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House BILL NO. *452*

INTRODUCED BY

Emer Bishop

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO POST THE EXTENT OF MIXING ZONES FOR NEW AND RENEWED DISCHARGE PERMITS; AND AMENDING SECTION 75-5-402, MCA."

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

NEW SECTION. Section 1. Department to post extent of mixing zones. (1) For any new or renewed permit issued under 75-5-402(1) that includes discharge to class I or class II water, the department shall prepare signs and post the extent of permitted mixing zones in conformance with this section. The department may authorize the permittee to install the signs prepared pursuant to this section.

(2) The department shall develop a standardized sign design and size, including a logo to readily convey the concept of a mixing zone to persons who may use the watercourse in conformance with Title 23, chapter 2, part 3. The department shall also develop a graphic means to display on the sign the categories of water quality parameters that may be exceeded within mixing zones in Montana.

(3) Subject to subsection (10), at a minimum, signs must be placed on lands next to the discharge point, at the downstream terminus of the mixing zone, and at any points providing public access to the watercourse included in the mixing zone.

(4) In addition to the signs required in subsection (3), for mixing zones longer than 1 mile, sufficient within-zone signs must be installed to bring the total sign density to a minimum of one sign for each quarter mile of total downstream mixing zone length. Within-zone signs must be no closer than 1,000 feet from any other sign posted pursuant to this section.

(5) Each sign must include, in the following order:

(a) the words "MIXING ZONE";

(b) the logo described in subsection (2);

(c) the name of the permittee;

(d) a graphic representation of each category of water quality parameter that may be exceeded within the posted mixing zone;

1 (e) the words "For Information Call", followed by the appropriate department phone number, to
2 allow public access to department personnel familiar with the permit; and

3 (f) the words "Refer to Permit No.", with the appropriate permit number.

4 (6) In areas in which two or more mixing zones overlap, permittees shall meet the requirements
5 of subsection (4) through multiple entries under subsections (5)(c) through (5)(f) on one sign, rather than
6 multiple within-zone signs.

7 (7) Signs and the sign components required by subsections (5)(a) and (5)(b) must be discernible to
8 an average viewer at a distance of 100 feet.

9 (8) The department shall specify to the permittee the required sign locations and orientations based
10 upon the requirements of this section and the balancing of maximum sight distance with minimal
11 maintenance requirements, minimal obtrusiveness to potential recreational users, and minimal impact on
12 nonpermittee-owned private property.

13 (9) State agencies, county governments, and other public entities holding title to lands adjacent
14 to mixing zones subject to this section shall cooperate with the department and permittee to allow the
15 installation and maintenance of signs required in this section when feasible on their publicly owned lands.

16 (10) If private land other than that owned by the permittee has been identified for sign location
17 pursuant to subsection (8), the permittee shall enter into negotiations with owners of identified lands to
18 obtain permission to allow placement and maintenance of one or more signs in conformance with this
19 section. If the permittee cannot successfully negotiate with the landowner to allow placement and
20 maintenance of a sign required by this section, the permittee shall justify to the department why the
21 permittee cannot meet the requirements of this section. If the department determines that no reasonable
22 avenue exists for the permittee to fully comply with the requirements of this section, the department may
23 grant a waiver of all or part of the posting requirements.

24 (11) Maintenance of signs installed in accordance with this section is the responsibility of the
25 department and is for the length of the permit.

26 (12) A new or renewed permit issued under 75-5-402(1) is not valid until the department certifies
27 that the signs required pursuant to this section have been installed.

28 (13) Department costs to fulfill the requirements of this section may be charged to the permittee,
29 consistent with rules promulgated pursuant to 75-5-402. For overlapping mixing zones subject to
30 subsection (6), signing costs within the overlapping zones may be apportioned between permittees sharing

1 the zone.

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3 **Section 2.** Section 75-5-402, MCA, is amended to read:

4 **"75-5-402. Duties of department.** The department shall:

5 (1) issue, suspend, revoke, modify, or deny permits to discharge sewage, industrial wastes, or
6 other wastes into state waters, consistently with rules made by the board;

7 (2) examine plans and other information needed to determine whether a permit should be issued
8 or suggest changes in plans as a condition to the issuance of a permit;

9 (3) clearly specify in any permit any limitations imposed as to the volume, strength, and other
10 significant characteristics of the waste to be discharged; ~~and~~

11 (4) post mixing zones pursuant to [section 1]; and

12 ~~(4)(5)~~ establish as conditions to the issuance of permits for which a performance bond or other
13 surety is filed under 75-5-405 certain reclamation requirements sufficient to prevent pollution of state
14 waters during and after operation of the project or activity for which a permit is issued."

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16 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an
17 integral part of Title 75, chapter 5, part 4, and the provisions of Title 75, chapter 5, part 4, apply to
18 [section 1].

19

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0452, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring posting the extent of mixing zones for new and renewed discharge permits.

ASSUMPTIONS:

1. Permittees would not be responsible for purchasing, installing, and maintaining the signs and no new application information would be required to be processed.
2. There are approximately 200 mixing zones permitted statewide, of which approximately 25% exceed one mile in length. An average of 2 signs per mixing zone would be needed for mixing zones less than 1 mile in length (150 mixing zones x 2=300) and an average of 8 signs per mixing zone would be needed for zones greater than one mile in length (approximately 50 mixing zones x 8=400).
3. Signs and posts would cost \$150 each (\$150 x 700=\$105,000) and would be installed 6 permits at a time in a 2-day trip. The cost of each trip would include \$55 per diem for one staff and mileage @ \$0.25 per mile for 500 miles would result in an average trip cost of \$180.
4. Staff time of 0.25 FTE (grade 14) annually would be necessary for acquiring and installing signs to conform with the requirements of this bill (\$7,959 personal services + \$1,353 for indirect costs @ 17%).
5. Assuming 33 trips for signing per biennium (\$180 x 33=\$5,940), Department of Environmental Quality (DEQ) operating costs would approximate \$56,823 each year of the biennium (((\$105,000 + \$5,940)/2=\$55,470 + \$1,353=\$56,823).
6. The DEQ may receive additional phone calls or requests for information as a result of the postings and would absorb these fiscal effects.
7. Replacement costs for damaged or destroyed signs are estimated at 10 percent annually for about \$6,500 each fiscal year of the 1999 biennium.
8. This bill provides no additional revenue to pay for these costs, so the Montana pollutant discharge elimination system account (MPDES) is assumed.

FISCAL IMPACT:

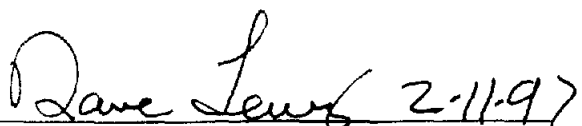
	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	.25	.25
Personal Services	\$7,959	\$7,959
Operating Costs	<u>56,823</u>	<u>56,823</u>
Total	\$64,872	\$64,872

Net Impact:

MPDES Permit Program (02278)	(\$64,872)	(\$64,872)
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TECHNICAL NOTES:

The class designation in the bill is incorrect. Surface water mixing zones are designated by alpha classes. Therefore, Page 1, line 11 should be modified as follows: after "discharge to class" delete "I or class II" and replace it with "A, or Class B, or Class C".


 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 DAVID EWER, PRIMARY SPONSOR DATE

Fiscal Note for HB0452, as introduced

HB 452