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SENATE BILL NO. 153
 INTRODUCED BY Senade
 BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING CERTAIN DEFINITIONS TO THE FEDERAL SAFE DRINKING WATER ACT; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH REQUIREMENTS BY RULE FOR CROSS-CONNECTIONS; SPECIFYING THE WATER SUPPLY, SEWAGE, AND WASTE SYSTEMS THAT REQUIRE REVIEW AND APPROVAL OF PLANS AND SPECIFICATIONS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; MODIFYING THE LAWS TO REQUIRE CERTIFIED OPERATORS FOR NONTRANSIENT NONCOMMUNITY WATER SYSTEMS; ESTABLISHING A WELLHEAD PROTECTION PROGRAM; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH RULES REGARDING WELLHEAD PROTECTION REQUIREMENTS; AND AMENDING SECTIONS 37-42-101, 37-42-102, 75-6-102, 75-6-103, AND 75-6-112, MCA."

STATEMENT OF INTENT

A statement of intent is provided for this bill because 75-6-103 directs the board of health and environmental sciences to develop rules regarding cross-connections and wellhead protection.

In regard to cross-connections, the legislature anticipates that minimum standards and requirements will be developed to ensure that a public water supply does not become contaminated when the system is connected to another nonpublic water supply or to a possible source of contamination. The standards and requirements must be consistent with other rules adopted under Title 75, chapter 6, and may require installation of specific types of cross-connection control devices in accordance with industry standards. Deadlines for compliance with these standards and requirements may be staggered in a manner that is consistent with federal safe drinking water guidelines, with larger systems having earlier deadlines than smaller systems. The rules may include model standards and requirements for recommended implementation by public water supply system suppliers.

In regard to wellhead protection, the legislature anticipates that the rules will provide detailed guidance to the department of health and environmental sciences and to local governing bodies regarding the development and certification of wellhead protection areas and the adoption of wellhead protection area

1 ordinances. The rules should describe both the processes and substantive requirements for certification
 2 of wellhead protection areas and for review of proposed ordinances and verification of their compliance with
 3 Title 75, chapter 6.

4

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

6

7 **Section 1.** Section 37-42-101, MCA, is amended to read:

8 **"37-42-101. Purpose.** It is ~~hereby found and~~ declared that the health and welfare of Montana
 9 citizens are jeopardized by persons not properly qualified to operate the water supply systems and that
 10 Montana's state waters are endangered by persons not properly qualified to operate the wastewater
 11 treatment plants. It is declared that the public policy of this state is to ~~control~~ protect the public health and
 12 safety by certifying ~~these~~ persons working in these occupations ~~in order to protect the public health and~~
 13 ~~safety."~~

14

15 **Section 2.** Section 37-42-102, MCA, is amended to read:

16 **"37-42-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
 17 definitions apply:

18 (1) "Certificate" means a certificate of competency issued by the department, stating that the
 19 operator holding the certificate has met the requirements for the specified operator classification of the
 20 certification program.

21 (2) "Community water system" means the term as defined in 75-6-102.

22 (3) "Council" means the water and wastewater operators' advisory council provided for in
 23 2-15-2105.

24 ~~(3)~~(4) "Department" means the department of health and environmental sciences provided for in
 25 Title 2, chapter 15, part 21.

26 ~~(4) "Montana's waters" means all streams and lakes (including all rivers and lakes bordering on the~~
 27 ~~state), wells, springs, irrigation systems, marshes, watercourses, waterways, drainage systems, and other~~
 28 ~~bodies of water, surface and underground, natural or artificial, publicly or privately owned.~~

29 (5) "Nontransient noncommunity water system" means a public water supply system that is not
 30 a community water system and that regularly serves at least 25 of the same persons for at least 6 months

1 a year.

2 ~~(5)(6)~~ "Operator" means the person in direct responsible charge of the operation of a water
3 treatment plant, water distribution system, or wastewater treatment plant.

4 (7) "State waters" means the term as defined in 75-6-102.

5 ~~(6)(8)~~ "Wastewater treatment plant" means a facility that:

6 (a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial
7 wastes, or other wastes ~~and which;~~

8 (b) discharges an effluent directly into this state's state waters; ~~and which serves 10 or more~~
9 ~~families or serves an industry employing 10 or more persons~~

10 (c) is part of either an industrial waste discharge system or a public sewage system as defined in
11 75-6-102.

12 ~~(7)(9)~~ "Water distribution system" means that portion of the water supply system in which water
13 is conveyed from the water treatment plant or other supply source to the premises of the consumer and
14 ~~which serves 10 or more families or supplies an industry employing 10 or more persons~~ that is part of a
15 community water system or a nontransient noncommunity water system.

16 ~~(8)(10)~~ "Water supply system" means the system of pipes, structures, and facilities through which
17 the water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use
18 by humans and ~~which that serves 10 or more families or serves an industry employing 10 or more persons~~
19 is part of a community water system or a nontransient noncommunity water system.

20 ~~(9)(11)~~ "Water treatment plant" means that portion of the water supply system ~~which that~~ alters
21 either the physical, chemical, or bacteriological quality of the water rendering it safe and palatable for
22 human use."
23

24 **Section 3.** Section 75-6-102, MCA, is amended to read:

25 **"75-6-102. Definitions.** As used in this part, unless the context clearly indicates otherwise, the
26 following definitions apply:

27 (1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

28 (2) "Certified wellhead protection area" means an area certified by the department that protects
29 the surface and subsurface area surrounding a source of ground water for a public water supply system
30 through which contaminants may move toward and reach the source of supply.

1 ~~(3)~~ (3) "Community water system" means ~~any a~~ public water supply system that serves at least ~~40~~
2 15 service connections used by year-round residents or that regularly serves at least 25 year-round
3 residents.

4 ~~(3)~~(4) "Contamination" means impairment of the quality of state waters by sewage, industrial
5 wastes, or other wastes creating a hazard to human health.

6 ~~(5)~~ (5) "Cross-connection" means a connection between a public water supply system and another
7 water supply system, either public or private, or a wastewater or sewer line or other potential source of
8 contamination so that a flow of water into or contamination of the public water supply system from the
9 other source of water or contamination is possible.

10 ~~(4)~~(6) "Department" means the department of health and environmental sciences provided for in
11 Title 2, chapter 15, part 21.

12 ~~(5)~~(7) "Drainage" means rainfall, surface, and subsoil water.

13 ~~(6)~~(8) "Industrial waste" means any waste substance from the processes of business or industry
14 or from the development of ~~any a~~ natural resource, together with any sewage that may be present.

15 ~~(9)~~ (9) "Industrial waste discharge system" means a system that discharges industrial waste into state
16 waters.

17 ~~(7)~~(10) "Maximum contaminant level" means the maximum permissible level of a contaminant in
18 water ~~which that~~ is delivered to ~~any a~~ user of a public water supply system.

19 ~~(11)~~ (11) "Montana wellhead protection program" means a program administered by the department to
20 certify wellhead protection areas and review wellhead protection ordinances.

21 ~~(8)~~(12) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark,
22 lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or
23 discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state
24 waters.

25 ~~(9)~~(13) "Person" means ~~any an~~ individual, corporation, association, partnership, municipality, other
26 political subdivision of the state, or federal agency.

27 ~~(10)~~(14) "Pollution" means contamination or other alteration of the physical, chemical, or biological
28 properties of ~~any~~ state waters ~~which that~~ exceeds that which is permitted by Montana water quality
29 standards, including but not limited to standards relating to change in temperature, taste, color, turbidity,
30 or odor or the discharge or introduction of ~~any a~~ liquid, gaseous, solid, radioactive, or other substance into

1 ~~any~~ state water ~~which~~ that will or is likely to create a nuisance or render the waters harmful, detrimental,
 2 or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or
 3 other wildlife. A discharge ~~which~~ that is authorized under the pollution discharge permit rules of the board
 4 is not pollution under this chapter.

5 ~~(11)~~(15) "Public sewage system" means a system of collection, transportation, treatment, or
 6 disposal of sewage that ~~is designed to serve or serves~~ 10 15 or more families or 25 or more persons daily
 7 for a period of at least 60 days ~~out of the~~ in a calendar year.

8 ~~(12)~~(16) "Public water supply system" means a system for the provision of water for human
 9 consumption from ~~any~~ a community well, water hauler for cisterns, water bottling plant, water dispenser,
 10 or other water supply that ~~is designed to serve or~~ has at least 15 service connections or that regularly
 11 ~~serves 10 or more families or~~ at least 25 or more persons daily ~~or has at least 10 service connections for~~
 12 a period of at least 60 days ~~out of the~~ in a calendar year.

13 ~~(13)~~(17) "Safe Drinking Water Act" means 42 U.S.C. 300f and regulations at Title 40, CFR, ~~Parts~~
 14 parts 141 and 142.

15 ~~(14)~~(18) "Sewage" means water-carried waste products from residences, public buildings,
 16 institutions, or other buildings, including discharge from human beings, together with ground water
 17 infiltration and surface water present.

18 ~~(15)~~(19) "State waters" means ~~any~~ a body of water, irrigation system, or drainage system, either
 19 surface or underground.

20 ~~(16)~~(20) "Transient noncommunity water system" means ~~any~~ a public water supply system that
 21 is not a community water system and that ~~serves~~ does not regularly serve at least 25 of the same persons
 22 ~~on a transient basis~~ for at least 6 months a year."

23

24 **Section 4.** Section 75-6-103, MCA, is amended to read:

25 **"75-6-103. Duties of the board.** (1) The board has general supervision over all state waters ~~which~~
 26 that are directly or indirectly being used by a person for a public water supply system or domestic purposes
 27 or as a source of ice.

28 (2) The board shall adopt rules and standards concerning:

29 (a) maximum contaminant levels for waters that are or will be used for a public water supply
 30 system;

- 1 (b) fees, as described in 75-6-108, for services rendered by the department;
- 2 (c) monitoring, recordkeeping, and reporting by persons who own or operate a public water supply
- 3 ~~system~~ systems;
- 4 (d) requiring public notice to all users of a public water supply system when a person has been
- 5 granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;
- 6 (e) the issuance of licenses by the department to laboratories that conduct analysis of public water
- 7 supply systems;
- 8 (f) the siting, construction, operation, and modification of a public water supply system or public
- 9 sewage system;
- 10 (g) the review of financial viability of a proposed public water supply system or public sewage
- 11 system, as necessary to ensure the capability of the system to meet the requirements of this part;
- 12 (h) the collection and analysis of samples of water used for drinking or domestic purposes;
- 13 (i) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act
- 14 and this part;
- 15 (j) administrative enforcement procedures and administrative penalties authorized under this part;
- 16 ~~and~~
- 17 (k) standards and requirements to prevent water supply contamination from a cross-connection,
- 18 including:
- 19 (i) establishment of timeframes for implementation of the standards and requirements based on the
- 20 size of the public water supply system; and
- 21 (ii) provisions to exempt cross-connections from the standards and requirements if all connected
- 22 systems are department-approved public water supply systems;
- 23 (l) requirements for certification of wellhead protection areas and review of wellhead protection
- 24 area ordinances pursuant to [section 6]; and
- 25 ~~(k)~~(m) any other requirement necessary for the protection of public health as described in this part.
- 26 (3) The board may issue orders necessary to fully implement the provisions of this part."
- 27
- 28 **Section 5.** Section 75-6-112, MCA, is amended to read:
- 29 **"75-6-112. Prohibited acts.** A person may not:
- 30 (1) discharge sewage, drainage, industrial waste, or other wastes that will cause pollution of state

1 waters used by a person for domestic use or as a source for a public water supply system or water or ice
2 company;

3 (2) discharge sewage, drainage, industrial waste, or other waste into ~~any~~ state waters or on the
4 banks of ~~any~~ state waters or into ~~any~~ an abandoned or operating water well unless the sewage, drainage,
5 industrial waste, or other waste is treated as prescribed by the board;

6 (3) build or operate ~~any~~ a railroad, logging road, logging camp, or electric or manufacturing plant
7 of any kind on ~~any~~ a watershed of a public water supply system unless:

8 (a) the water supply is protected from pollution by sanitary precautions prescribed by the board;
9 and

10 (b) a permit has been issued by the department after approval of detailed plans and specifications
11 for sanitary precautions;

12 (4) commence construction, alteration, ~~or~~ extension or operation of ~~any~~ a system of water supply,
13 or water distribution, that is designed to be a public water supply system or a system of sewer, drainage,
14 wastewater waste, or sewage disposal that is designed to be a public sewage system or industrial waste
15 discharge system before ~~he~~ the person submits to the department necessary maps, plans, and
16 specifications for its review and the department approves those maps, plans, and specifications;

17 (5) operate or maintain ~~any~~ a public water supply system ~~which~~ that exceeds a maximum
18 contaminant level established by the board unless ~~he~~ the person has been granted or has an application
19 pending for a variance or exemption pursuant to this part;

20 (6) violate any provision of this part or a rule adopted under this part; or

21 (7) violate any condition or requirement of an approval issued pursuant to this part."
22

23 **NEW SECTION. Section 6. Montana wellhead protection program.** (1) The department shall
24 implement a Montana wellhead protection program that is approved by the United States environmental
25 protection agency and that meets requirements of the federal Safe Drinking Water Act, including 42 U.S.C.
26 300h-7.

27 (2) The department may certify a wellhead protection area upon:

28 (a) receipt of a petition by a supplier for a public water supply system or by request of the
29 governing body of the county in which the system is located; and

30 (b) making a determination that the wellhead protection area meets requirements for certification

1 established by the Montana wellhead protection program.

2 (3) (a) The governing body of the county in which a wellhead protection area or areas exist may
3 adopt an ordinance to regulate, control, and prohibit conditions that threaten the quality of water used
4 within the wellhead protection area or areas.

5 (b) Prior to adopting a wellhead protection area ordinance, the governing body shall submit the
6 ordinance to the department for review and verification that the ordinance is consistent with the
7 requirements of this chapter.

8 (c) A wellhead protection area ordinance must be adopted using the procedures described in
9 7-5-103 through 7-5-107.

10 (4) (a) An ordinance adopted under subsection (3) is limited in applicability to the certified wellhead
11 protection area or areas within the county.

12 (b) For a wellhead protection area that is located in two or more counties, the proposed wellhead
13 protection area ordinance must be adopted by each county in order for the ordinance to be effective.

14 (5) A wellhead protection area ordinance adopted under this section may not conflict with any
15 other state or local law or regulation, including but not limited to zoning, fire codes, hazardous waste
16 regulation under Title 75, chapter 10, part 4, or pesticide regulation under Title 80, chapter 8.

17 (6) The department shall maintain and, upon request, distribute a register of wellhead protection
18 area ordinances adopted by local governing bodies.

19

20 **NEW SECTION. Section 7. Codification instruction.** [Section 6] is intended to be codified as an
21 integral part of Title 75, chapter 6, part 1, and the provisions of Title 75, chapter 6, part 1, apply to
22 [section 6].

23

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0153, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act conforming certain definitions to the federal Safe Drinking Water Act by authorizing the Department of Health and Environmental Sciences (DHES) to establish requirements by rule for cross-connecting, and specifying the water supply, sewage and waste systems that require review and approval of plans and specifications by the DHES.

ASSUMPTIONS:

1. The Executive Budget present law base budget is the starting point for calculation of any impacts due to this proposed legislation.
2. The department estimates approximately 20 very small water systems that are currently classified as public water systems would no longer be regulated under the Public Water Supply Law. A \$100 service connection fee would no longer be paid by these systems, resulting in a loss of \$2,000 in Public Water Supply revenue to the department.
3. The operators of these 20 very small water systems would no longer have to be certified under the Water and Wastewater Operator Certification law. An annual fee of \$30 would no longer be paid by these operators, resulting in a loss of \$600 in waste water operator revenue to the department.
4. The department estimates that operators of approximately 200 non-transient noncommunity public water systems would be required to become certified. They would be required to pay the annual \$30 certification fee, along with an additional \$5 examination fee during FY96, when they became certified. Total revenue to the Waste Water operator Certification Program would be \$7,000 in FY96 and \$6,000 in FY97.
5. The increased workload due to certification of the 200 non-transient noncommunity public water systems operators would not offset the decrease in workload due to a reduction of the 20 very small public water supply systems which would no longer require operator certification. The department would use the additional revenue generated from the certification to contract for temporary clerical services to help with the increased workload.

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Operating Expenses	4,400	3,400
<u>Funding:</u>		
State Special Revenue (02)	4,400	3,400

(Continued)

Dave Lewis 1-22-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Vivian Brooke
VIVIAN BROOKE, PRIMARY SPONSOR DATE

Fiscal Note for SB0153, as introduced

SB 153

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Approximately 200 schools and businesses that have their own public water supply systems would be impacted. An annual operator certification fee of \$30 would be required, and a \$5 examination fee would be required in FY96. Operators of school water systems serving over 100 students would be required to attend four hours of continuing education training each year.

Incorporated towns, cities and water districts would have to implement cross-connection control programs. Implementation would be staggered to allow smaller systems time to prepare for adoption of minimum standards. Implementation likely will be requiring a customer that poses a risk of cross-contamination to purchase and install a cross-connection control device. Inspection and certification of the devices, if necessary, could be done by the local government at their option or required to be done by a plumber or other independent party hired by the customer, as the local government requires.

1 SENATE BILL NO. 153

2 INTRODUCED BY BROOKE

3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING CERTAIN DEFINITIONS TO THE FEDERAL SAFE
6 DRINKING WATER ACT; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO
7 ESTABLISH REQUIREMENTS BY RULE FOR VOLUNTARY PROGRAMS FOR CROSS-CONNECTIONS;
8 SPECIFYING THE WATER SUPPLY, SEWAGE, AND WASTE SYSTEMS THAT REQUIRE REVIEW AND
9 APPROVAL OF PLANS AND SPECIFICATIONS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL
10 SCIENCES; MODIFYING THE LAWS TO REQUIRE CERTIFIED OPERATORS FOR NONTRANSIENT
11 NONCOMMUNITY WATER SYSTEMS; ~~ESTABLISHING A WELLHEAD PROTECTION PROGRAM;~~
12 ~~AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH RULES~~
13 ~~REGARDING WELLHEAD PROTECTION REQUIREMENTS;~~ ALLOWING VOLUNTARY PARTICIPATION IN A
14 WELLHEAD PROTECTION PROGRAM; AUTHORIZING COUNTY GOVERNMENTS TO ADOPT WELLHEAD
15 PROTECTION AREA ORDINANCES; AND AMENDING SECTIONS 37-42-101, 37-42-102, 75-6-102,
16 75-6-103, AND 75-6-112, MCA."

17
18 STATEMENT OF INTENT

19 A statement of intent is provided for this bill because 75-6-103 directs the board of health and
20 environmental sciences to develop rules regarding ~~cross-connections and wellhead protection~~ THE
21 VOLUNTARY SUBMISSION OF PETITIONS FOR CROSS-CONNECTION CONTROL PROGRAMS.

22 ~~In regard to cross-connections, the~~ THE legislature anticipates that IS AWARE THAT CURRENTLY
23 CROSS-CONNECTIONS OF SOURCES OF CONTAMINATION WITH A PUBLIC WATER SUPPLY SYSTEM
24 ARE ILLEGAL, BUT THERE ARE NO STATE STANDARDS FOR CROSS-CONNECTION CONTROL DEVICES
25 AND NO MECHANISM EXISTS FOR PUBLIC WATER SUPPLIERS TO IMPLEMENT CROSS-CONNECTION
26 CONTROL PROGRAMS. THE LEGISLATURE GRANTS THE BOARD THE AUTHORITY TO SET minimum
27 standards and requirements ~~will be developed~~ to ensure that a public water supply does not become
28 contaminated when the system is connected to another nonpublic water supply or to a possible source of
29 contamination. The standards and requirements must be consistent with other rules adopted under Title
30 75, chapter 6, and may require THAT ANY CROSS-CONNECTION CONTROL PROGRAM VOLUNTARILY

1 SUBMITTED FOR APPROVAL REQUIRE THE installation of specific types of cross-connection control
 2 devices in accordance with industry standards. ~~Deadlines for compliance with these standards and~~
 3 ~~requirements may be staggered in a manner that is consistent with federal safe drinking water guidelines,~~
 4 ~~with larger systems having earlier deadlines than smaller systems.~~ The rules may include model standards
 5 and requirements for recommended implementation by public water supply system suppliers.

6 ~~In regard to wellhead protection, the legislature anticipates that the rules will provide detailed~~
 7 ~~guidance to the department of health and environmental sciences and to local governing bodies regarding~~
 8 ~~the development and certification of wellhead protection areas and the adoption of wellhead protection area~~
 9 ~~ordinances. The rules should describe both the processes and substantive requirements for certification~~
 10 ~~of wellhead protection areas and for review of proposed ordinances and verification of their compliance with~~
 11 ~~Title 75, chapter 6.~~

12

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

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16 "**37-42-101. Purpose.** It is ~~hereby found and~~ declared that the health and welfare of Montana
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 18 Montana's state waters are endangered by persons not properly qualified to operate the wastewater
 19 treatment plants. It is declared that the public policy of this state is to control protect the public health and
 20 safety by certifying ~~these~~ persons working in these occupations ~~in order to protect the public health and~~
 21 ~~safety.~~"

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23 **Section 2.** Section 37-42-102, MCA, is amended to read:

24 "**37-42-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
 25 definitions apply:

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 27 operator holding the certificate has met the requirements for the specified operator classification of the
 28 certification program.

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30 (3) "Council" means the water and wastewater operators' advisory council provided for in

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4 ~~(4)~~ "Montana's waters" means all streams and lakes (including all rivers and lakes bordering on the
5 state), wells, springs, irrigation systems, marshes, watercourses, waterways, drainage systems, and other
6 bodies of water, surface and underground, natural or artificial, publicly or privately owned.

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8 a community water system and that regularly serves at least 25 of the same persons for at least 6 months
9 a year.

10 ~~(5)~~(6) "Operator" means the person in direct responsible charge of the operation of a water
11 treatment plant, water distribution system, or wastewater treatment plant.

12 (7) "State waters" means the term as defined in 75-6-102.

13 ~~(6)~~(8) "Wastewater treatment plant" means a facility that:

14 (a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial
15 wastes, or other wastes and which;

16 (b) discharges an effluent directly into this state's state waters; and which serves 10 or more
17 families or serves an industry employing 10 or more persons

18 (c) is part of either an industrial waste discharge system or a public sewage system as defined in
19 75-6-102.

20 ~~(7)~~(9) "Water distribution system" means that portion of the water supply system in which water
21 is conveyed from the water treatment plant or other supply source to the premises of the consumer and
22 ~~which serves 10 or more families or supplies an industry employing 10 or more persons~~ that is part of a
23 community water system or a nontransient noncommunity water system THAT SERVES A SCHOOL.

24 ~~(8)~~(10) "Water supply system" means the system of pipes, structures, and facilities through which
25 the water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use
26 by humans and ~~which that serves 10 or more families or serves an industry employing 10 or more persons~~
27 is part of a community water system or a nontransient noncommunity water system THAT SERVES A
28 SCHOOL.

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30 either the physical, chemical, or bacteriological quality of the water rendering it safe and palatable for

1 human use."

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3 **Section 3.** Section 75-6-102, MCA, is amended to read:

4 **"75-6-102. Definitions.** As used in this part, unless the context clearly indicates otherwise, the
5 following definitions apply:

6 (1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

7 (2) "Certified wellhead protection area" means an area certified by the department that protects
8 the surface and subsurface area surrounding a source of ground water for a public water supply system
9 through which contaminants may move toward and reach the source of supply.

10 (3) "Community water system" means ~~any~~ a public water supply system that serves at least ~~40~~
11 15 service connections used by year-round residents or that regularly serves at least 25 year-round
12 residents.

13 ~~(3)(4)~~ "Contamination" means impairment of the quality of state waters by sewage, industrial
14 wastes, or other wastes creating a hazard to human health.

15 (5) "Cross-connection" means a connection between a public water supply system and another
16 water supply system, either public or private, or a wastewater or sewer line or other potential source of
17 contamination so that a flow of water into or contamination of the public water supply system from the
18 other source of water or contamination is possible.

19 ~~(4)(6)~~ "Department" means the department of health and environmental sciences provided for in
20 Title 2, chapter 15, part 21.

21 ~~(5)(7)~~ "Drainage" means rainfall, surface, and subsoil water.

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23 or from the development of ~~any~~ a natural resource, together with any sewage that may be present.

24 (9) "Industrial waste discharge system" means a system that discharges industrial waste into state
25 waters.

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27 water ~~which~~ that is delivered to ~~any~~ a user of a public water supply system.

28 (11) "Montana wellhead protection program" means a program administered by the department to
29 certify wellhead protection areas and review wellhead protection ordinances.

30 ~~(8)(12)~~ "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark,

1 lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or
 2 discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state
 3 waters.

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 5 political subdivision of the state, or federal agency.

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 7 properties of ~~any~~ state waters ~~which that~~ exceeds that which is permitted by Montana water quality
 8 standards, including but not limited to standards relating to change in temperature, taste, color, turbidity,
 9 or odor or the discharge or introduction of ~~any a~~ liquid, gaseous, solid, radioactive, or other substance into
 10 ~~any~~ state water ~~which that~~ will or is likely to create a nuisance or render the waters harmful, detrimental,
 11 or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or
 12 other wildlife. A discharge ~~which that~~ is authorized under the pollution discharge permit rules of the board
 13 is not pollution under this chapter.

14 ~~(11)~~(15) "Public sewage system" means a system of collection, transportation, treatment, or
 15 disposal of sewage that ~~is designed to serve or serves~~ 10 15 or more families or 25 or more persons daily
 16 for a period of at least 60 days ~~out of the~~ in a calendar year.

17 ~~(12)~~(16) "Public water supply system" means a system for the provision of water for human
 18 consumption from ~~any a~~ community well, water hauler for cisterns, water bottling plant, water dispenser,
 19 or other water supply that ~~is designed to serve or~~ has at least 15 service connections or that regularly
 20 serves 10 or more families or at least 25 or more persons daily or has at least 10 service connections for
 21 a period of at least 60 days ~~out of the~~ in a calendar year.

22 ~~(13)~~(17) "Safe Drinking Water Act" means 42 U.S.C. 300f and regulations at ~~Title 40,~~ CFR, ~~Parts~~
 23 parts 141 and 142.

24 ~~(14)~~(18) "Sewage" means water-carried waste products from residences, public buildings,
 25 institutions, or other buildings, including discharge from human beings, together with ground water
 26 infiltration and surface water present.

27 ~~(15)~~(19) "State waters" means ~~any a~~ body of water, irrigation system, or drainage system, either
 28 surface or underground.

29 ~~(16)~~(20) "Transient noncommunity water system" means ~~any a~~ public water supply system that
 30 is not a community water system and that ~~serves~~ does not regularly serve at least 25 of the same persons

1 ~~on a transient basis for at least 6 months a year."~~

2

3 **Section 4.** Section 75-6-103, MCA, is amended to read:

4 **"75-6-103. Duties of the board.** (1) The board has general supervision over all state waters ~~which~~
5 that are directly or indirectly being used by a person for a public water supply system or domestic purposes
6 or as a source of ice.

7 (2) The board shall adopt rules and standards concerning:

8 (a) maximum contaminant levels for waters that are or will be used for a public water supply
9 system;

10 (b) fees, as described in 75-6-108, for services rendered by the department;

11 (c) monitoring, recordkeeping, and reporting by persons who own or operate a public water supply
12 ~~system~~ systems;

13 (d) requiring public notice to all users of a public water supply system when a person has been
14 granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

15 (e) the issuance of licenses by the department to laboratories that conduct analysis of public water
16 supply systems;

17 (f) the siting, construction, operation, and modification of a public water supply system or public
18 sewage system;

19 (g) the review of financial viability of a proposed public water supply system or public sewage
20 system, as necessary to ensure the capability of the system to meet the requirements of this part;

21 (h) the collection and analysis of samples of water used for drinking or domestic purposes;

22 (i) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act
23 and this part;

24 (j) administrative enforcement procedures and administrative penalties authorized under this part;
25 ~~and~~

26 (k) standards and requirements FOR THE REVIEW AND APPROVAL OF PROGRAMS THAT MAY
27 BE VOLUNTARILY SUBMITTED BY SUPPLIERS OF PUBLIC WATER SUPPLY SYSTEMS to prevent water
28 supply contamination from a cross-connection, including:

29 (i) establishment of timeframes for implementation of the standards and requirements based on the
30 size of the public water supply system; and

1 (iii) provisions to exempt cross-connections from the standards and requirements if all connected
 2 systems are department-approved public water supply systems; AND

3 (l) requirements for certification of wellhead protection areas and review of wellhead protection
 4 area ordinances pursuant to [section 6]; and

5 (k)(m)(L) any other requirement necessary for the protection of public health as described in this
 6 part.

7 (3) The board may issue orders necessary to fully implement the provisions of this part."
 8

9 **Section 5.** Section 75-6-112, MCA, is amended to read:

10 **"75-6-112. Prohibited acts.** A person may not:

11 (1) discharge sewage, drainage, industrial waste, or other wastes that will cause pollution of state
 12 waters used by a person for domestic use or as a source for a public water supply system or water or ice
 13 company;

14 (2) discharge sewage, drainage, industrial waste, or other waste into ~~any~~ state waters or on the
 15 banks of ~~any~~ state waters or into ~~any~~ an abandoned or operating water well unless the sewage, drainage,
 16 industrial waste, or other waste is treated as prescribed by the board;

17 (3) build or operate ~~any~~ a railroad, logging road, logging camp, or electric or manufacturing plant
 18 of any kind on ~~any~~ a watershed of a public water supply system unless:

19 (a) the water supply is protected from pollution by sanitary precautions prescribed by the board;
 20 and

21 (b) a permit has been issued by the department after approval of detailed plans and specifications
 22 for sanitary precautions;

23 (4) commence construction, alteration, ~~or~~ extension or operation of ~~any~~ a system of water supply,
 24 or water distribution, that is designed to be a public water supply system or a system of sewer, drainage,
 25 wastewater waste, or sewage disposal that is designed to be a public sewage system or industrial waste
 26 discharge system before ~~he~~ the person submits to the department necessary maps, plans, and
 27 specifications for its review and the department approves those maps, plans, and specifications;

28 (5) operate or maintain ~~any~~ a public water supply system ~~which~~ that exceeds a maximum
 29 contaminant level established by the board unless ~~he~~ the person has been granted or has an application
 30 pending for a variance or exemption pursuant to this part;

- 1 (6) violate any provision of this part or a rule adopted under this part; or
 2 (7) violate any condition or requirement of an approval issued pursuant to this part."

3

4 NEW SECTION. Section 6. Montana wellhead protection program -- VOLUNTARY PETITIONS. (1)

5 The department shall implement a Montana wellhead protection program that is approved by the United
 6 States environmental protection agency and that meets requirements of the federal Safe Drinking Water
 7 Act, including 42 U.S.C. 300h-7, ENABLES THE DEPARTMENT TO ADMINISTER A WELLHEAD
 8 PROTECTION PROGRAM THAT INVOLVES CERTIFICATION OF LOCAL WELLHEAD PROTECTION AREAS
 9 AND REVIEW OF WELLHEAD PROTECTION AREA ORDINANCES. IN ADMINISTERING THIS PROGRAM,
 10 THE DEPARTMENT MAY PERFORM ONLY THOSE FUNCTIONS PROVIDED FOR BY THE FEDERAL SAFE
 11 DRINKING WATER ACT AND THIS SECTION.

12 (2) A SUPPLIER OF A PUBLIC WATER SUPPLY SYSTEM MAY VOLUNTARILY SUBMIT FOR
 13 DEPARTMENT REVIEW AND APPROVAL A PETITION TO ESTABLISH A WELLHEAD PROTECTION
 14 PROGRAM FOR THE SYSTEM.

15 ~~(2)~~(3) The department may certify a wellhead protection area upon:

16 (a) receipt of a petition by a supplier for a public water supply system ~~or by request of the~~
 17 ~~governing body of the county in which the system is located;~~ and

18 (b) making a determination that the wellhead protection area meets ~~requirements~~ CRITERIA AND
 19 THRESHOLDS for certification established by the Montana wellhead protection program.

20 ~~(3)~~(4) (a) The governing body of the county in which a wellhead protection area or areas exist may
 21 adopt an ordinance to regulate, control, and prohibit conditions that threaten the quality of water used
 22 within the wellhead protection area or areas.

23 (b) Prior to adopting a wellhead protection area ordinance, the governing body shall CONFER WITH
 24 THE SUPPLIER OF THE PUBLIC WATER SUPPLY SYSTEM AND SHALL THEN submit the ordinance to the
 25 department for review and verification that the ordinance is consistent with the requirements of this
 26 chapter.

27 (c) A wellhead protection area ordinance must be adopted using the procedures described in
 28 7-5-103 through 7-5-107.

29 ~~(4)~~(5) (a) An ordinance adopted under subsection ~~(3)~~ (4) is limited in applicability to the certified
 30 wellhead protection area or areas within the county.

1 (b) For a wellhead protection area that is located in two or more counties, the proposed wellhead
2 protection area ordinance must be adopted by each county in order for the ordinance to be effective.

3 ~~(5)(6)~~ A wellhead protection area ordinance adopted under this section may not conflict with AND
4 MAY NOT DUPLICATE any other FEDERAL, state, or local law or regulation, including but not limited to
5 zoning, fire codes, hazardous waste regulation under Title 75, chapter 10, part 4, or pesticide regulation
6 under Title 80, chapter 8.

7 ~~(6) The department shall maintain and, upon request, distribute a register of wellhead protection~~
8 ~~area ordinances adopted by local governing bodies.~~

9

10 NEW SECTION. Section 7. Codification instruction. [Section 6] is intended to be codified as an
11 integral part of Title 75, chapter 6, part 1, and the provisions of Title 75, chapter 6, part 1, apply to
12 [section 6].

13

-END-

SENATE BILL NO. 153

INTRODUCED BY BROOKE

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

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A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING CERTAIN DEFINITIONS TO THE FEDERAL SAFE DRINKING WATER ACT; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH REQUIREMENTS BY RULE FOR VOLUNTARY PROGRAMS FOR CROSS-CONNECTIONS; SPECIFYING THE WATER SUPPLY, SEWAGE, AND WASTE SYSTEMS THAT REQUIRE REVIEW AND APPROVAL OF PLANS AND SPECIFICATIONS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; MODIFYING THE LAWS TO REQUIRE CERTIFIED OPERATORS FOR NONTRANSIENT NONCOMMUNITY WATER SYSTEMS; ~~ESTABLISHING A WELLHEAD PROTECTION PROGRAM;~~ ~~AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH RULES REGARDING WELLHEAD PROTECTION REQUIREMENTS;~~ ALLOWING VOLUNTARY PARTICIPATION IN A WELLHEAD PROTECTION PROGRAM; AUTHORIZING COUNTY GOVERNMENTS TO ADOPT WELLHEAD PROTECTION AREA ORDINANCES; AND AMENDING SECTIONS 37-42-101, 37-42-102, 75-6-102, 75-6-103, AND 75-6-112, MCA."

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT.



HOUSE STANDING COMMITTEE REPORT

March 13, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 153 (third reading copy -- blue) be concurred in as amended.

Signed: _____

Dick Knox
Dick Knox, Chair

Carried by: Rep. Ohs

And, that such amendments read:

1. Title, lines 10 and 11.
Strike: "MODIFYING" on line 10 through "SYSTEMS" on line 11
Insert: "CLARIFYING CERTAIN DEFINITIONS IN THE OPERATOR
CERTIFICATION LAWS"
2. Page 3, lines 7 through 9.
Strike: subsection 5 in its entirety
Renumber: subsequent subsections
3. Page 3, line 23.
Strike: "or" through "SCHOOL"
4. Page 3, lines 27 and 28.
Strike: "or" on line 27 through "SCHOOL" on line 28

-END-

SB 153

Committee Vote:
Yes 4, No 3.

HOUSE

1 SENATE BILL NO. 153

2 INTRODUCED BY BROOKE

3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING CERTAIN DEFINITIONS TO THE FEDERAL SAFE
 6 DRINKING WATER ACT; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO
 7 ESTABLISH REQUIREMENTS BY RULE FOR VOLUNTARY PROGRAMS FOR CROSS-CONNECTIONS;
 8 SPECIFYING THE WATER SUPPLY, SEWAGE, AND WASTE SYSTEMS THAT REQUIRE REVIEW AND
 9 APPROVAL OF PLANS AND SPECIFICATIONS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL
 10 SCIENCES; ~~MODIFYING THE LAWS TO REQUIRE CERTIFIED OPERATORS FOR NONTRANSIENT~~
 11 ~~NONCOMMUNITY WATER SYSTEMS~~ CLARIFYING CERTAIN DEFINITIONS IN THE OPERATOR
 12 CERTIFICATION LAWS; ESTABLISHING A WELLHEAD PROTECTION PROGRAM; AUTHORIZING THE
 13 ~~BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH RULES REGARDING WELLHEAD~~
 14 ~~PROTECTION REQUIREMENTS;~~ ALLOWING VOLUNTARY PARTICIPATION IN A WELLHEAD PROTECTION
 15 PROGRAM; AUTHORIZING COUNTY GOVERNMENTS TO ADOPT WELLHEAD PROTECTION AREA
 16 ORDINANCES; AND AMENDING SECTIONS 37-42-101, 37-42-102, 75-6-102, 75-6-103, AND 75-6-112,
 17 MCA."

18
19 STATEMENT OF INTENT

20 A statement of intent is provided for this bill because 75-6-103 directs the board of health and
 21 environmental sciences to develop rules regarding ~~cross connections and wellhead protection~~ THE
 22 VOLUNTARY SUBMISSION OF PETITIONS FOR CROSS-CONNECTION CONTROL PROGRAMS.

23 ~~In regard to cross connections, the~~ THE legislature anticipates that IS AWARE THAT CURRENTLY
 24 CROSS-CONNECTIONS OF SOURCES OF CONTAMINATION WITH A PUBLIC WATER SUPPLY SYSTEM
 25 ARE ILLEGAL, BUT THERE ARE NO STATE STANDARDS FOR CROSS-CONNECTION CONTROL DEVICES
 26 AND NO MECHANISM EXISTS FOR PUBLIC WATER SUPPLIERS TO IMPLEMENT CROSS-CONNECTION
 27 CONTROL PROGRAMS. THE LEGISLATURE GRANTS THE BOARD THE AUTHORITY TO SET minimum
 28 standards and requirements ~~will be developed~~ to ensure that a public water supply does not become
 29 contaminated when the system is connected to another nonpublic water supply or to a possible source of
 30 contamination. The standards and requirements must be consistent with other rules adopted under Title

1 75, chapter 6, and may require THAT ANY CROSS-CONNECTION CONTROL PROGRAM VOLUNTARILY
 2 SUBMITTED FOR APPROVAL REQUIRE THE installation of specific types of cross-connection control
 3 devices in accordance with industry standards. ~~Deadlines for compliance with these standards and~~
 4 ~~requirements may be staggered in a manner that is consistent with federal safe drinking water guidelines,~~
 5 ~~with larger systems having earlier deadlines than smaller systems.~~ The rules may include model standards
 6 and requirements for recommended implementation by public water supply system suppliers.

7 ~~In regard to wellhead protection, the legislature anticipates that the rules will provide detailed~~
 8 ~~guidance to the department of health and environmental sciences and to local governing bodies regarding~~
 9 ~~the development and certification of wellhead protection areas and the adoption of wellhead protection area~~
 10 ~~ordinances. The rules should describe both the processes and substantive requirements for certification~~
 11 ~~of wellhead protection areas and for review of proposed ordinances and verification of their compliance with~~
 12 ~~Title 75, chapter 6.~~

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

15
 16 **Section 1.** Section 37-42-101, MCA, is amended to read:

17 **"37-42-101. Purpose.** It is ~~hereby found and~~ declared that the health and welfare of Montana
 18 citizens are jeopardized by persons not properly qualified to operate the water supply systems and that
 19 Montana's state waters are endangered by persons not properly qualified to operate the wastewater
 20 treatment plants. It is declared that the public policy of this state is to control protect the public health and
 21 safety by certifying ~~these~~ persons working in these occupations ~~in order to protect the public health and~~
 22 ~~safety.~~"

23
 24 **Section 2.** Section 37-42-102, MCA, is amended to read:

25 **"37-42-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
 26 definitions apply:

27 (1) "Certificate" means a certificate of competency issued by the department, stating that the
 28 operator holding the certificate has met the requirements for the specified operator classification of the
 29 certification program.

30 (2) "Community water system" means the term as defined in 75-6-102.

1 (3) "Council" means the water and wastewater operators' advisory council provided for in
2 2-15-2105.

3 ~~(3)~~(4) "Department" means the department of health and environmental sciences provided for in
4 Title 2, chapter 15, part 21.

5 ~~(4)~~ "Montana's waters" means all streams and lakes (including all rivers and lakes bordering on the
6 state), wells, springs, irrigation systems, marshes, watercourses, waterways, drainage systems, and other
7 bodies of water, surface and underground, natural or artificial, publicly or privately owned.

8 ~~(5)~~ "Nontransient noncommunity water system" means a public water supply system that is not
9 a community water system and that regularly serves at least 25 of the same persons for at least 6 months
10 a year.

11 ~~(5)~~~~(6)~~(5) "Operator" means the person in direct responsible charge of the operation of a water
12 treatment plant, water distribution system, or wastewater treatment plant.

13 ~~(7)~~(6) "State waters" means the term as defined in 75-6-102.

14 ~~(6)~~~~(8)~~(7) "Wastewater treatment plant" means a facility that:

15 (a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial
16 wastes, or other wastes and which;

17 (b) discharges an effluent directly into this state's state waters; and which serves 10 or more
18 families or serves an industry employing 10 or more persons

19 (c) is part of either an industrial waste discharge system or a public sewage system as defined in
20 75-6-102.

21 ~~(7)~~~~(9)~~(8) "Water distribution system" means that portion of the water supply system in which water
22 is conveyed from the water treatment plant or other supply source to the premises of the consumer and
23 which serves 10 or more families or supplies an industry employing 10 or more persons that is part of a
24 community water system or a nontransient noncommunity water system THAT SERVES A SCHOOL.

25 ~~(8)~~~~(10)~~(9) "Water supply system" means the system of pipes, structures, and facilities through
26 which the water is obtained, treated, sold, distributed, or otherwise offered to the public for household use
27 or use by humans and which that serves 10 or more families or serves an industry employing 10 or more
28 persons is part of a community water system or a nontransient noncommunity water system THAT SERVES
29 A SCHOOL.

30 ~~(9)~~~~(11)~~(10) "Water treatment plant" means that portion of the water supply system which that

1 alters either the physical, chemical, or bacteriological quality of the water rendering it safe and palatable
2 for human use."

3

4 **Section 3.** Section 75-6-102, MCA, is amended to read:

5 **"75-6-102. Definitions.** As used in this part, unless the context clearly indicates otherwise, the
6 following definitions apply:

7 (1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

8 (2) "Certified wellhead protection area" means an area certified by the department that protects
9 the surface and subsurface area surrounding a source of ground water for a public water supply system
10 through which contaminants may move toward and reach the source of supply.

11 (3) "Community water system" means ~~any~~ a public water supply system that serves at least ~~40~~
12 15 service connections used by year-round residents or that regularly serves at least 25 year-round
13 residents.

14 ~~(3)(4)~~ "Contamination" means impairment of the quality of state waters by sewage, industrial
15 wastes, or other wastes creating a hazard to human health.

16 (5) "Cross-connection" means a connection between a public water supply system and another
17 water supply system, either public or private, or a wastewater or sewer line or other potential source of
18 contamination so that a flow of water into or contamination of the public water supply system from the
19 other source of water or contamination is possible.

20 ~~(4)(6)~~ "Department" means the department of health and environmental sciences provided for in
21 Title 2, chapter 15, part 21.

22 ~~(5)(7)~~ "Drainage" means rainfall, surface, and subsoil water.

23 ~~(6)(8)~~ "Industrial waste" means any waste substance from the processes of business or industry
24 or from the development of ~~any~~ a natural resource, together with any sewage that may be present.

25 (9) "Industrial waste discharge system" means a system that discharges industrial waste into state
26 waters.

27 ~~(7)(10)~~ "Maximum contaminant level" means the maximum permissible level of a contaminant in
28 water ~~which~~ that is delivered to ~~any~~ a user of a public water supply system.

29 (11) "Montana wellhead protection program" means a program administered by the department to
30 certify wellhead protection areas and review wellhead protection ordinances.

1 ~~(8)~~(12) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark,
2 lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or
3 discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state
4 waters.

5 ~~(9)~~(13) "Person" means ~~any~~ an individual, corporation, association, partnership, municipality, other
6 political subdivision of the state, or federal agency.

7 ~~(10)~~(14) "Pollution" means contamination or other alteration of the physical, chemical, or biological
8 properties of ~~any~~ state waters ~~which~~ that exceeds that which is permitted by Montana water quality
9 standards, including but not limited to standards relating to change in temperature, taste, color, turbidity,
10 or odor or the discharge or introduction of ~~any~~ a liquid, gaseous, solid, radioactive, or other substance into
11 ~~any~~ state water ~~which~~ that will or is likely to create a nuisance or render the waters harmful, detrimental,
12 or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or
13 other wildlife. A discharge ~~which~~ that is authorized under the pollution discharge permit rules of the board
14 is not pollution under this chapter.

15 ~~(11)~~(15) "Public sewage system" means a system of collection, transportation, treatment, or
16 disposal of sewage that ~~is designed to serve or~~ serves ~~40~~ 15 or more families or 25 or more persons daily
17 for a period of at least 60 days ~~out of the~~ in a calendar year.

18 ~~(12)~~(16) "Public water supply system" means a system for the provision of water for human
19 consumption from ~~any~~ a community well, water hauler for cisterns, water bottling plant, water dispenser,
20 or other water supply that ~~is designed to serve or~~ has at least 15 service connections or that regularly
21 ~~serves 10 or more families or~~ at least 25 or more persons daily or has at least 10 service connections for
22 a period of at least 60 days ~~out of the~~ in a calendar year.

23 ~~(13)~~(17) "Safe Drinking Water Act" means 42 U.S.C. 300f and regulations at Title 40, CFR, ~~Parts~~
24 parts 141 and 142.

25 ~~(14)~~(18) "Sewage" means water-carried waste products from residences, public buildings,
26 institutions, or other buildings, including discharge from human beings, together with ground water
27 infiltration and surface water present.

28 ~~(15)~~(19) "State waters" means ~~any~~ a body of water, irrigation system, or drainage system, either
29 surface or underground.

30 ~~(16)~~(20) "Transient noncommunity water system" means ~~any~~ a public water supply system that

1 is not a community water system and that ~~serves~~ does not regularly serve at least 25 of the same persons
 2 ~~on a transient basis~~ for at least 6 months a year."

3

4 **Section 4.** Section 75-6-103, MCA, is amended to read:

5 **"75-6-103. Duties of the board.** (1) The board has general supervision over all state waters ~~which~~
 6 that are directly or indirectly being used by a person for a public water supply system or domestic purposes
 7 or as a source of ice.

8 (2) The board shall adopt rules and standards concerning:

9 (a) maximum contaminant levels for waters that are or will be used for a public water supply
 10 system;

11 (b) fees, as described in 75-6-108, for services rendered by the department;

12 (c) monitoring, recordkeeping, and reporting by persons who own or operate a public water supply
 13 ~~system~~ systems;

14 (d) requiring public notice to all users of a public water supply system when a person has been
 15 granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

16 (e) the issuance of licenses by the department to laboratories that conduct analysis of public water
 17 supply systems;

18 (f) the siting, construction, operation, and modification of a public water supply system or public
 19 sewage system;

20 (g) the review of financial viability of a proposed public water supply system or public sewage
 21 system, as necessary to ensure the capability of the system to meet the requirements of this part;

22 (h) the collection and analysis of samples of water used for drinking or domestic purposes;

23 (i) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act
 24 and this part;

25 (j) administrative enforcement procedures and administrative penalties authorized under this part;

26 ~~and~~

27 (k) standards and requirements FOR THE REVIEW AND APPROVAL OF PROGRAMS THAT MAY
 28 BE VOLUNTARILY SUBMITTED BY SUPPLIERS OF PUBLIC WATER SUPPLY SYSTEMS to prevent water
 29 supply contamination from a cross-connection, including:

30 (i) establishment of timeframes for implementation of the standards and requirements based on the

1 ~~size of the public water supply system; and~~

2 ~~(ii) provisions to exempt cross-connections from the standards and requirements if all connected~~
 3 ~~systems are department-approved public water supply systems; AND~~

4 ~~(i) requirements for certification of wellhead protection areas and review of wellhead protection~~
 5 ~~area ordinances pursuant to [section 6]; and~~

6 ~~(k)(m)(L)~~ any other requirement necessary for the protection of public health as described in this
 7 part.

8 (3) The board may issue orders necessary to fully implement the provisions of this part."

9
 10 **Section 5.** Section 75-6-112, MCA, is amended to read:

11 **"75-6-112. Prohibited acts.** A person may not:

12 (1) discharge sewage, drainage, industrial waste, or other wastes that will cause pollution of state
 13 waters used by a person for domestic use or as a source for a public water supply system or water or ice
 14 company;

15 (2) discharge sewage, drainage, industrial waste, or other waste into ~~any~~ state waters or on the
 16 banks of ~~any~~ state waters or into ~~any~~ an abandoned or operating water well unless the sewage, drainage,
 17 industrial waste, or other waste is treated as prescribed by the board;

18 (3) build or operate ~~any~~ a railroad, logging road, logging camp, or electric or manufacturing plant
 19 of any kind on ~~any~~ a watershed of a public water supply system unless:

20 (a) the water supply is protected from pollution by sanitary precautions prescribed by the board;
 21 and

22 (b) a permit has been issued by the department after approval of detailed plans and specifications
 23 for sanitary precautions;

24 (4) commence construction, alteration, ~~or~~ extension or operation of ~~any~~ a system of water supply,
 25 or water distribution, that is designed to be a public water supply system or a system of sewer, drainage,
 26 ~~wastewater waste,~~ or sewage disposal that is designed to be a public sewage system or industrial waste
 27 discharge system before ~~he~~ the person submits to the department necessary maps, plans, and
 28 specifications for its review and the department approves those maps, plans, and specifications;

29 (5) operate or maintain ~~any~~ a public water supply system ~~which~~ that exceeds a maximum
 30 contaminant level established by the board unless ~~he~~ the person has been granted or has an application

1 pending for a variance or exemption pursuant to this part;

2 (6) violate any provision of this part or a rule adopted under this part; or

3 (7) violate any condition or requirement of an approval issued pursuant to this part."

4
5 **NEW SECTION. Section 6. Montana wellhead protection program -- VOLUNTARY PETITIONS.** (1)

6 ~~The department shall implement a Montana wellhead protection program that is approved by the United~~
7 ~~States environmental protection agency and that meets requirements of the federal Safe Drinking Water~~
8 ~~Act, including 42 U.S.C. 300h-7, ENABLES THE DEPARTMENT TO ADMINISTER A WELLHEAD~~
9 ~~PROTECTION PROGRAM THAT INVOLVES CERTIFICATION OF LOCAL WELLHEAD PROTECTION AREAS~~
10 ~~AND REVIEW OF WELLHEAD PROTECTION AREA ORDINANCES. IN ADMINISTERING THIS PROGRAM,~~
11 ~~THE DEPARTMENT MAY PERFORM ONLY THOSE FUNCTIONS PROVIDED FOR BY THE FEDERAL SAFE~~
12 ~~DRINKING WATER ACT AND THIS SECTION.~~

13 (2) A SUPPLIER OF A PUBLIC WATER SUPPLY SYSTEM MAY VOLUNTARILY SUBMIT FOR
14 DEPARTMENT REVIEW AND APPROVAL A PETITION TO ESTABLISH A WELLHEAD PROTECTION
15 PROGRAM FOR THE SYSTEM.

16 ~~{2}{3}~~ The department may certify a wellhead protection area upon:

17 (a) receipt of a petition by a supplier for a public water supply system ~~or by request of the~~
18 ~~governing body of the county in which the system is located;~~ and

19 (b) making a determination that the wellhead protection area meets ~~requirements~~ CRITERIA AND
20 THRESHOLDS for certification established by the Montana wellhead protection program.

21 ~~{3}{4}~~ (a) The governing body of the county in which a wellhead protection area or areas exist may
22 adopt an ordinance to regulate, control, and prohibit conditions that threaten the quality of water used
23 within the wellhead protection area or areas.

24 (b) Prior to adopting a wellhead protection area ordinance, the governing body shall CONFER WITH
25 THE SUPPLIER OF THE PUBLIC WATER SUPPLY SYSTEM AND SHALL THEN submit the ordinance to the
26 department for review and verification that the ordinance is consistent with the requirements of this
27 chapter.

28 (c) A wellhead protection area ordinance must be adopted using the procedures described in
29 7-5-103 through 7-5-107.

30 ~~{4}{5}~~ (a) An ordinance adopted under subsection ~~{3}~~ {4} is limited in applicability to the certified

1 wellhead protection area or areas within the county.

2 (b) For a wellhead protection area that is located in two or more counties, the proposed wellhead
3 protection area ordinance must be adopted by each county in order for the ordinance to be effective.

4 ~~(5)(6)~~ A wellhead protection area ordinance adopted under this section may not conflict with AND
5 MAY NOT DUPLICATE any other FEDERAL, state, or local law or regulation, including but not limited to
6 zoning, fire codes, hazardous waste regulation under Title 75, chapter 10, part 4, or pesticide regulation
7 under Title 80, chapter 8.

8 ~~(6) The department shall maintain and, upon request, distribute a register of wellhead protection~~
9 ~~area ordinances adopted by local governing bodies.~~

10

11 NEW SECTION. Section 7. Codification instruction. [Section 6] is intended to be codified as an
12 integral part of Title 75, chapter 6, part 1, and the provisions of Title 75, chapter 6, part 1, apply to
13 [section 6].

14

-END-