

1 INTRODUCED BY H Vincent BILL NO. 585

2 BY REQUEST OF
3 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING
5 TITLE 69, CHAPTER 48; AMENDING THE DEFINITION OF POLLUTION;
6 AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
7 TO CHANGE A STREAM CLASSIFICATION WHEN A STREAM HAS BEEN
8 IMPROPERLY CLASSIFIED; AUTHORIZING THE SERVICE OF COMPLIANCE
9 ORDERS BY MAIL; AND AMENDING SECTIONS 69-4802, 69-4806,
10 69-4808.2, 69-4809.1, AND 69-4820.1, R.C.M. 1947."

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

12 Section 1. Section 69-4802, R.C.M. 1947, is amended to
13 read as follows:

14 "69-4802. Definitions. Unless the context requires
15 otherwise in this chapter the following definitions apply:

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

21 (2) "Industrial waste" means any waste substance from
22 the process of business or industry, or from the development

1 of any natural resource together with any sewage that may be
2 present.

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

9 (4) "Contamination" means impairment of the quality of
10 state waters by sewage, industrial wastes, or other wastes
11 creating a hazard to human health.

12 (5) "Pollution" means contamination, or other
13 alteration of the physical, chemical, or biological
14 properties of any state waters, which exceeds that permitted
15 by Montana water quality standards, including, but not
16 limited to, standards relating to change in temperature,
17 taste, color, turbidity, or odor; or the discharge or
18 introduction of any liquid, gaseous, solid, radioactive, or
19 other substance into any state water which will or is likely
20 to create a nuisance or render the waters harmful,
21 detrimental, or injurious to public health, recreation,
22 safety, welfare, livestock, wild animals, birds, fish, or
23 other wildlife. A discharge which is authorized under the
24 pollution discharge permit rules of the board is not
25 "pollution" under this chapter.

1 (6) "Sewerage system" means a device for collecting or
2 conducting sewage, industrial wastes, or other wastes to an
3 ultimate disposal point₂.

4 (7) "Treatment works" means works installed for
5 treating or holding sewage, industrial wastes, or other
6 wastes₂.

7 (8) "Disposal system" means a system for disposing of
8 sewage, industrial, or other wastes, and includes sewerage
9 systems and treatment works₂.

10 (9) "State waters" means any body of water, irrigation
11 system, or drainage system either surface or underground;
12 however, this subsection does not apply to irrigation waters
13 where the waters are used up within the irrigation system
14 and the waters are not returned to any other state waters₂.

15 (10) "Person" means the state, a political subdivision
16 of the state, institution, firm, corporation, partnership,
17 individual, or other entity₂.

18 (11) "Council" means the state water pollution control
19 advisory council provided for in section 82A-607₂.

20 (12) "Board" means the board of health and
21 environmental sciences, provided for in section 82A-605₂.

22 (13) "Department" means the department of health and
23 environmental sciences, provided for in Title 82A, chapter
24 6₂.

25 (14) "Local department of health" means the staff,

1 including health officers, employed by a county, city,
2 city-county, or district board of health₂.

3 (15) "Point source" means any discernible, confined and
4 discrete conveyance, including but not limited to any pipe,
5 ditch, channel, tunnel, conduit, well, discrete fissure,
6 container, rolling stock, or vessel or other floating craft,
7 from which pollutants are or may be discharged₂.

8 (16) "Owner or operator" means any person who owns,
9 leases, operates, controls or supervises a point source₂.

10 (17) "Standard of performance" means a standard adopted
11 by the board for the control of the discharge of pollutants
12 which reflects the greatest degree of effluent reduction
13 achievable through application of the best available
14 demonstrated control technology, processes, operating
15 methods, or other alternatives, including, where
16 practicable, a standard permitting no discharge of
17 pollutants₂.

18 (18) "Effluent standard" means any restriction or
19 prohibition on quantities, rates and concentrations of
20 chemical, physical, biological and other constituents which
21 are discharged into state waters."

22 Section 2. Section 69-4806, R.C.M. 1947, is amended to
23 read as follows:

24 "69-4806. Pollution unlawful -- permits. It is
25 unlawful to:

1 (1) cause pollution as defined in section 69-4802 (5),
 2 R.C.M. 1947, of any state waters or to place or cause to be
 3 placed any wastes in a location where they are likely to
 4 cause pollution of any state waters;

5 (2) carry on any of the following activities without a
 6 current permit from the department:

7 (a) construct, modify, or operate a disposal system
 8 which discharges to into any state waters; or

9 (b) construct or use any outlet for the discharge of
 10 sewage, industrial wastes, or other wastes to into any state
 11 waters; or

12 (c) discharge sewage, industrial wastes, or other
 13 wastes into any state waters; or

14 (3) ~~violate any limitation imposed by a current~~
 15 ~~permit~~ violate any provision set forth in a permit or
 16 stipulations, including but not limited to limitations and
 17 conditions contained therein;

18 (4) violate any order issued pursuant to this chapter;
 19 or

20 (5) violate any provision of this chapter."

21 Section 3. Section 69-4808.2, R.C.M. 1947, is amended
 22 to read as follows:

23 "69-4808.2. Duties of board. (1) The board shall:

24 (a) Establish and modify the classification of all
 25 waters in accordance with their present and future most

1 beneficial uses.

2 (b) Formulate standards of water purity and
 3 classification of water according to its most beneficial
 4 uses, giving consideration to the economics of waste
 5 treatment and prevention.

6 (c) Review from time to time, at intervals of not more
 7 than three (3) years, established classifications of waters
 8 and standards of water purity and classification ~~and as~~
 9 follows:

10 ~~(i) The classifications, standards, and rules which~~
 11 ~~have been adopted by the state water pollution control~~
 12 ~~council under section 69-4813 are, without necessity of a~~
 13 ~~hearing, initially adopted by the board;~~

14 ~~(ii) In revising classifications or standards or in~~
 15 ~~adopting new classifications or standards the board may not~~
 16 ~~so formulate standards of water purity or classify any state~~
 17 ~~water as to lower any water quality standard applicable to~~
 18 ~~any state water below the level applicable under the~~
 19 ~~classifications and standards adopted by the state water~~
 20 ~~pollution control council under section 69-4813 except upon~~
 21 ~~a finding that a particular state water has been classified~~
 22 ~~under a standard or classification of water quality that is~~
 23 ~~higher than the actual water quality that existed at the~~
 24 ~~time of classification and only if the action is taken~~
 25 ~~pursuant to 69-4814.~~

1 ~~{+++}~~(iii) The board shall require that any state
2 waters, whose existing quality is higher than the
3 established water quality standards, be maintained at that
4 high quality unless it has been affirmatively demonstrated
5 to the board that a change is justifiable as a result of
6 necessary economic or social development and will not
7 preclude present and anticipated use of these waters; and

8 ~~{+}~~(iii) The board shall require any industrial,
9 public, or private project or development, which would
10 constitute a new source of pollution or an increased source
11 of pollution to high quality waters, referred to in
12 subsection (1)(c)~~{+++}~~(iii), to provide the degree of waste
13 treatment necessary to maintain that existing high water
14 quality.

15 ~~{d}--Advise, consult, and co-operate with other states,
16 other state and federal agencies, affected groups, political
17 subdivisions, and industries in the formulation of a
18 comprehensive plan to prevent and control pollution.~~

19 ~~{+}~~(d) Adopt rules governing application for permits
20 to discharge sewage, industrial wastes, or other wastes into
21 state waters including rules requiring the filing of plans
22 and specifications relating to the construction,
23 modification, or operation of disposal systems.

24 ~~{+}~~(e) Adopt rules governing the issuance, denial,
25 modification, or revocation of permits and as follows:

1 (i) The rules shall allow the issuance or continuance
2 of a permit only if the department finds that operation
3 consistent with the limitations of the permit will not
4 result in pollution of any state waters, except that:

5 (ii) The rules may allow the issuance of a temporary
6 permit under which pollution may result, if the department
7 insures that such permit contains a compliance schedule
8 designed to meet all applicable effluent standards and water
9 quality standards in the shortest reasonable period of time.

10 (iii) The rules shall provide that the department may
11 revoke a permit if the department finds that the holder of
12 the permit has violated its terms, unless the department
13 also finds that the violation was accidental and
14 unforeseeable and that the holder of the permit corrected
15 the condition resulting in the violation as soon as was
16 reasonably possible; and

17 ~~{+}~~(f) Hold hearings necessary for the proper
18 administration of this chapter or, in the case of permit
19 issuance hearings, delegate this function to the department.

20 ~~{+}~~(g) Adopt rules for the administration of this
21 chapter.

22 ~~{+}~~(h) Adopt pretreatment standards for waste-water
23 discharged into a municipal disposal system, adopt effluent
24 standards as defined in section 69-4802 (18), adopt toxic
25 effluent standards and prohibitions, and establish standards

1 of performance for new point source discharges.

2 (2) The board may:

3 (a) accept loans and grants from the federal
4 government and other sources to carry out the provisions of
5 this chapter; and

6 (b) establish minimum requirements for the treatment
7 of wastes."

8 Section 4. Section 69-4809.1, R.C.M. 1947, is amended
9 to read as follows:

10 "69-4809.1. Duties of department. (1) The department
11 shall:

12 (a) Issue, suspend, revoke, modify, or deny permits to
13 discharge sewage, industrial wastes, or other wastes to into
14 state waters, consistently with rules made by the board;

15 (b) Examine plans and other information needed to
16 determine whether a permit should be issued or suggest
17 changes in plans as a condition to the issuance of a permit;

18 (c) Clearly specify in any permit any limitations
19 imposed as to the volume, strength, and other significant
20 characteristics of the waste to be discharged;

21 (d) Collect and furnish information relating to the
22 prevention and control of water pollution;

23 (e) Conduct or encourage necessary research and
24 demonstrations concerning water pollution;

25 (f) Issue orders to any person to clean up any

1 material which he or his employee, agent, or subcontractor
2 has accidentally or purposely dumped, spilled, or otherwise
3 deposited in or near state waters and which may pollute
4 them;

5 (d) Take such actions as are authorized or required
6 under section 69-4820.1 to insure that the terms and
7 conditions of issued permits are complied with and to insure
8 that violations of this chapter are appropriately
9 prosecuted; and

10 ~~(b) Advise, consult, and cooperate with other states,
11 other state and federal agencies, affected groups, political
12 subdivisions, and industries in the formulation of a
13 comprehensive plan to prevent and control pollution.~~

14 ~~(2) The department may accept loans and grants from
15 the federal government and other sources to carry out the
16 provisions of this chapter."~~

17 Section 5. Section 69-4820.1, R.C.M. 1947, is amended
18 to read as follows:

19 "69-4820.1. Additional enforcement remedies. (1) In
20 addition to all other remedies created by this act, the
21 department is authorized to take appropriate enforcement
22 action on its own initiative to:

23 (a) prevent, abate, and control the pollution of state
24 waters;

25 (b) prevent, abate, and control any violation of a

1 condition or limitation imposed by a permit issued under
2 section 69-4806, R.C.M. 1947; or

3 (c) prevent, abate, and control any violations of
4 regulations relating to pretreatment standards.

5 (2) In furtherance of subsection (1) of this section,
6 any person violating any condition, limitation, standard or
7 other requirement established pursuant to this chapter may
8 be served with a compliance order issued by the department.
9 Such order must specify the condition, limitation, standard
10 or other requirement violated and must set a time for
11 compliance. However, in establishing a time for compliance,
12 the department shall take into account the seriousness of
13 the violation and any good faith efforts that have been made
14 to comply with the condition, limitation, standard or other
15 requirement that has been violated. The compliance order
16 issued under this section shall be either personally served
17 ~~by an authorized representative of the department~~ by a
18 person qualified to perform service under the Montana rules
19 of civil procedure or by certified mail.

20 (3) The department is authorized to commence a civil
21 action seeking appropriate relief, including a permanent or
22 temporary injunction, for any violation which would be
23 subject to a compliance order under subsection (2) of this
24 section. Any action under this subsection may be commenced
25 in the district court of any county in which the defendant

1 is located or resides or is doing business, and the court
2 shall have jurisdiction to restrain such violation and to
3 require compliance.

4 (4) Any person found to be in violation of a
5 condition, limitation, standard or other requirement
6 established pursuant to this section shall be subject to the
7 penalty provisions of section 69-4823, R.C.M. 1947.

8 (5) For the purpose of this subsection, the term
9 "person" shall mean, in addition to the definition contained
10 in section 69-4802, R.C.M. 1947, any responsible corporate
11 officer."

-End-

Approved by Committee
on Judiciary

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10 IMPROPERLY CLASSIFIED; AUTHORIZING THE SERVICE OF COMPLIANCE
11 ORDERS BY MAIL; AND AMENDING SECTIONS 69-4802, 69-4806,
12 69-4808.2, 69-4809.1, AND 69-4820.1, R.C.M. 1947."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 69-4802, R.C.M. 1947, is amended to
16 read as follows:

17 "69-4802. Definitions. Unless the context requires
18 otherwise in this chapter the following definitions apply:

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

24 (2) "Industrial waste" means any waste substance from
25 the process of business or industry, or from the development

1 of any natural resource together with any sewage that may be
2 present.

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

9 (4) "Contamination" means impairment of the quality of
10 state waters by sewage, industrial wastes, or other wastes
11 creating a hazard to human health.

12 (5) "Pollution" means contamination, or other
13 alteration of the physical, chemical, or biological
14 properties of any state waters, which exceeds that permitted
15 by Montana water quality standards, including, but not
16 limited to, standards relating to change in temperature,
17 taste, color, turbidity, or odor; or the discharge or
18 introduction of any liquid, gaseous, solid, radioactive, or
19 other substance into any state water which will or is likely
20 to create a nuisance or render the waters harmful,
21 detrimental, or injurious to public health, recreation,
22 safety, welfare, livestock, wild animals, birds, fish, or
23 other wildlife. A discharge which is authorized under the
24 pollution discharge permit rules of the board is not
25 "pollution" under this chapter.

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1 (6) "Sewerage system" means a device for collecting or
2 conducting sewage, industrial wastes, or other wastes to an
3 ultimate disposal point.

4 (7) "Treatment works" means works installed for
5 treating or holding sewage, industrial wastes, or other
6 wastes.

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

10 (9) "State waters" means any body of water, irrigation
11 system, or drainage system either surface or underground;
12 however, this subsection does not apply to irrigation waters
13 where the waters are used up within the irrigation system
14 and the waters are not returned to any other state waters.

15 (10) "Person" means the state, a political subdivision
16 of the state, institution, firm, corporation, partnership,
17 individual, or other entity.

18 (11) "Council" means the state water pollution control
19 advisory council provided for in section 82A-607.

20 (12) "Board" means the board of health and
21 environmental sciences, provided for in section 82A-605.

22 (13) "Department" means the department of health and
23 environmental sciences, provided for in Title 82A, chapter
24 6.

25 (14) "Local department of health" means the staff,

1 including health officers, employed by a county, city,
2 city-county, or district board of health.

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

8 (16) "Owner or operator" means any person who owns,
9 leases, operates, controls or supervises a point source.

10 (17) "Standard of performance" means a standard adopted
11 by the board for the control of the discharge of pollutants
12 which reflects the greatest degree of effluent reduction
13 achievable through application of the best available
14 demonstrated control technology, processes, operating
15 methods, or other alternatives, including, where
16 practicable, a standard permitting no discharge of
17 pollutants.

18 (18) "Effluent standard" means any restriction or
19 prohibition on quantities, rates and concentrations of
20 chemical, physical, biological and other constituents which
21 are discharged into state waters.

22 Section 2. Section 69-4806, R.C.M. 1947, is amended to
23 read as follows:

24 "69-4806. Pollution unlawful -- permits. It is
25 unlawful to:

1 (1) cause pollution as defined in section 69-4802 (5),
2 R.C.M. 1947, of any state waters or to place or cause to be
3 placed any wastes in a location where they are likely to
4 cause pollution of any state waters;

5 (2) carry on any of the following activities without a
6 current permit from the department:

7 (a) construct, modify, or operate a disposal system
8 which discharges to into any state waters; or

9 (b) construct or use any outlet for the discharge of
10 sewage, industrial wastes, or other wastes to into any state
11 waters; or

12 (c) discharge sewage, industrial wastes, or other
13 wastes into any state waters; or

14 (3) ~~violate any limitation imposed by a current~~
15 ~~permit~~ violate any provision set forth in a permit or
16 stipulations, including but not limited to limitations and
17 conditions contained therein;

18 (4) violate any order issued pursuant to this chapter;
19 or

20 (5) violate any provision of this chapter."

21 Section 3. Section 69-4808.2, R.C.M. 1947, is amended
22 to read as follows:

23 "69-4808.2. Duties of board. (1) The board shall:

24 (a) Establish and modify the classification of all
25 waters in accordance with their present and future most

1 beneficial uses.

2 (b) Formulate standards of water purity and
3 classification of water according to its most beneficial
4 uses, giving consideration to the economics of waste
5 treatment and prevention.

6 (c) Review from time to time, at intervals of not more
7 than three (3) years, established classifications of waters
8 and standards of water purity and classification ~~and as~~
9 follows:

10 ~~(i) The classifications, standards, and rules which~~
11 ~~have been adopted by the state water pollution control~~
12 ~~council under section 59-4813 are, without necessity of a~~
13 ~~hearing, initially adopted by the board.~~

14 ~~(ii)~~ (i) In revising classifications or standards or in
15 adopting new classifications or standards the board may not
16 so formulate standards of water purity or classify any state
17 water as to lower any water quality standard applicable to
18 any state water below the level applicable under the
19 classifications and standards adopted ~~by the state water~~
20 ~~pollution control council under section 69-4813~~ except upon
21 a finding that a particular state water has been classified
22 under a standard or classification of water quality that is
23 higher than the actual water quality that existed at the
24 time of classification and only if the action is taken
25 pursuant to 59-4814.

1 ~~+++~~(ii) The board shall require that any state
2 waters, whose existing quality is higher than the
3 established water quality standards, be maintained at that
4 high quality unless it has been affirmatively demonstrated
5 to the board that a change is justifiable as a result of
6 necessary economic or social development and will not
7 preclude present and anticipated use of these waters; and

8 ~~(iv)~~(iii) The board shall require any industrial,
9 public, or private project or development, which would
10 constitute a new source of pollution or an increased source
11 of pollution to high quality waters, referred to in
12 subsection (1)(c)~~+++~~(ii), to provide the degree of waste
13 treatment necessary to maintain that existing high water
14 quality.

15 ~~(d)---Advise, consult, and co-operate with other states,
16 other state and federal agencies, affected groups, political
17 subdivisions, and industries in the formulation of a
18 comprehensive plan to prevent and control pollution.~~

19 ~~(f)~~(d) Adopt rules governing application for permits
20 to discharge sewage, industrial wastes, or other wastes into
21 state waters including rules requiring the filing of plans
22 and specifications relating to the construction,
23 modification, or operation of disposal systems.

24 ~~++~~(e) Adopt rules governing the issuance, denial,
25 modification, or revocation of permits, and as follows:

1 (i) The rules shall allow the issuance or continuance
2 of a permit only if the department finds that operation
3 consistent with the limitations of the permit will not
4 result in pollution of any state waters, except that:

5 (ii) The rules may allow the issuance of a temporary
6 permit under which pollution may result, if the department
7 insures that such permit contains a compliance schedule
8 designed to meet all applicable effluent standards and water
9 quality standards in the shortest reasonable period of time.

10 (iii) The rules shall provide that the department may
11 revoke a permit if the department finds that the holder of
12 the permit has violated its terms, unless the department
13 also finds that the violation was accidental and
14 unforeseeable and that the holder of the permit corrected
15 the condition resulting in the violation as soon as was
16 reasonably possible; and

17 ~~(g)~~(f) Hold hearings necessary for the proper
18 administration of this chapter or, in the case of permit
19 issuance hearings, delegate this function to the department.

20 ~~(h)~~(g) Adopt rules for the administration of this
21 chapter.

22 ~~++~~(h) Adopt pretreatment standards for waste-water
23 discharged into a municipal disposal system, adopt effluent
24 standards as defined in section 59-4802 (18), adopt toxic
25 effluent standards and prohibitions, and establish standards

1 of performance for new point source discharges.

2 (2) The board may:

3 (a) accept loans and grants from the federal
4 government and other sources to carry out the provisions of
5 this chapter; and

6 (b) establish minimum requirements for the treatment
7 of wastes."

8 Section 4. Section 69-4809.1, R.C.M. 1947, is amended
9 to read as follows:

10 "69-4809.1. Duties of department. (1) The department
11 shall:

12 (a) Issue, suspend, revoke, modify, or deny permits to
13 discharge sewage, industrial wastes, or other wastes to into
14 state waters, consistently with rules made by the board;

15 (b) Examine plans and other information needed to
16 determine whether a permit should be issued or suggest
17 changes in plans as a condition to the issuance of a permit;

18 (c) Clearly specify in any permit any limitations
19 imposed as to the volume, strength, and other significant
20 characteristics of the waste to be discharged;

21 (d) Collect and furnish information relating to the
22 prevention and control of water pollution;

23 (e) Conduct or encourage necessary research and
24 demonstrations concerning water pollution;

25 (f) Issue orders to any person to clean up any

1 material which he or his employee, agent, or subcontractor
2 has accidentally or purposely dumped, spilled, or otherwise
3 deposited in or near state waters and which may pollute
4 them;

5 (g) Take such actions as are authorized or required
6 under section 69-4820.1 to insure that the terms and
7 conditions of issued permits are complied with and to insure
8 that violations of this chapter are appropriately
9 prosecuted; and

10 ~~(h) Advise, consult, and cooperate with other states,~~
11 ~~other state and federal agencies, affected groups, political~~
12 ~~subdivisions, and industries in the formulation of a~~
13 ~~comprehensive plan to prevent and control pollution.~~

14 ~~(2) The department may accept loans and grants from~~
15 ~~the federal government and other sources to carry out the~~
16 ~~provisions of this chapter."~~

17 Section 5. Section 69-4820.1, R.C.M. 1947, is amended
18 to read as follows:

19 "69-4820.1. Additional enforcement remedies. (1) In
20 addition to all other remedies created by this act, the
21 department is authorized to take appropriate enforcement
22 action on its own initiative to:

23 (a) prevent, abate, and control the pollution of state
24 waters;

25 (b) prevent, abate, and control any violation of a

1 condition or limitation imposed by a permit issued under
2 section 69-4806, R.C.M. 1947; or

3 (c) prevent, abate, and control any violations of
4 regulations relating to pretreatment standards.

5 (2) In furtherance of subsection (1) of this section,
6 any person violating any condition, limitation, standard or
7 other requirement established pursuant to this chapter may
8 be served with a compliance order issued by the department.
9 Such order must specify the condition, limitation, standard
10 or other requirement violated and must set a time for
11 compliance. However, in establishing a time for compliance,
12 the department shall take into account the seriousness of
13 the violation and any good faith efforts that have been made
14 to comply with the condition, limitation, standard or other
15 requirement that has been violated. The compliance order
16 issued under this section shall be either personally served
17 by an authorized representative of the department by a
18 person qualified to perform service under the Montana rules
19 of civil procedure or by certified mail.

20 (3) The department is authorized to commence a civil
21 action seeking appropriate relief, including a permanent or
22 temporary injunction, for any violation which would be
23 subject to a compliance order under subsection (2) of this
24 section. Any action under this subsection may be commenced
25 in the district court of any county in which the defendant

1 is located or resides or is doing business, and the court
2 shall have jurisdiction to restrain such violation and to
3 require compliance.

4 (4) Any person found to be in violation of a
5 condition, limitation, standard or other requirement
6 established pursuant to this section shall be subject to the
7 penalty provisions of section 69-4823, R.C.M. 1947.

8 (5) For the purpose of this subsection, the term
9 "person" shall mean, in addition to the definition contained
10 in section 69-4802, R.C.M. 1947, any responsible corporate
11 officer."

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18 otherwise in this chapter the following definitions apply:

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20 residences, public buildings, institutions, or other
21 buildings including discharge from human beings or animals
22 together with ground water infiltration and surface water
23 present.

24 (2) "Industrial waste" means any waste substance from
25 the process of business or industry, or from the development

1 of any natural resource together with any sewage that may be
2 present.

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

9 (4) "Contamination" means impairment of the quality of
10 state waters by sewage, industrial wastes, or other wastes
11 creating a hazard to human health.

12 (5) "Pollution" means contamination, or other
13 alteration of the physical, chemical, or biological
14 properties of any state waters, which exceeds that permitted
15 by Montana water quality standards, including, but not
16 limited to, standards relating to change in temperature,
17 taste, color, turbidity, or odor; or the discharge or
18 introduction of any liquid, gaseous, solid, radioactive, or
19 other substance into any state water which will or is likely
20 to create a nuisance or render the waters harmful,
21 detrimental, or injurious to public health, recreation,
22 safety, welfare, livestock, wild animals, birds, fish, or
23 other wildlife. A discharge which is authorized under the
24 pollution discharge permit rules of the board is not
25 "pollution" under this chapter.

1 (6) "Sewerage system" means a device for collecting or
2 conducting sewage, industrial wastes, or other wastes to an
3 ultimate disposal point₂.

4 (7) "Treatment works" means works installed for
5 treating or holding sewage, industrial wastes, or other
6 wastes₂.

7 (8) "Disposal system" means a system for disposing of
8 sewage, industrial, or other wastes, and includes sewerage
9 systems and treatment works₂.

10 (9) "State waters" means any body of water, irrigation
11 system, or drainage system either surface or underground;
12 however, this subsection does not apply to irrigation waters
13 where the waters are used up within the irrigation system
14 and the waters are not returned to any other state waters₂.

15 (10) "Person" means the state, a political subdivision
16 of the state, institution, firm, corporation, partnership,
17 individual, or other entity₂.

18 (11) "Council" means the state water pollution control
19 advisory council provided for in section 82A-607₂.

20 (12) "Board" means the board of health and
21 environmental sciences, provided for in section 82A-605₂.

22 (13) "Department" means the department of health and
23 environmental sciences, provided for in Title 82A, chapter
24 6₂.

25 (14) "Local department of health" means the staff,

1 including health officers, employed by a county, city,
2 city-county, or district board of health₂.

3 (15) "Point source" means any discernible, confined and
4 discrete conveyance, including but not limited to any pipe,
5 ditch, channel, tunnel, conduit, well, discrete fissure,
6 container, rolling stock, or vessel or other floating craft,
7 from which pollutants are or may be discharged₂.

8 (16) "Owner or operator" means any person who owns,
9 leases, operates, controls or supervises a point source₂.

10 (17) "Standard of performance" means a standard adopted
11 by the board for the control of the discharge of pollutants
12 which reflects the greatest degree of effluent reduction
13 achievable through application of the best available
14 demonstrated control technology, processes, operating
15 methods, or other alternatives, including, where
16 practicable, a standard permitting no discharge of
17 pollutants₂.

18 (18) "Effluent standard" means any restriction or
19 prohibition on quantities, rates and concentrations of
20 chemical, physical, biological and other constituents which
21 are discharged into state waters."

22 Section 2. Section 69-4806, R.C.M. 1947, is amended to
23 read as follows:

24 "69-4806. Pollution unlawful -- permits. It is
25 unlawful to:

1 (1) cause pollution as defined in section 69-4802 (5),
2 R.C.M. 1947, of any state waters or to place or cause to be
3 placed any wastes in a location where they are likely to
4 cause pollution of any state waters;

5 (2) carry on any of the following activities without a
6 current permit from the department:

7 (a) construct, modify, or operate a disposal system
8 which discharges to into any state waters; or

9 (b) construct or use any outlet for the discharge of
10 sewage, industrial wastes, or other wastes to into any state
11 waters; or

12 (c) discharge sewage, industrial wastes, or other
13 wastes into any state waters; or

14 (3) ~~violate any limitation imposed by a current~~
15 ~~permit, violate any provision set forth in a permit or~~
16 ~~stipulation, including but not limited to limitations and~~
17 ~~conditions contained therein;~~

18 (4) violate any order issued pursuant to this chapter;

19 or

20 (5) violate any provision of this chapter."

21 Section 3. Section 69-4808.2, R.C.M. 1947, is amended
22 to read as follows:

23 "69-4808.2. Duties of board. (1) The board shall:

24 (a) Establish and modify the classification of all
25 waters in accordance with their present and future most

1 beneficial uses.

2 (b) Formulate standards of water purity and
3 classification of water according to its most beneficial
4 uses, giving consideration to the economics of waste
5 treatment and prevention.

6 (c) Review from time to time, at intervals of not more
7 than three (3) years, established classifications of waters
8 and standards of water purity and classification, ~~and as~~
9 follows:

10 ~~(i) The classifications, standards, and rules which~~
11 ~~have been adopted by the state water pollution control~~
12 ~~council under section 69-4813, are, without necessity of a~~
13 ~~hearing, initially adopted by the board;~~

14 ~~(ii)(i)~~ (i) In revising classifications or standards or in
15 adopting new classifications or standards the board may not
16 so formulate standards of water purity or classify any state
17 water as to lower any water quality standard applicable to
18 any state water below the level applicable under the
19 classifications and standards adopted ~~by the state water~~
20 ~~pollution control council under section 69-4813 except upon~~
21 a finding that a particular state water has been classified
22 under a standard or classification of water quality that is
23 higher than the actual water quality that existed at the
24 time of classification and only if the action is taken
25 pursuant to 69-4814.

1 ~~+++~~(ii) The board shall require that any state
2 waters, whose existing quality is higher than the
3 established water quality standards, be maintained at that
4 high quality unless it has been affirmatively demonstrated
5 to the board that a change is justifiable as a result of
6 necessary economic or social development and will not
7 preclude present and anticipated use of these waters; and

8 ~~iv~~(iii) The board shall require any industrial,
9 public, or private project or development, which would
10 constitute a new source of pollution or an increased source
11 of pollution to high quality waters, referred to in
12 subsection (1)(c)~~+++~~(ii), to provide the degree of waste
13 treatment necessary to maintain that existing high water
14 quality.

15 ~~(d)---Advise, consult, and co-operate with other states,
16 other state and federal agencies, affected groups, political
17 subdivisions, and industries in the formulation of a
18 comprehensive plan to prevent and control pollution.~~

19 ~~(e)(d)~~ Adopt rules governing application for permits
20 to discharge sewage, industrial wastes, or other wastes into
21 state waters including rules requiring the filing of plans
22 and specifications relating to the construction,
23 modification, or operation of disposal systems.

24 ~~ff~~(e) Adopt rules governing the issuance, denial,
25 modification, or revocation of permits, and as follows:

1 (i) The rules shall allow the issuance or continuance
2 of a permit only if the department finds that operation
3 consistent with the limitations of the permit will not
4 result in pollution of any state waters, except that:

5 (ii) The rules may allow the issuance of a temporary
6 permit under which pollution may result, if the department
7 insures that such permit contains a compliance schedule
8 designed to meet all applicable effluent standards and water
9 quality standards in the shortest reasonable period of time.

10 (iii) The rules shall provide that the department may
11 revoke a permit if the department finds that the holder of
12 the permit has violated its terms, unless the department
13 also finds that the violation was accidental and
14 unforeseeable and that the holder of the permit corrected
15 the condition resulting in the violation as soon as was
16 reasonably possible; and

17 ~~(e)(f)~~ Hold hearings necessary for the proper
18 administration of this chapter or, in the case of permit
19 issuance hearings, delegate this function to the department.

20 ~~(h)(g)~~ Adopt rules for the administration of this
21 chapter.

22 ~~++~~(h) Adopt pretreatment standards for waste-water
23 discharged into a municipal disposal system, adopt effluent
24 standards as defined in section 69-4802 (18), adopt toxic
25 effluent standards and prohibitions, and establish standards

1 of performance for new point source discharges.

2 (2) The board may:

3 (a) accept loans and grants from the federal
4 government and other sources to carry out the provisions of
5 this chapter; and

6 (b) establish minimum requirements for the treatment
7 of wastes."

8 Section 4. Section 69-4809.1, R.C.M. 1947, is amended
9 to read as follows:

10 "69-4809.1. Duties of department. (1) The department
11 shall:

12 (a) Issue, suspend, revoke, modify, or deny permits to
13 discharge sewage, industrial wastes, or other wastes to into
14 state waters, consistently with rules made by the board;

15 (b) Examine plans and other information needed to
16 determine whether a permit should be issued or suggest
17 changes in plans as a condition to the issuance of a permit;

18 (c) Clearly specify in any permit any limitations
19 imposed as to the volume, strength, and other significant
20 characteristics of the waste to be discharged;

21 (d) Collect and furnish information relating to the
22 prevention and control of water pollution;

23 (e) Conduct or encourage necessary research and
24 demonstrations concerning water pollution;

25 (f) Issue orders to any person to clean up any

1 material which he or his employee, agent, or subcontractor
2 has accidentally or purposely dumped, spilled, or otherwise
3 deposited in or near state waters and which may pollute
4 them;

5 (g) Take such actions as are authorized or required
6 under section 69-4820.1 to insure that the terms and
7 conditions of issued permits are complied with and to insure
8 that violations of this chapter are appropriately
9 prosecuted; and

10 ~~(h) Advise, consult, and cooperate with other states,~~
11 ~~other state and federal agencies, affected groups, political~~
12 ~~subdivisions, and industries in the formulation of a~~
13 ~~comprehensive plan to prevent and control pollution.~~

14 ~~(2) The department may accept loans and grants from~~
15 ~~the federal government and other sources to carry out the~~
16 ~~provisions of this chapter."~~

17 Section 5. Section 69-4820.1, R.C.M. 1947, is amended
18 to read as follows:

19 "69-4820.1. Additional enforcement remedies. (1) In
20 addition to all other remedies created by this act, the
21 department is authorized to take appropriate enforcement
22 action on its own initiative to:

23 (a) prevent, abate, and control the pollution of state
24 waters;

25 (b) prevent, abate, and control any violation of a

1 condition or limitation imposed by a permit issued under
2 section 69-4806, R.C.M. 1947; or

3 (c) prevent, abate, and control any violations of
4 regulations relating to pretreatment standards.

5 (2) In furtherance of subsection (1) of this section,
6 any person violating any condition, limitation, standard or
7 other requirement established pursuant to this chapter may
8 be served with a compliance order issued by the department.
9 Such order must specify the condition, limitation, standard
10 or other requirement violated and must set a time for
11 compliance. However, in establishing a time for compliance,
12 the department shall take into account the seriousness of
13 the violation and any good faith efforts that have been made
14 to comply with the condition, limitation, standard or other
15 requirement that has been violated. The compliance order
16 issued under this section shall be either personally served
17 ~~by an authorized representative of the department by a~~
18 person qualified to perform service under the Montana rules
19 of civil procedure or by certified mail.

20 (3) The department is authorized to commence a civil
21 action seeking appropriate relief, including a permanent or
22 temporary injunction, for any violation which would be
23 subject to a compliance order under subsection (2) of this
24 section. Any action under this subsection may be commenced
25 in the district court of any county in which the defendant

1 is located or resides or is doing business, and the court
2 shall have jurisdiction to restrain such violation and to
3 require compliance.

4 (4) Any person found to be in violation of a
5 condition, limitation, standard or other requirement
6 established pursuant to this section shall be subject to the
7 penalty provisions of section 69-4823, R.C.M. 1947.

8 (5) For the purpose of this subsection, the term
9 "person" shall mean, in addition to the definition contained
10 in section 69-4802, R.C.M. 1947, any responsible corporate
11 officer."

-End-

March 26, 1977

SENATE
STANDING COMMITTEE REPORT
Committee on Public Health, Welfare and Safety

That House Bill No. 585, third reading, be amended as follows:

1. Amend page 2, Section 1, lines 17 and 18.

Following: "discharge"

Strike: "or introduction"

Insert: ", seepage, drainage, infiltration or flow"

2. Amend page 2, Section 1, line 23.

Following: "discharge"

Insert: ", seepage, drainage, infiltration or flow"

1 HOUSE BILL NO. 585
 2 INTRODUCED BY VINCENT
 3 BY REQUEST OF
 4 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING
 7 TITLE 69, CHAPTER 48; AMENDING THE DEFINITION OF POLLUTION;
 8 AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
 9 TO CHANGE A STREAM CLASSIFICATION WHEN A STREAM HAS BEEN
 10 IMPROPERLY CLASSIFIED; AUTHORIZING THE SERVICE OF COMPLIANCE
 11 ORDERS BY MAIL; AND AMENDING SECTIONS 69-4802, 69-4806,
 12 69-4808.2, 69-4809.1, AND 69-4820.1, R.C.M. 1947."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 15 Section 1. Section 69-4802, R.C.M. 1947, is amended to
 16 read as follows:

17 "69-4802. Definitions. Unless the context requires
 18 otherwise in this chapter the following definitions apply:

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

24 (2) "Industrial waste" means any waste substance from
 25 the process of business or industry, or from the development

REFERENCE BILL

1 of any natural resource together with any sewage that may be
 2 present~~;~~

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

9 (4) "Contamination" means impairment of the quality of
 10 state waters by sewage, industrial wastes, or other wastes
 11 creating a hazard to human health~~;~~

12 (5) "Pollution" means contamination, or other
 13 alteration of the physical, chemical, or biological
 14 properties of any state waters, which exceeds that permitted
 15 by Montana water quality standards, including, but not
 16 limited to, standards relating to change in temperature,
 17 taste, color, turbidity, or odor; or the discharge or
 18 introduction, SEEPAGE, DRAINAGE, INFILTRATION OR FLOW of any
 19 liquid, gaseous, solid, radioactive, or other substance into
 20 any state water which will or is likely to create a nuisance
 21 or render the waters harmful, detrimental, or injurious to
 22 public health, recreation, safety, welfare, livestock, wild
 23 animals, birds, fish, or other wildlife. A discharge~~,~~
 24 SEEPAGE, DRAINAGE, INFILTRATION OR FLOW which is authorized
 25 under the pollution discharge permit rules of the board is

1 not "pollution" under this chapter.

2 (6) "Sewerage system" means a device for collecting or
3 conducting sewage, industrial wastes, or other wastes to an
4 ultimate disposal point~~1~~.

5 (7) "Treatment works" means works installed for
6 treating or holding sewage, industrial wastes, or other
7 wastes~~1~~.

8 (8) "Disposal system" means a system for disposing of
9 sewage, industrial, or other wastes, and includes sewerage
10 systems and treatment works~~1~~.

11 (9) "State waters" means any body of water, irrigation
12 system, or drainage system either surface or underground;
13 however, this subsection does not apply to irrigation waters
14 where the waters are used up within the irrigation system
15 and the waters are not returned to any other state waters~~1~~.

16 (10) "Person" means the state, a political subdivision
17 of the state, institution, firm, corporation, partnership,
18 individual, or other entity~~1~~.

19 (11) "Council" means the state water pollution control
20 advisory council provided for in section 82A-607~~1~~.

21 (12) "Board" means the board of health and
22 environmental sciences, provided for in section 82A-605~~1~~.

23 (13) "Department" means the department of health and
24 environmental sciences, provided for in Title 82A, chapter
25 6~~1~~.

1 (14) "Local department of health" means the staff,
2 including health officers, employed by a county, city,
3 city-county, or district board of health~~1~~.

4 (15) "Point source" means any discernible, confined and
5 discrete conveyance, including but not limited to any pipe,
6 ditch, channel, tunnel, conduit, well, discrete fissure,
7 container, rolling stock, or vessel or other floating craft,
8 from which pollutants are or may be discharged~~1~~.

9 (16) "Owner or operator" means any person who owns,
10 leases, operates, controls or supervises a point source~~1~~.

11 (17) "Standard of performance" means a standard adopted
12 by the board for the control of the discharge of pollutants
13 which reflects the greatest degree of effluent reduction
14 achievable through application of the best available
15 demonstrated control technology, processes, operating
16 methods, or other alternatives, including, where
17 practicable, a standard permitting no discharge of
18 pollutants~~1~~.

19 (18) "Effluent standard" means any restriction or
20 prohibition on quantities, rates and concentrations of
21 chemical, physical, biological and other constituents which
22 are discharged into state waters.~~1~~

23 Section 2. Section 69-4806, R.C.M. 1947, is amended to
24 read as follows:

25 "69-4806. Pollution unlawful -- permits. It is

1 unlawful to:

2 (1) cause pollution as defined in section 69-4802(5),
 3 R.C.M. 1947, of any state waters or to place or cause to be
 4 placed any wastes in a location where they are likely to
 5 cause pollution of any state waters;

6 (2) carry on any of the following activities without a
 7 current permit from the department:

8 (a) construct, modify, or operate a disposal system
 9 which discharges to into any state waters; or

10 (b) construct or use any outlet for the discharge of
 11 sewage, industrial wastes, or other wastes to into any state
 12 waters; or

13 (c) discharge sewage, industrial wastes, or other
 14 wastes into any state waters; or

15 (3) ~~violate any limitation imposed by a current~~
 16 ~~permit~~ violate any provision set forth in a permit or
 17 stipulation, including but not limited to limitations and
 18 conditions contained therein;

19 (4) violate any order issued pursuant to this chapter;
 20 or

21 (5) violate any provision of this chapter."

22 Section 3. Section 69-4808.2, R.C.M. 1947, is amended
 23 to read as follows:

24 "69-4808.2. Duties of board. (1) The board shall:

25 (a) Establish and modify the classification of all

1 waters in accordance with their present and future most
 2 beneficial uses.

3 (b) Formulate standards of water purity and
 4 classification of water according to its most beneficial
 5 uses, giving consideration to the economics of waste
 6 treatment and prevention.

7 (c) Review from time to time, at intervals of not more
 8 than three (3) years, established classifications of waters
 9 and standards of water purity and classification, ~~and as~~
 10 follows:

11 ~~(i) The classifications, standards, and rules which~~
 12 ~~have been adopted by the state water pollution control~~
 13 ~~council under section 69-4813 are, without necessity of a~~
 14 ~~hearing, initially adopted by the boards~~

15 ~~(ii)~~ (i) In revising classifications or standards or in
 16 adopting new classifications or standards the board may not
 17 so formulate standards of water purity or classify any state
 18 water as to lower any water quality standard applicable to
 19 any state water below the level applicable under the
 20 classifications and standards adopted ~~by the state water~~
 21 ~~pollution control council under section 69-4813~~ except upon
 22 a finding that a particular state water has been classified
 23 under a standard or classification of water quality that is
 24 higher than the actual water quality that existed at the
 25 time of classification and only if the action is taken

1 pursuant to 69-4814.

2 ~~+++}(iii)~~ The board shall require that any state
 3 waters, whose existing quality is higher than the
 4 established water quality standards, be maintained at that
 5 high quality unless it has been affirmatively demonstrated
 6 to the board that a change is justifiable as a result of
 7 necessary economic or social development and will not
 8 preclude present and anticipated use of these waters; and

9 ~~++)(iiii)~~ The board shall require any industrial,
 10 public, or private project or development, which would
 11 constitute a new source of pollution or an increased source
 12 of pollution to high quality waters, referred to in
 13 subsection (1)(c)~~+++}(iii)~~, to provide the degree of waste
 14 treatment necessary to maintain that existing high water
 15 quality.

16 ~~{d)--Advise, consult, and co-operate with other states,~~
 17 ~~other state and federal agencies, affected groups, political~~
 18 ~~subdivisions, and industries in the formulation of a~~
 19 ~~comprehensive plan to prevent and control pollution.~~

20 ~~{e)}(d)~~ Adopt rules governing application for permits
 21 to discharge sewage, industrial wastes, or other wastes into
 22 state waters including rules requiring the filing of plans
 23 and specifications relating to the construction,
 24 modification, or operation of disposal systems.

25 ~~{f)}(e)~~ Adopt rules governing the issuance, denial,

1 modification, or revocation of permits ~~and as follows:~~

2 (i) The rules shall allow the issuance or continuance
 3 of a permit only if the department finds that operation
 4 consistent with the limitations of the permit will not
 5 result in pollution of any state waters, except that:

6 (ii) The rules may allow the issuance of a temporary
 7 permit under which pollution may result, if the department
 8 insures that such permit contains a compliance schedule
 9 designed to meet all applicable effluent standards and water
 10 quality standards in the shortest reasonable period of time.

11 (iii) The rules shall provide that the department may
 12 revoke a permit if the department finds that the holder of
 13 the permit has violated its terms, unless the department
 14 also finds that the violation was accidental and
 15 unforeseeable and that the holder of the permit corrected
 16 the condition resulting in the violation as soon as was
 17 reasonably possible; and

18 ~~{g)}(f)~~ Hold hearings necessary for the proper
 19 administration of this chapter or, in the case of permit
 20 issuance hearings, delegate this function to the department.

21 ~~{h)}(g)~~ Adopt rules for the administration of this
 22 chapter.

23 ~~{i)}(h)~~ Adopt pretreatment standards for waste-water
 24 discharged into a municipal disposal system, adopt effluent
 25 standards as defined in section 69-4802 (18), adopt toxic

1 effluent standards and prohibitions, and establish standards
2 of performance for new point source discharges.

3 (2) The board may:

4 (a) accept loans and grants from the federal
5 government and other sources to carry out the provisions of
6 this chapter; and

7 (b) establish minimum requirements for the treatment
8 of wastes."

9 Section 4. Section 69-4809.1, R.C.M. 1947, is amended
10 to read as follows:

11 "69-4809.1. Duties of department. (1) The department
12 shall:

13 (a) Issue, suspend, revoke, modify, or deny permits to
14 discharge sewage, industrial wastes, or other wastes to into
15 state waters, consistently with rules made by the board;

16 (b) Examine plans and other information needed to
17 determine whether a permit should be issued or suggest
18 changes in plans as a condition to the issuance of a permit;

19 (c) Clearly specify in any permit any limitations
20 imposed as to the volume, strength, and other significant
21 characteristics of the waste to be discharged;

22 (d) Collect and furnish information relating to the
23 prevention and control of water pollution;

24 (e) Conduct or encourage necessary research and
25 demonstrations concerning water pollution;

1 (f) Issue orders to any person to clean up any
2 material which he or his employee, agent, or subcontractor
3 has accidentally or purposely dumped, spilled, or otherwise
4 deposited in or near state waters and which may pollute
5 them;

6 (g) Take such actions as are authorized or required
7 under section 69-4820.1 to insure that the terms and
8 conditions of issued permits are complied with and to insure
9 that violations of this chapter are appropriately
10 prosecuted; and

11 ~~(h) Advise, consult, and cooperate with other states,~~
12 ~~other state and federal agencies, affected groups, political~~
13 ~~subdivisions, and industries in the formulation of a~~
14 ~~comprehensive plan to prevent and control pollution.~~

15 ~~(2) The department may accept loans and grants from~~
16 ~~the federal government and other sources to carry out the~~
17 ~~provisions of this chapter."~~

18 Section 5. Section 69-4820.1, R.C.M. 1947, is amended
19 to read as follows:

20 "69-4820.1. Additional enforcement remedies. (1) In
21 addition to all other remedies created by this act, the
22 department is authorized to take appropriate enforcement
23 action on its own initiative to:

24 (a) prevent, abate, and control the pollution of state
25 waters;

1 (b) prevent, abate, and control any violation of a
2 condition or limitation imposed by a permit issued under
3 section 69-4806, R.C.M. 1947; or

4 (c) prevent, abate, and control any violations of
5 regulations relating to pretreatment standards.

6 (2) In furtherance of subsection (1) of this section,
7 any person violating any condition, limitation, standard or
8 other requirement established pursuant to this chapter may
9 be served with a compliance order issued by the department.
10 Such order must specify the condition, limitation, standard
11 or other requirement violated and must set a time for
12 compliance. However, in establishing a time for compliance,
13 the department shall take into account the seriousness of
14 the violation and any good faith efforts that have been made
15 to comply with the condition, limitation, standard or other
16 requirement that has been violated. The compliance order
17 issued under this section shall be either personally served
18 ~~by an authorized representative of the department by a~~
19 person qualified to perform service under the Montana rules
20 of civil procedure or by certified mail.

21 (3) The department is authorized to commence a civil
22 action seeking appropriate relief, including a permanent or
23 temporary injunction, for any violation which would be
24 subject to a compliance order under subsection (2) of this
25 section. Any action under this subsection may be commenced

1 in the district court of any county in which the defendant
2 is located or resides or is doing business, and the court
3 shall have jurisdiction to restrain such violation and to
4 require compliance.

5 (4) Any person found to be in violation of a
6 condition, limitation, standard or other requirement
7 established pursuant to this section shall be subject to the
8 penalty provisions of section 69-4823, R.C.M. 1947.

9 (5) For the purpose of this subsection, the term
10 "person" shall mean, in addition to the definition contained
11 in section 69-4802, R.C.M. 1947, any responsible corporate
12 officer."

-End-