

HOUSE BILL NO. 561

INTRODUCED BY M. MALONE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TIMELINES AND REQUIREMENTS TO REVIEW WATER DISCHARGE PERMITS; ~~PROVIDING PUBLIC COMMENT; PROVIDING RULEMAKING AUTHORITY~~ AMENDING SECTION 75-5-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

Section 1. Section 75-5-403, MCA, is amended to read:

"75-5-403. Denial, issuance, or modification of permit -- time for review of permit application and hearing. (1) The department shall review for completeness all applications for new permits within 60 days of the receipt of the initial application and within 30 days of receipt of responses to notices of deficiencies. The initial completeness notice must note all major deficiency issues, based on the information submitted. The department and the applicant may extend these timeframes, by mutual agreement, by not more than 75 days. An application is considered complete unless the applicant is notified of a deficiency within the appropriate review period.

(2) (a) If the department denies an application for a permit, issues a permit, or modifies a permit, the department shall give written notice of its action to the applicant or holder, and the Within 30 days of the department's decision, the applicant or holder may request a hearing before the board, ~~in the manner stated in 75-5-614,~~ for the purpose of petitioning the board to reverse or modify the action of the department. The contested case provisions of the Montana Administrative Procedure Act pursuant to Title 2, chapter 4, apply to hearings under this section.

(b) ~~The~~ Unless the deadline is waived by the applicant or holder and except as provided in

1 subsection (2)(c), the hearing must be held within 30-90 days after receipt of written request. After-Except as
2 provided in subsection (2)(c), within 120 days of the hearing, the board shall affirm, modify, or reverse the
3 action of the department. If the holder does not request a hearing before the board, modification of a permit is
4 effective 30 days after receipt of notice by the holder unless the department specifies a later date. If the holder
5 does request a hearing before the board, an order modifying the permit is not effective until 20 days after
6 receipt of notice of the action of the board.

7 (c) The board may extend a deadline for good cause.

8 (d) An applicant or holder may appeal the board's final decision to a district court.

9 (3) (a) Subject to subsection (3)(b) and within 30 days of the agency's final decision, a person who
10 provided public comment on the permit may file an appeal in a district court.

11 (b) The appeal is limited to the issues raised by the person during the public comment period or
12 the terms, conditions, and issues within the final permit decision that were not contained in the draft permit.

13 (c) This section provides the exclusive means for an appeal of a permit decision under this
14 chapter.

15 (4) (a) Filing an appeal in a district court does not stay the permit.

16 (b) Subsection (4)(a) does not supersede department rules allowing permit provisions contested by
17 the applicants or holders to be stayed, pending final action by the board."

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19 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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21 NEW SECTION. Section 3. Applicability. [This act] applies to permits issued, modified, or denied on
22 or after [the effective date of this act].

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