

1 HOUSE BILL NO. 576  
2 INTRODUCED BY R. KNUDSEN, J. HINKLE, S. GUNDERSON, S. VINTON, S. GIST, K. WALSH, M.  
3 BINKLEY, G. PARRY  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO WATER AND COAL MINING;  
6 ~~PROVIDING THAT NONSIGNIFICANT CHANGES IN WATER QUALITY INCLUDE COAL OPERATIONS~~  
7 ~~ADJACENT TO EPHEMERAL DRAINAGEWAYS AND INTERMITTENT STREAMS UNDER CERTAIN~~  
8 ~~CONDITIONS~~; REVISING THE DEFINITION OF "MATERIAL DAMAGE" TO INCLUDE THE EFFECT OF  
9 COAL MINING ON THE HYDROLOGIC BALANCE; PROVIDING RULEMAKING AUTHORITY; DIRECTING  
10 AN AMENDMENT TO 17.24.301 TO REMOVE CERTAIN DEFINITIONS; AMENDING ~~SECTIONS SECTION~~  
11 ~~75-5-317 AND~~ 82-4-203, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN  
12 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."  
13

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

15  
16 NEW SECTION. **Section 1. Department to amend rule.** The department of environmental quality  
17 shall amend ARM 17.24.301 to remove the two subsections defining "material damage" and the subsection  
18 defining "materially damage the quantity or quality of water".  
19

20 **Section 2.** ~~Section 75-5-317, MCA, is amended to read:~~

21 ~~"75-5-317. Nonsignificant activities. (1) The categories or classes of activities identified in~~  
22 ~~subsection (2) cause changes in water quality that are nonsignificant because of their low potential for harm to~~  
23 ~~human health or the environment and their conformance with the guidance found in 75-5-301(5)(c).~~

24 ~~(2) The following categories or classes of activities are not subject to the provisions of 75-5-303:~~

25 ~~(a) existing activities that are nonpoint sources of pollution as of April 29, 1993;~~

26 ~~(b) activities that are nonpoint sources of pollution initiated after April 29, 1993, when reasonable~~  
27 ~~land, soil, and water conservation practices are applied and existing and anticipated beneficial uses will be fully~~

**Amendment - 1st Reading/2nd House-blue - Requested by: Rhonda Knudsen - (S) Natural Resources**

- 2023

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Drafter: Joe Kolman, 406-444-3747

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1 ~~protected;~~

2 ~~(c) — use of agricultural chemicals in accordance with a specific agricultural chemical ground water~~  
3 ~~management plan promulgated under 80-15-212, if applicable, or in accordance with an environmental~~  
4 ~~protection agency approved label and when existing and anticipated uses will be fully protected;~~

5 ~~(d) — changes in existing water quality resulting from an emergency or remedial activity that is~~  
6 ~~designed to protect public health or the environment and is approved, authorized, or required by the~~  
7 ~~department;~~

8 ~~(e) — changes in existing ground water quality resulting from treatment of a public water supply~~  
9 ~~system, as defined in 75-6-102, or a public sewage system, as defined in 75-6-102, by chlorination or other~~  
10 ~~similar means that is designed to protect the public health or the environment and that is approved, authorized,~~  
11 ~~or required by the department;~~

12 ~~(f) — the use of drilling fluids, sealants, additives, disinfectants, and rehabilitation chemicals in water~~  
13 ~~well or monitoring well drilling, development, or abandonment, if used according to department approved water~~  
14 ~~quality protection practices and if no discharge to surface water will occur;~~

15 ~~(g) — short term changes in existing water quality resulting from activities authorized by the~~  
16 ~~department pursuant to 75-5-308;~~

17 ~~(h) — land application of animal waste, domestic septage, or waste from public sewage treatment~~  
18 ~~systems containing nutrients when the wastes are applied to the land in a beneficial manner, application rates~~  
19 ~~are based on agronomic uptake of applied nutrients, and other parameters will not cause degradation;~~

20 ~~(i) — use of gray water, as defined in 75-5-325, from nonpublic gray water reuse systems for~~  
21 ~~irrigation during the growing season in accordance with gray water reuse rules adopted pursuant to 75-5-305;~~

22 ~~(j) — incidental leakage of water from a public water supply system, as defined in 75-6-102, or from~~  
23 ~~a public sewage system, as defined in 75-6-102, utilizing best practicable control technology designed and~~  
24 ~~constructed in accordance with Title 75, chapter 6;~~

25 ~~(k) — discharges of water to ground water from water well or monitoring well tests, hydrostatic~~  
26 ~~pressure and leakage tests, or wastewater from the disinfection or flushing of water mains and storage~~  
27 ~~reservoirs, conducted in accordance with department approved water quality protection practices;~~

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- 1           ~~(l) — oil and gas drilling, production, abandonment, plugging, and restoration activities that do not~~  
2 ~~result in discharges to surface water and that are performed in accordance with Title 82, chapter 10, or Title 82,~~  
3 ~~chapter 11;~~
- 4           ~~(m) — short term changes in existing water quality resulting from ordinary and everyday activities of~~  
5 ~~humans or domesticated animals, including but not limited to:~~
- 6           ~~(i) — such recreational activities as boating, hiking, hunting, fishing, wading, swimming, and~~  
7 ~~camping;~~
- 8           ~~(ii) — fording of streams or other bodies of water by vehicular or other means; and~~
- 9           ~~(iii) — drinking from or fording of streams or other bodies of water by livestock and other domesticated~~  
10 ~~animals;~~
- 11           ~~(n) — coal and uranium prospecting that does not result in a discharge to surface water, that does not~~  
12 ~~involve a test pit located in surface water or that may affect surface water, and that is performed in accordance~~  
13 ~~with Title 82, chapter 4;~~
- 14           ~~(o) — solid waste management systems, motor vehicle wrecking facilities, and county motor vehicle~~  
15 ~~graveyards licensed and operating in accordance with Title 75, chapter 10, part 2, or Title 75, chapter 10, part~~  
16 ~~5;~~
- 17           ~~(p) — hazardous waste management facilities permitted and operated in accordance with Title 75,~~  
18 ~~chapter 10, part 4;~~
- 19           ~~(q) — metallic and nonmetallic mineral exploration that does not result in a discharge to surface water~~  
20 ~~and that is permitted under and performed in accordance with Title 82, chapter 4, parts 3 and 4;~~
- 21           ~~(r) — stream-related construction projects or stream enhancement projects that result in temporary~~  
22 ~~changes to water quality but do not result in long term detrimental effects and that have been authorized~~  
23 ~~pursuant to 75-5-318;~~
- 24           ~~(s) — diversions or withdrawals of water established and recognized under Title 85, chapter 2;~~
- 25           ~~(t) — the maintenance, repair, or replacement of dams, diversions, weirs, or other constructed works~~  
26 ~~that are related to existing water rights and that are within wilderness areas so long as existing and anticipated~~  
27 ~~beneficial uses are protected and as long as the changes in existing water quality relative to the project are~~

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- 1 ~~short term;~~
- 2 ~~(u) — discharges of total phosphorus or total nitrogen that do not:~~
- 3 ~~(i) — create conditions that are toxic or harmful to human, animal, plant, and aquatic life;~~
- 4 ~~(ii) — create conditions that produce undesirable aquatic life; or~~
- 5 ~~(iii) — cause measurable changes in aquatic life; and~~
- 6 ~~(v) — coal mining and reclamation activities that may affect the water quality of an adjacent~~
- 7 ~~ephemeral drainageway or intermittent stream for which the nonanthropogenic condition of the drainageway or~~
- 8 ~~stream exceeds the water quality standard and for which an applicant has prepared an acceptable hydrologic~~
- 9 ~~reclamation plan developed under Title 82, chapter 4, part 2, that demonstrates no change in the water quality~~
- 10 ~~classification for the affected drainageway or stream. For the purposes of this subsection (2)(v), "ephemeral~~
- 11 ~~drainageway" and "intermittent stream" have the meanings provided in 82-4-203.~~
- 12 ~~(v)(w) — any other activity that is nonsignificant nonsignificant because of its low potential for harm to~~
- 13 ~~human health or to the environment and its conformance with the guidance found in 75-5-301(5)(c)."~~

15 **Section 2.** Section 82-4-203, MCA, is amended to read:

16 **"82-4-203. Definitions.** Unless the context requires otherwise, in this part, the following definitions

17 apply:

18 (1) "Abandoned" means an operation in which a mineral is not being produced and that the

19 department determines will not continue or resume operation.

20 (2) "Adjacent area" means the area outside the permit area where a resource or resources,

21 determined in the context in which the term is used, are or could reasonably be expected to be adversely

22 affected by proposed mining operations, including probable impacts from underground workings.

23 (3) "Affected drainage basin" means an area of land where surface water and ground water quality

24 and quantity are affected by mining activities and where they drain to a common point.

25 (4) (a) "Alluvial valley floor" means the unconsolidated stream-laid deposits holding streams where

26 water availability is sufficient for subirrigation or flood irrigation agricultural activities.

27 (b) The term does not include upland areas that are generally overlain by a thin veneer of colluvial