

HOUSE BILL NO. 561

INTRODUCED BY M. MALONE

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

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

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

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

~~(b)(2)~~ The department shall adopt rules to implement a 15-day 30-DAY public comment period and a process to extend the public comment period.

~~(2)(3)~~ If the department denies an application for a permit or modifies a permit, the department shall give written notice of its action to the applicant or holder and the applicant or holder may request a hearing before the board, in the manner stated in 75-5-611, for the purpose of petitioning the board to reverse or modify the action of the department. The hearing must be held within 30 days after receipt of written request. After the hearing, the board shall affirm, modify, or reverse the action of the department. If the holder does not request a hearing before the board, modification of a permit is effective 30 days after receipt of notice by the holder unless the department specifies a later date. If the holder does request a hearing before the board, an order modifying the permit is not effective until 20 days after receipt of notice of the action of the board. The

1 department shall notify the applicant in writing of the approval ISSUANCE, modification, or denial of the
2 application PERMIT.

3 ~~(3)(4)~~ (a) A THE APPLICANT OR A person WHO PROVIDES THE DEPARTMENT WITH FORMAL PUBLIC
4 COMMENTS DURING THE COMMENT PERIOD AND IS directly and adversely affected by the department's decision may
5 request a hearing before the board. The request must be filed within 15 days of the decision date. Within 30
6 days of the decision date, the person shall submit an affidavit stating the grounds for the request.

7 (b) The contested case provisions of the Montana Administrative Procedure Act, TITLE 2, CHAPTER
8 4, apply to hearings under this section AND SUBSEQUENT JUDICIAL REVIEW. THIS SECTION PROVIDES THE EXCLUSIVE
9 MEANS FOR APPEAL OF A PERMIT DECISION UNDER THIS CHAPTER.

10 ~~(4)(5)~~ The department's decision is final 15 days after the WRITTEN notice is provided TO THE
11 APPLICANT. A HEARING request filed pursuant to subsection ~~(3)~~ (4) does not stay the final decision, but A PARTY
12 MAY FILE A MOTION REQUESTING A STAY AND the board-DEPARTMENT may order a stay AGREE SUBJECT TO THE
13 BOARD'S REVIEW provided that:

14 (a) the person requesting the stay is entitled to the relief demanded pursuant to subsection ~~(3)~~ (4);
15 and

16 (b) THE PERSON DEMONSTRATES THAT THE action allowed by the permit would produce great or
17 CAUSE irreparable injury to the person requesting the stay; AND

18 (c) GRANTING THE STAY WILL NOT SUBSTANTIALLY HARM THE APPLICANT OR OTHER PARTIES TO THE
19 PROCEEDING.

20 ~~(5)(6)~~ If a stay is granted, the board may require a written undertaking in accordance with 27-19-
21 306(2) from the party requesting the stay for payment of costs and damages incurred by the permit applicant
22 and its employees if the board finds the permit was issued properly."

23

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

25

26 NEW SECTION. Section 3. Applicability. [This act] applies to applications received on or after [the
27 effective date of this act].

28

- END -