow - gallons per day		3,000
0 to 10,000 gpd		1,300
10,001 to 30,000 gpd		2,000
more than 30,000 gpd		3,000
Ground water permit, industrial, or other wastes		3,000
0 to 1,000 gpd		2,000

1,001 to 5,000 gpd	2,500
5,001 to 10,000 gpd	2,800
more than 10,000 gpd	3,000
Concentrated animal feeding operation permit	600
Storm water permit construction, industrial, and mining, oil, and gas activities	2,000
Traditional storm water municipal separate storm sewer system (MS4) permit	
population greater than 50,000	3,000
population 10,000 to 50,000	2,500
population less than 10,000	2,000
Non-traditional MS4 permit	1,500
Other MS4 permits	1,500
Storm water outfall - (integrated)	1,000

Schedule III.B Annual Fee for Non-Storm Water General Permits

Category	Amount
Concentrated animal feeding operation	\$600
Construction dewatering	450
Fish farms	450
Produced water	750
Portable suction dredges	
resident of Montana	25
nonresident of Montana	100
Sand and gravel production	750
Domestic sewage treatment lagoon	850
Disinfected water	750
Petroleum cleanup	750

Pesticides	
single county - less than threshold	25
multi-county - less than threshold single	50
county - greater than threshold	250
multi-county - greater than threshold	600
Ground water remediation or dewatering	800
Potable water treatment facilities	800
Other general permit, not listed above	800

- (b) Annual fees in Schedule III.C for authorizations under the general permit for storm water associated with construction activities are based on the total acreage of disturbed land.
- (c) Annual fees in Schedule III.C for authorizations under the general permits for storm water associated with industrial activities and for mining, oil, and gas activities are based on the total size of the regulated facility or activity in acres.
- (d) Annual fees in Schedule III.C for authorizations under the general permit for municipal separate storm sewer systems (MS4s) are determined by population in an urbanized area as defined by the United States Census Bureau. The fees must be based on the latest available decennial census data.

Schedule III.C Annual Fee for Storm Water General Permits

Category	Amount
Storm water associated with construction 1 to 5 acres	\$ 650
more than 5 acres, up to 10 acres more	750
than 10 acres, up to 25 acres more	1,150
than 25 acres, up to 100 acres more	1,800
than 100 acres	2,800
Storm water associated with industrial activities small - 5 acres or less	1,000
medium - more than 5 acres, up to 20 acres	1,200
large - more than 20 acres	1,500
Storm water associated with mining, oil, and gas	1,000

small - 5 acres or less	1,200
medium - more than 5 acres, up to 20 acres	1,500
large - more than 20 acres	
Traditional storm water municipal separate storm sewer system (MS4)	
	5,000
population greater than 50,000	4,000
population 10,000 to 50,000	2,500
population less than 10,000	
County MS4 permit	1,200
Non-traditional MS4 permit	1,200

- (e) A facility that maintains compliance with permit requirements, including effluent limitations and reporting requirements, as determined by the previous year's discharge and compliance monitoring data, is entitled to a 25 percent reduction in its annual permit fee. A new permittee is not eligible for fee reduction in its first year of operation. A permittee that is under a formal enforcement order providing a compliance schedule for correction of permit violations is not eligible for a fee reduction until the violations are corrected. A permittee with a violation of any permit requirement during the previous year is not eligible for fee reduction.
 - (f) The annual permit fee is assessed for each calendar year or portion of the calendar year in which the permit is effective.
- (9) If a person who is assessed a renewal or annual fee under this rule fails to pay the fee within 90 days after the due date for payment, the department may:
- (a) impose an additional assessment consisting of 20 percent of the fee plus interest on the required fee beginning the first day after the payment is due. Interest must be computed at the rate of 12 percent per year, established under 15-1-216(4), MCA; or
 - (b) suspend the processing of the renewal application for a permit or authorization or, if the nonpayment involves an annual permit fee, suspend the permit, certificate, license, or other authorization for which the fee is required. The department may lift the suspension at any time up to one year after the suspension occurs if the holder has paid all outstanding fees, including all penalties, assessments, and interest imposed under this rule.
- (10) The department shall give written notice to each person assessed a fee under this rule of the amount of the fee that is assessed and the basis for the department's calculation of the fee. The fee is due 30 days after the date of the written notice. The fee must be paid by a check, money order, or electronic transfer payable to the state of Montana, Department of Environmental Quality. The fee also may be paid on line at the e-bill payment service site.

- (11) Persons assessed a fee under this rule may appeal the department's fee assessment to the board within 20 days after receiving written notice of the department's fee determination. The appeal to the board must include a written statement detailing the reasons why the permit holder or applicant considers the department's fee assessment to be erroneous or excessive.
 - (a) If part of the department's fee assessment is not in dispute in an appeal, the undisputed portion of the fee must be paid to the department upon written request of the department.
 - (b) The contested case provisions of the Montana Administrative Procedure Act, provided for in Title 2, chapter 4, part 6, MCA, apply to a hearing before the board under this rule.

**17.30.706 INFORMATIONAL REQUIREMENTS FOR NONDEGRADATION SIGNIFICANCE/~~AUTHORIZATION~~
FEASIBILITY ALLOWANCE REVIEW**

- (1) Any person proposing an activity that may cause degradation is responsible for compliance with 75-5-303, MCA. Except as provided in (2), a person may:
 - (a) determine for themselves, using the standards contained in ARM 17.30.715 and 17.30.716, that the proposed activity will not cause significant changes in water quality as defined in ARM 17.30.705; or
- (2) submit an application to the department pursuant to (3), for the department to make the determination. The department will determine whether a proposed activity may cause degradation based on information submitted by the applicant for all activities that are permitted, approved, licensed, or otherwise authorized by the department. If the department determines that additional information is necessary to determine whether the activity is nonsignificant according to criteria established by the department, the department may require the applicant to provide the information in (3)(a) through (e).
- (3) Any person proposing an activity that may cause degradation and is not an activity included under (2) may complete a department "Application for Determination of Significance." Information required for the application includes, but is not limited to:
 - (a) quantity and concentration of the parameters expected to change as a result of the proposed activity;
 - (b) length of time that the water quality is expected to be changed;
 - (c) character of the discharge;
 - (d) an analysis of the existing water quality of the receiving water, and any other downstream or downgradient waters which may be reasonably expected to be impacted, including natural variations and fluctuations in the parameter(s) which may change as a result of the proposed activity; or
 - (e) proposed water quality protection practices.

- (4) The department will review an "Application for Determination of Significance" submitted under (3) and make a determination whether the proposed change in water quality is nonsignificant according to ARM 17.30.715 or 17.30.716 within 60 days of receipt of the completed application.
- (5) Whenever the department determines that a proposed activity will not result in degradation, the department may require monitoring to verify compliance with this subchapter and 75-5-303, MCA.
- (6) Whenever the department determines that a proposed activity will result in degradation, the applicant shall complete an application for a feasibility allowance to degrade state waters if the applicant decides to proceed with the proposed activity as planned. The department will not begin review of the application until the required fee has been paid to the department.
- (7) In order to provide the information that is required for the department to determine whether or not degradation is necessary because there are no economically, environmentally, and technologically feasible alternatives to the proposed activity that would result in no degradation, an application ~~to degrade state waters~~ for a feasibility allowance shall include, but not be limited to, the following, when applicable:
 - (a) a complete description of the proposed activity;
 - (b) the proposed effluent or discharge limitation(s);
 - (c) a statement of reasons for the proposed effluent or discharge limitation(s);
 - (d) an analysis of alternatives to the proposed activity, consistent with accepted engineering principles, demonstrating there are no economically, environmentally, and technologically feasible alternatives that are less-degrading or non-degrading. The analysis must be limited to only those alternatives that would accomplish the proposed activity's purpose;
 - (e) an analysis of the existing water quality of the receiving water and any other downstream or downgradient waters which may be impacted, including natural variations and fluctuations in the water quality parameter(s) for which an ~~authorization to degrade~~ a feasibility allowance is requested;
 - (f) the concentration, likely environmental fate, biological effects, and load for each parameter in the discharge likely to degrade existing water quality;
 - (g) the distribution of existing flows and their expected frequency;
 - (h) an analysis demonstrating the expected surface or ground water quality for all alternatives considered in (d);
 - (i) an analysis of the ground water flow system, including water-bearing characteristics of subsurface materials, rate and direction of ground water flow, and an evaluation of surface and ground water interaction;
 - (j) data concerning cumulative water quality effects of existing and authorized

- activities;
 - (k) a proposed monitoring and reporting plan that will determine the actual water quality changes.
- (8) An applicant must demonstrate that the proposed activity will result in important economic or social development in the area that the high-quality waters are located ~~that exceeds the costs to society of allowing the proposed change in water quality.~~
- (a) Factors to be addressed in the application may include, but are not limited to, the positive and negative effects of the following:
 - (i) allowing the proposed change in water quality;
 - (ii) employment considering the existing level of employment, unemployment, and wage levels in the area (i.e., increasing, maintaining, or avoiding a reduction in employment);
 - (iii) the fiscal status of the local, county, or state government and local public schools;
 - (iv) the local or state economies (i.e., increased or reduced diversity, multiplier effects);
 - (v) social or historical values;
 - (vi) public health;
 - (vii) housing (i.e., availability and affordability);
 - (viii) existing public service systems and local educational systems; or,
 - (ix) correction of an environmental or public health problem.
 - (b) Factors included in the demonstration required in (8)(a) must be quantified whenever this can be done reliably and cost-effectively. Other factors, which cannot be quantified, may be represented by an appropriate unit of measurement. If the department determines that more information is required, the department may require additional information from the applicant or seek such additional information from other sources.
- (9) To determine whether or not existing and anticipated uses will be fully protected, the department shall require the following information:
- (a) a showing that the change will not result in violations of Montana water quality standards outside of a mixing zone; and
 - (b) an analysis of the impacts of the proposed water quality changes on the existing and anticipated uses of the impacted state water.
- (10) To demonstrate the least degrading water quality protection practices will be fully implemented prior to, during, and after the proposed activity, the applicant shall provide to the department a complete description and schedule for implementation of the water quality protection practices associated with the proposed activity and a

viable plan showing the ability to implement the water quality protection practices.

- (11) Any application submitted pursuant to this subchapter must comply with the signature and certification requirements of ARM 17.30.1323.
- (12) The department shall notify the applicant in writing within 60 days after receipt of an application ~~to degrade state waters~~ for a feasibility allowance that the application does or does not contain all the information necessary for the department's nondegradation review. If the information from the supplemental submittal and any subsequent supplemental submittal is inadequate, the department shall notify the applicant in writing, within 30 days after receipt of the supplemental submittal, what additional information must be submitted. In any review subsequent to the first, the department may not make a determination of incompleteness on the basis of a deficiency which could have been noted in the first review.
- (13) The department adopts and incorporates by reference ARM 17.30.1323, as amended on February 14, 2003, which sets forth signature and certification requirements for MPDES permit applications. A copy of ARM 17.30.1323 may be obtained from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901.

17.30.707 DEPARTMENT PROCEDURES FOR ~~NONDEGRADATION~~ REVIEW OF FEASIBILITY ALLOWANCE APPLICATIONS

- (1) Upon a determination by the department that an application for a feasibility allowance ~~to degrade state waters~~ required under this rule is complete, the department will prepare a preliminary decision either authorizing ~~degradation~~ a feasibility allowance or denying the application ~~to degrade~~ according to the procedures in ARM 17.30.708.
- (2) An application ~~to degrade state waters~~ for a feasibility allowance will be denied unless the applicant has affirmatively demonstrated and the department finds, based on a preponderance of evidence, the proposed activity to be in full compliance with 75-5-303, MCA, using the standards set out in (3) through (6). The department shall consider an analysis by the applicant and any substantive relevant information either submitted by the public or otherwise available.
- (3) To determine that ~~degradation~~ a feasibility allowance is necessary because there are no economically, environmentally, and technologically feasible alternatives to the proposed activity that would result in no degradation, the department shall consider the following:
 - (a) The department will determine the economic feasibility of the alternative water quality protection practices by evaluating the cost effects of the proposed alternatives on the economic viability of the project and on the applicant by using standard and accepted financial analyses.
 - (b) In order to determine the environmental feasibility of an alternative, the department will consider whether such alternative practices are available and will compare the overall environmental impacts of the various alternatives and the commitment of

resources necessary to achieve the alternatives.

- (c) In order to determine technological feasibility of an alternative, the department will consider whether such alternative practices are available and consistent with accepted engineering principles.
- (4)
 - (a) To determine that the proposed activity will result in important economic or social development ~~that exceeds the benefit to society of maintaining existing high-quality waters and exceeds the costs to society of allowing degradation of high-quality waters~~, the department must find that the proposed activity will provide important economic or social development in the area that the high-quality waters are located which outweighs any cost to society of allowing the proposed change in water quality. In making its determination, the department may consider factors that include, but are not limited to, the following:
 - (i) effects on the state or local community resulting from increased employment opportunities considering the existing level of employment, unemployment, and wage levels in the area;
 - (ii) effects on the state or local economies;
 - (iii) effects on the fiscal status of the local, county or state governments and local public schools;
 - (iv) effects on the local or state economies (i.e., increased or reduced diversity, multiplier effects);
 - (v) effects on social or historical values;
 - (vi) effects on public health;
 - (vii) effects on housing (i.e., availability and affordability);
 - (viii) effects on existing public service systems and local educational systems; or,
 - (ix) correction of an environmental or public health problem.
 - (b) In making the determination required in (a) , the department ~~must~~ may weigh ~~any costs associated with the loss of high quality waters against any social or economic benefits~~ the social and economic importance to the public of allowing the proposed project demonstrated by the applicant against the cost to society associated with a lowering of water quality. The department may also consider as a cost to society any identified and/or quantifiable negative social or economic effects resulting from the proposed activity.
- (5) To determine that existing and anticipated uses of the receiving waters will be fully protected and that water quality standards will not be violated as a result of the ~~proposed degradation~~ feasibility allowance, the department shall consider all available information.
- (6) In order to authorize ~~degradation~~ a feasibility allowance under this rule, the

department must determine that the least degrading water quality protection practices determined by the department to be economically, environmentally, and technologically feasible will be implemented prior to, during, and after the proposed activity until the degradation no longer occurs.

- (7) The department shall make its preliminary decision either authorizing ~~degradation~~ the feasibility allowance or denying the application ~~to degrade~~ within 180 days after receipt of a complete application from the applicant. This time period may be extended upon agreement of the applicant or whenever an environmental impact statement must be prepared pursuant to Title 75, chapter 1, parts 1 and 2, MCA.
- (8) To the maximum extent possible, the department will coordinate any application ~~to degrade state waters~~ for a feasibility allowance with the permitting and approval requirements of other laws or programs administered by the department or by any other local, state, or federal agency.

17.30.708 DEPARTMENT PROCEDURES FOR ISSUING PRELIMINARY AND FINAL DECISIONS REGARDING AUTHORIZATIONS TO DEGRADE FEASIBILITY ALLOWANCES

- (1) A preliminary decision to deny or authorize ~~degradation~~ a feasibility allowance must be accompanied by a statement of basis for the decision and, if applicable, a detailed statement of conditions imposed upon any ~~authorization to degrade~~ feasibility allowance.
- (2) The preliminary decision must include the following information, if applicable:
 - (a) a description of the proposed activity;
 - (b) the level of protection required, e.g., for high-quality waters;
 - (c) a determination that ~~degradation~~ a feasibility allowance is or is not necessary based on the availability of economically, environmentally and technologically feasible alternatives that will prevent degradation;
 - (d) a determination of economic or social importance in the area that the high-quality waters are located;
 - (e) a determination that all existing and anticipated uses will or will not be fully protected;
 - (f) the amount of allowed degradation;
 - (g) a description of the required water quality protection practices;
 - (h) a description of all monitoring and reporting requirements; and
 - (i) a specific identification of any mixing zone the department proposes to allow.
- (3) A statement of basis for the decision must be prepared for every preliminary decision. In general, the statement of basis must briefly set forth the principal facts and significant factual, legal, methodological, or policy questions considered in preparing

the ~~authorization~~ feasibility allowance. The statement of basis must include, when applicable:

- (a) a description of the proposed activity which is the subject of the ~~authorization~~ feasibility allowance;
 - (b) the type and quantity of degradation which will result if the proposed activity is authorized;
 - (c) a summary of the basis for the conditions imposed in any preliminary decision, including references to applicable statutory or regulatory provisions;
 - (d) a summary and analysis of alternatives to the proposed activity;
 - (e) a description of the procedures for reaching a final decision on the draft ~~authorization~~ feasibility allowance including:
 - (i) the beginning and ending dates of the comment period and the address where comments will be received;
 - (ii) procedures for requesting a hearing; and
 - (iii) any other procedures by which the public may participate in the final decision;
 - (f) name and telephone number of a person to contact for additional information; and
 - (g) reasons supporting the preliminary decision.
- (4) The preliminary decision, accompanying statement of basis, and, if applicable, the statement of conditions imposed, must be publicly noticed and made available for public comment for at least 30 days but not more than 60 days prior to a final decision. In providing public notice, the department shall comply with the following:
- (a) procedures for public notice set forth in ARM 17.30.1372; and
 - (b) procedures for the distribution of information set forth in ARM 17.30.1041.
- (5) During the public comment period any interested person may submit written comments on the preliminary decision and may request a public hearing. A request for a public hearing must be in writing and must state the nature of the issues proposed to be raised in the hearing. The department shall hold a hearing if it determines that there may be a significant degree of public interest in the preliminary decision. Any public hearing conducted under this subsection is not a contested case hearing under the provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, MCA.
- (6) Within 60 days after the close of the public comment period, the department shall issue a final decision accompanied by a statement of basis for the decision and, if applicable, a statement of conditions. The final decision and statement of basis will be prepared according to the requirements of (2) and (3). In addition, the statement of basis for a final decision must include the following:

- (a) which provisions, if any, of the preliminary decision have been changed in the final decision and the reasons for the change; and
 - (b) a description and response to all substantive comments on the preliminary decision raised during the public comment period or during any hearing.
- (7) Upon issuing a final decision, the department shall notify the applicant and each person who has submitted written comments or requested notice of that decision. The notice must include reference to the procedures for appealing the decision. The final decision is effective upon issuance.
- (8) The department adopts and incorporates by reference ARM 17.30.1372, which sets forth procedures for issuing public notices of MPDES permit applications and hearings, and ARM 17.30.1041 which sets forth requirements for distribution and copying of public notices and permit applications. Copies of ARM 17.30.1372 and 17.30.1041 may be obtained from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901.



AN ACT PROVIDING A FEASIBILITY ALLOWANCE TO MEET THE WATER QUALITY NONDEGRADATION POLICY; REVISING A DEFINITION; AMENDING ADMINISTRATIVE RULES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 75-5-103, 75-5-301, 75-5-303, 75-5-316, 75-5-516, AND 75-5-605, 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 department rule, that is necessary for an energy development project.
- (2) "Board" means the board of environmental review provided for in 2-15-3502.
- (3) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.
- (4) "Council" means the water pollution control advisory council provided for in 2-15-2107.

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

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

(6) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c).

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

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

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

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

- (a) generating electricity;
- (b) producing gas derived from coal;
- (c) producing liquid hydrocarbon products;
- (d) refining crude oil or natural gas;
- (e) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive pursuant to Title 15, chapter 70, part 5; or
- (f) transmitting electricity through an electric transmission line with a design capacity of equal to or greater than 50 kilovolts.

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

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

- (a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by the department's classification rules; and
- (b) surface waters that:

- (i) are not capable of supporting any one of the designated uses for their classification; or
 - (ii) have zero flow or surface expression for more than 270 days during most years.
- (13) "Impaired water body" means a water body or stream segment for which sufficient credible data shows that the water body or stream segment is failing to achieve compliance with applicable water quality standards.
- (14) "Industrial waste" means a waste substance from the process of business or industry or from the development of any natural resource, together with any sewage that may be present.
- (15) "Interested person" means a person who has a real property interest, a water right, or an economic interest that is or may be directly and adversely affected by the department's preliminary decision regarding degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested ~~authorization to degrade high-quality waters~~ a feasibility allowance.
- (16) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future nonpoint sources or to natural background sources.
- (17) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum change that can occur from the best practicable condition in a surface water without causing a violation of the surface water quality standards.
- (18) "Local department of health" means the staff, including health officers, employed by a county, city, city-county, or district board of health.
- (19) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium, cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.
- (20) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by the department where water quality standards may be exceeded, subject to conditions that are imposed by the department and that are consistent with the rules adopted by the department.
- (21) "Nutrient work group" means an advisory work group, convened by the department, representing publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other interested parties that will advise the department on nutrient standards, the implementation of those

standards, and associated economic impacts.

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

(23) "Outstanding resource waters" means:

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

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

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

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

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

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

(28) (a) "Pollution" means:

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

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

(b) The term does not include:

(i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution

discharge permit rules adopted by the department under this chapter;

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

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

(c) Contamination referred to in subsections (28)(b)(iii) and (28)(b)(iv) does not require a mixing zone.

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

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

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

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

(b) The term does not apply to:

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

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

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

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

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

(b) documented adverse pollution trends.

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

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

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

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

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

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

75-5-103. (Effective on occurrence of contingency) 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 department rule, that is necessary for an energy development project.
- (2) "Board" means the board of environmental review provided for in 2-15-3502.
- (3) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.
- (4) "Council" means the water pollution control advisory council provided for in 2-15-2107.
- (5) (a) "Currently available data" means data that is readily available to the department at the time a decision is made, including information supporting its previous lists of water bodies that are threatened or impaired.
- (b) The term does not mean new data to be obtained as a result of department efforts.
- (6) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c).
- (7) "Department" means the department of environmental quality provided for in 2-15-3501.
- (8) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewage systems and treatment works.
- (9) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, and other constituents that are discharged into state waters.
- (10) "Energy development project" means each plant, unit, or other development and associated developments, including any associated supporting infrastructure, designed for or capable of:
- (a) generating electricity;
 - (b) producing gas derived from coal;
 - (c) producing liquid hydrocarbon products;
 - (d) refining crude oil or natural gas;
 - (e) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax

incentive pursuant to Title 15, chapter 70, part 5; or

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

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

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

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

(b) surface waters that:

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

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

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

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

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

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

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

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

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

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

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

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

(23) "Outstanding resource waters" means:

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

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

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

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

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

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

(28) (a) "Pollution" means:

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

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

(b) The term does not include:

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

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

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

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

(c) Contamination referred to in subsections (28)(b)(iii) and (28)(b)(iv) does not require a mixing zone.

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

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

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

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

(b) The term does not apply to:

- (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or
- (ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

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

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

- (a) proposed sources that are not subject to pollution prevention or control actions required by a discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or
- (b) documented adverse pollution trends.

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

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

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

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

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

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

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

Section 2. Section 75-5-301, MCA, is amended to read:

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

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

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

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

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

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

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

(a) the smallest practicable size;

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

- (c) definable boundaries;
- (5) adopt rules implementing the nondegradation policy established in 75-5-303, including but not limited to rules that:
 - (a) provide a procedure for department review and authorization of ~~degradation~~ a feasibility allowance;
 - (b) establish criteria for the following:
 - (i) determining important economic or social development; and
 - (ii) weighing the social and economic importance to the public of allowing the proposed project against the cost to society associated with a loss of water quality;
 - (c) establish criteria for determining whether a proposed activity or class of activities, in addition to those activities identified in 75-5-317, will result in nonsignificant changes in water quality for any parameter in order that those activities are not required to undergo review under 75-5-303(3). These criteria must be established in a manner that generally:
 - (i) equates significance with the potential for harm to human health, a beneficial use, or the environment;
 - (ii) considers both the quantity and the strength of the pollutant;
 - (iii) considers the length of time the degradation will occur;
 - (iv) considers the character of the pollutant so that greater significance is associated with carcinogens and toxins that bioaccumulate or biomagnify and lesser significance is associated with substances that are less harmful or less persistent.
 - (d) provide that changes of nitrate as nitrogen in ground water are nonsignificant if the discharge will not cause degradation of surface water and the predicted concentration of nitrate as nitrogen at the boundary of the ground water mixing zone does not exceed:
 - (i) 7.5 milligrams per liter from sources other than sewage;
 - (ii) 5.0 milligrams per liter from sewage discharged from a system that does not use level two treatment in an area where the ground water nitrate as nitrogen is 5.0 milligrams per liter or less;
 - (iii) 7.5 milligrams per liter from sewage discharged from a system using level two treatment, which must be defined in the rules; or

(iv) 7.5 milligrams per liter from sewage discharged from a system in areas where the ground water nitrate as nitrogen level exceeds 5.0 milligrams per liter primarily from sources other than human waste; and

(e) for septic system discharges that are not subject to ground water permitting requirements under 75-5-401, establish criteria to determine when the discharges result in nonsignificant changes in surface water quality in order that those discharges are not required to undergo review under 75-5-303(3) and no further analysis under law or rule is required. The criteria must:

(i) be adopted by rule before July 1, 2024; and

(ii) be developed in a manner that generally considers soil type, mixing zone dilution and nitrogen credits, horizontal distance between the discharge and the surface water in the direction of ground water flow, and elevation, including:

(A) adopt surface water impacts for low flow conditions based on mixing zone dilution concentrations and other credits for nitrogen;

(B) credit nitrogen degradation at the drainfield and riparian zone attenuation based on soil type;

(C) exempt surface water body impacts when drainfield is lower in elevation than the waterbody;

(D) limit the adjacent to surface water trigger analysis to a maximum of 1/4 or 1/2 mile from the drainfield to a surface water, depending on soil type; and

(E) create nonsignificant surface water impact categories of 500 or more feet from the surface water that consider soil texture, ground water depths and other pertinent information.

(6) to the extent practicable, ensure that the rules adopted under subsection (5) establish objective and quantifiable criteria for various parameters. These criteria must, to the extent practicable, constitute guidelines for granting or denying applications for authorization to degrade high-quality waters under the policy established in 75-5-303(2) and (3).

(7) adopt rules to implement this section."

Section 3. Section 75-5-303, MCA, is amended to read:

"75-5-303. Nondegradation policy. (1) Existing uses of state waters and the level of water quality necessary to protect those uses must be maintained and protected.

(2) Unless authorized by the department under subsection (3) or exempted from review under 75-

5-317, the quality of high-quality waters must be maintained.

(3) The department may ~~not authorize degradation of~~ allow lower water quality through a feasibility allowance in high-quality waters unless when it has been affirmatively demonstrated by a preponderance of evidence to the department that:

(a) ~~degradation a feasibility allowance~~ is necessary because there are no economically, environmentally, and technologically feasible modifications to the proposed project that would result in no degradation;

(b) the proposed project will result in important economic or social development ~~and that the benefit of the development exceeds the costs to society of allowing degradation of~~ in the area that the high-quality waters are located;

(c) existing and anticipated use of state waters will be fully protected; and

(d) the least degrading water quality protection practices determined by the department to be economically, environmentally, and technologically feasible will be fully implemented by the applicant prior to and during the proposed activity.

(4) The department shall issue a preliminary decision either denying or authorizing ~~degradation the feasibility allowance~~ and shall provide public notice and a 30-day comment period prior to issuing a final decision. The department's preliminary and final decisions must include:

(a) a statement of the basis for the decision; and

(b) a detailed description of all conditions applied to ~~any authorization to degrade state waters a feasibility allowance~~, including, when applicable, monitoring requirements, required water protection practices, reporting requirements, effluent limits, designation of the mixing zones, the limits of ~~degradation the~~ authorized feasibility allowance, and methods of determining compliance with the ~~authorization for degradation feasibility allowance~~.

(5) An interested person wishing to challenge a final department decision may request a hearing before the board within 30 days of the final department decision. The contested case procedures of Title 2, chapter 4, part 6, apply to a hearing under this section.

(6) Periodically, but not more often than every 5 years, the department may review ~~authorizations to degrade feasibility allowances for~~ state waters. Following the review, the department may, after timely notice

and opportunity for hearing, modify the ~~authorization~~ feasibility allowance if the department determines that an economically, environmentally, and technologically feasible modification to the development exists. The decision by the department to modify ~~an authorization~~ a feasibility allowance may be appealed to the board.

(7) The department may not issue ~~an authorization to degrade~~ a feasibility allowance for state waters that are classified as outstanding resource waters.

(8) The department shall adopt rules to implement this section."

Section 4. Section 75-5-316, MCA, is amended to read:

"75-5-316. Outstanding resource water classification -- rules -- criteria -- limitations -- procedure -- definition. (1) As provided under the provisions of 75-5-301 and this section, the department may adopt rules regarding the classification of waters as outstanding resource waters.

(2) The department may not:

(a) grant ~~an authorization to degrade~~ a feasibility allowance under 75-5-303 in outstanding resource waters; or

(b) allow a new or increased point source discharge that would result in a permanent change in the water quality of an outstanding resource water.

(3) (a) A person may petition the department for rulemaking to classify state waters as outstanding resource waters. The department shall initially review a petition against the criteria identified in subsection (3)(c) to determine whether the petition contains sufficient credible information for the department to accept the petition.

(b) The department may reject a petition without further review if it determines that the petition does not contain the sufficient credible information required by subsection (3)(a). If the department rejects a petition under this subsection (3)(b), it shall specify in writing the reasons for the rejection and the petition's deficiencies.

(c) The department may not adopt a rule classifying state waters as outstanding resource waters until it accepts a petition and makes a written finding containing the provisions enumerated in subsection (3)(d) that, based on a preponderance of the evidence:

(i) the waters identified in the petition constitute an outstanding resource based on the criteria

provided in subsection (4);

(ii) the increased protection under the classification is necessary to protect the outstanding resource identified under subsection (3)(a) because of a finding that the outstanding resource is at risk of having one or more of the criteria provided in subsection (4) compromised as a result of pollution; and

(iii) classification as an outstanding resource water is necessary because of a finding that there is no other effective process available that will achieve the necessary protection.

(d) The written finding provided for in subsection (3)(c) must:

(i) identify the criteria provided in subsection (4) that serve as justification for the determination that the water is an outstanding resource;

(ii) specifically identify the criteria that are at risk and explain why those criteria are at risk; and

(iii) specifically explain why other available processes, including the requirements of 75-5-303, will not achieve the necessary protection.

(4) The department shall consider the following criteria in determining whether certain state waters are outstanding resource waters. However, the department may determine that compliance with one or more of these criteria is insufficient to warrant classification of the water as an outstanding resource water. The department shall consider:

(a) whether the waters have been designated as wild and scenic;

(b) the presence of endangered or threatened species in the waters;

(c) the presence of an outstanding recreational fishery in the waters;

(d) whether the waters provide the only source of suitable water for a municipality or industry;

(e) whether the waters provide the only source of suitable water for domestic water supply; and

(f) other factors that indicate outstanding environmental or economic values not specifically mentioned in this subsection (4).

(5) Before accepting a petition, the department shall:

(a) publish a notice and brief description of the petition in a daily newspaper of general circulation in the area affected and make copies of the proposal available to the public. The cost of publication must be paid by the petitioner.

(b) provide for a 30-day written public comment period regarding whether the petition contains

sufficient credible information, as provided in subsection (3)(b), prior to the hearing required in subsection (5)(c);

(c) hold a public hearing regarding the petition and its contents and allow further written and oral testimony at the hearing;

(d) issue a proposed decision, including:

(i) the written finding provided for in subsection (3)(c); and

(ii) the department's acceptance or rejection of the petition;

(e) provide for a 30-day public comment period regarding the department's proposed decision; and

(f) issue a final decision on acceptance or rejection of the petition, which must include a response to comments received by the department, and make copies of this decision available to the public.

(6) (a) After acceptance of a petition, the department shall prepare an environmental impact statement, as provided under Title 75, chapter 1, part 2, and this section.

(b) (i) The petitioner is responsible for all of the costs associated with gathering and compiling data and information, and completing the environmental impact statement.

(ii) Before the department may initiate work on the environmental impact statement, the petitioner shall pay the estimated cost of completing the environmental impact statement, as determined by the department.

(iii) Upon completion of the environmental impact statement, the petitioner shall pay the department any costs that exceeded the estimated cost. If the cost of the environmental impact statement was less than the estimated cost paid by the petitioner, the department shall reimburse the difference to the petitioner.

(iv) The department may not grant or deny a petition until full payment for the environmental impact statement is received.

(7) The department shall consult with other relevant state agencies and county governments when reviewing outstanding resource water classification petitions.

(8) (a) After completion of an environmental impact statement and consultation with state agencies and local governments, the department may deny an accepted outstanding resource water classification petition if it finds that:

- (i) the requirements of subsection (3)(c) have not been met; or
 - (ii) based on information available to the department from the environmental impact statement or otherwise, approving the outstanding resource waters classification petition would cause significant adverse environmental, social, or economic impacts.
- (b) If the department denies the petition, it shall identify its reasons for petition denial.
- (c) If the department grants the petition, the department shall initiate rulemaking to classify the waters as outstanding resource waters.
- (9) A rule classifying state waters as outstanding resource waters under this section may be adopted but is not effective until approved by the legislature.
- (10) The department may not postpone or deny an application for ~~an authorization to degrade state waters~~ a feasibility allowance under 75-5-303 based on pending:
- (a) department action on an outstanding resource water classification petition regarding those waters; or
 - (b) legislative approval of department action designating those waters as outstanding resource waters.
- (11) As used in this section, "petitioner" means an individual, corporation, partnership, firm, association, or other private or public entity that petitions the department to adopt rules to classify waters as outstanding resource waters."

Section 5. Section 75-5-516, MCA, is amended to read:

"75-5-516. Fees authorized for recovery -- process -- rulemaking. (1) Except as provided in subsections (12) and (13), the department shall by rule prescribe fees sufficient to cover the department's documented costs, both direct and indirect, of:

- (a) reviewing and acting upon an application for a permit, permit modification, permit renewal, certificate, license, or other authorization required by rule under 75-5-201 or 75-5-401;
- (b) reviewing and acting upon a petition for a ~~degradation~~ feasibility allowance under 75-5-303;
- (c) reviewing and acting upon an application for a permit, certificate, license, or other authorization for which an exclusion is provided by rule from the permitting requirements established under 75-5-401;

(d) enforcing the terms and conditions of a permit or authorization identified in subsections (1)(a) through (1)(c). If the permit or authorization is not issued, the department shall return this portion of any application fee to the applicant.

(e) conducting compliance inspections and monitoring effluent and ambient water quality; and

(f) preparing water quality rules or guidance documents.

(2) Except as provided in subsection (12), the rules promulgated under this section must include:

(a) a fee on all applications for permits or authorizations, as identified in subsections (1)(a) through (1)(c), that recovers to the extent permitted by this subsection (2) the department's cost of reviewing and acting upon the applications. This fee may not be more than \$5,000 per discharge point for an application addressed under subsection (1), except that an application with multiple discharge points may be assessed a lower fee for those points according to rule.

(b) an annual fee to be assessed according to the volume and concentration of waste discharged into state waters. The annual fee may not be more than \$3,000 per million gallons discharged per day on an annual average for any activity under permit or authorization, as described in subsection (1), except that:

(i) a permit or authorization with multiple discharge points may be assessed a lower fee for those points according to rule; and

(ii) a facility that consistently discharges effluent at less than or equal to one-half of its effluent limitations and that is in compliance with other permit requirements, using the previous calendar year's discharge data, is entitled to a 25% reduction in its annual permit fee. Proportionate reductions of up to 25% of the permit fee may be given to facilities that consistently discharge effluent at levels between 50% and 100% of their effluent limitations. However, a new permittee is not eligible for a fee reduction in its first year of operation, and a permittee with a violation of any effluent limit during the previous calendar year is not eligible for a fee reduction for the following year.

(3) To the extent permitted under subsection (2)(b), the annual fee must be sufficient to pay the department's estimated cost of conducting all tasks described under subsection (1) after subtracting:

(a) the fees collected under subsection (2)(a);

(b) state general fund appropriations for functions administered under this chapter; and

(c) federal grants for functions administered under this chapter.

(4) For purposes of subsection (3), the department's estimated cost of conducting the tasks described under subsection (1) is the amount authorized by the legislature for the department's water quality discharge permit programs.

(5) If the applicant or holder fails to pay a fee assessed under this section or rules adopted under this section within 90 days after the date established by rule for fee payment, the department may:

(a) impose an additional assessment consisting of not more than 20% of the fee plus interest on the required fee computed as provided in 15-1-216; or

(b) suspend the permit or exclusion. The department may lift the suspension at any time up to 1 year after the suspension occurs if the holder has paid all outstanding fees, including all penalties, assessments, and interest imposed under subsection (5)(a).

(6) Fees collected pursuant to this section must be deposited in an account in the special revenue fund type pursuant to 75-5-517.

(7) The department shall give written notice to each person assessed a fee under this section of the amount of fee that is assessed and the basis for the department's calculation of the fee. This notice must be issued at least 30 days prior to the due date for payment of the assessment.

(8) A holder of or an applicant for a permit, certificate, or license may appeal the department's fee assessment to the board within 20 days after receiving written notice of the fee determination under subsection (7). The appeal must include a written statement detailing the reasons that the permitholder or applicant considers the department's fee assessment to be erroneous or excessive.

(9) If part of the department's fee assessment is not in dispute in an appeal filed under subsection (8), the undisputed portion of the fee must be paid to the department upon written request of the department.

(10) The contested case provisions of the Montana Administrative Procedure Act, provided for in Title 2, chapter 4, part 6, apply to a hearing before the board under this section.

(11) A municipality may raise rates to cover costs associated with the fees prescribed in this section for a public sewer system without the hearing required in 69-7-111.

(12) (a) The application fee assessed pursuant to this section for a suction dredge, as described in 82-4-310(2), may not be more than:

(i) \$25 if it is owned and operated by a resident of this state; or

- (ii) \$100 if it is owned and operated by a nonresident of this state.
- (b) The annual fee assessed pursuant to this section for a suction dredge, as described in 82-4-310(2), may not be more than:
 - (i) \$25 if it is owned and operated by a resident of this state; or
 - (ii) \$100 if it is owned and operated by a nonresident of this state.
- (13) A county, an incorporated city or town, or a conservation district formed pursuant to Title 76, chapter 15, is not subject to fees for authorizations pursuant to 75-5-318 or certifications related to section 401 of the federal Clean Water Act, 33 U.S.C. 1341."

Section 6. Section 75-5-605, MCA, is amended to read:

"75-5-605. Prohibited activity -- exemption. (1) It is unlawful to:

- (a) cause pollution, as defined in 75-5-103, of any state waters or to place or cause to be placed any wastes where they will cause pollution of any state waters. Any placement of materials that is authorized by a permit issued by any state or federal agency is not a placement of wastes within the prohibition of this subsection (1)(a) if the agency's permitting authority includes provisions for review of the placement of materials to ensure that it will not cause pollution of state waters.
- (b) violate any provision set forth in a permit or stipulation, including but not limited to limitations and conditions contained in the permit;
- (c) cause degradation of state waters without ~~authorization~~ a feasibility allowance pursuant to 75-5-303;
- (d) violate any order issued pursuant to this chapter; or
- (e) violate any provision of this chapter.
- (2) Except for the permit exclusions identified in 75-5-401(5), it is unlawful to carry on any of the following activities without a current permit from the department:
 - (a) construct, modify, or operate a disposal system that discharges into any state waters;
 - (b) construct or use any outlet for the discharge of sewage, industrial wastes, or other wastes into any state waters; or
 - (c) discharge sewage, industrial wastes, or other wastes into any state waters.

(3) Activities associated with routine or periodic maintenance, repair, replacement, or operation of irrigation water conveyance systems, including activities associated with any constructed channel, canal, ditch, pipeline, or portion of any constructed channel, canal, ditch, or pipeline, are not prohibited activities under this chapter if the activities do not result in exceeding water quality standards for any receiving water outside the irrigation water conveyance system. The diversion of water in accordance with an existing water right or permit pursuant to Title 85, chapter 2, is not a prohibited activity under this chapter."

Section 7. Department to amend rules. The department shall amend ARM 17.30.707 and 17.30.708 to add references to feasibility allowances.

Section 8. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 9. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 685, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2025.

President of the Senate

Signed this _____ day
of _____, 2025.

HOUSE BILL NO. 685

INTRODUCED BY S. FITZPATRICK

AN ACT PROVIDING A FEASIBILITY ALLOWANCE TO MEET THE WATER QUALITY NONDEGRADATION POLICY; REVISING A DEFINITION; AMENDING ADMINISTRATIVE RULES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 75-5-103, 75-5-301, 75-5-303, 75-5-316, 75-5-516, AND 75-5-605, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.