

HOUSE BILL NO. 473

INTRODUCED BY S. GUNDERSON

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING SELENIUM STANDARDS FOR LAKE KOOCANUSA AND THE KOOTENAI RIVER; DIRECTING THE AMENDMENT OF ARM 17.30.602 TO REMOVE THE DEFINITION OF "STEADY STATE"; REPEALING ARM 17.30.632; AMENDING SECTION 75-5-310, MCA; AND PROVIDING ~~AN IMMEDIATE EFFECTIVE DATE~~ DATES."

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

NEW SECTION. **Section 1. Department to amend rule.** The department of environmental quality shall amend ARM 17.30.602 to delete the definition of "steady state" in its entirety.

**Section 2.** Section 75-5-310, MCA, is amended to read:

**"75-5-310. Site-specific standards of water quality for aquatic life.** (1) ~~Notwithstanding any other provisions of this chapter and except~~ Except as provided in ~~subsection~~ subsections (2) and (3), the department, ~~upon~~ on application by a permit applicant, permittee, or person potentially liable under any state or federal environmental remediation statute, shall adopt site-specific standards of water quality for aquatic life, both acute and chronic, as the standards of water quality required under 75-5-301(2) and (3). The site-specific standards of water quality must be developed in accordance with the procedures set forth in draft or final federal regulations, guidelines, or criteria.

(2) If the department, based upon its review of an application submitted under subsection (1) and sound scientific, technical, and available site-specific evidence, determines that the development of site-specific criteria in accordance with draft or final federal regulations, guidelines, or criteria would not be protective of beneficial uses, the department, within 90 days of the submission of an application under subsection (1), shall notify the applicant in writing of its determination and of all additional procedures that the applicant is required to comply with in the development of site-specific standards of water quality under this section. If there is a dispute between the department and the applicant as to the additional procedures, the board shall, on the

request of the department or the applicant, hear and determine the dispute. The board's decision must be based on sound scientific, technical, and available site-specific evidence.

(3) For Lake Koocanusa and the Kootenai River mainstem, the water column standards for total dissolved selenium computed as a 30-day average may not exceed more than once in 3 years on average:

(a) 1.5 micrograms a liter for Lake Koocanusa from the United States-Canada international boundary to the Libby dam;

(b) 3.1 micrograms a liter for the Kootenai River mainstem from the outflow below the Libby dam to the Montana-Idaho border."

**NEW SECTION. Section 3. Repealer.** ARM 17.30.632 is repealed.

**NEW SECTION. Section 4. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

**NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

**NEW SECTION. Section 6. Contingent effective date.** [Section 2] is effective on the date that the Montana department of environmental quality certifies to the code commissioner that the United States environmental protection agency has approved a change to the selenium standard for Lake Koocanusa contained in ARM 17.30.632(7). The department of environmental quality shall submit certification within 60 days of the occurrence of the contingency.

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