



AN ACT PROVIDING FOR NUTRIENT LOADING OFFSETS, OFFSET AMOUNTS, AND TRADING CREDITS FOR WATER QUALITY DISCHARGE PERMITS; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Nutrient loading offsets and trading credits. (1) Under a permit issued pursuant to 75-5-401, a point source discharger to state surface waters may receive nutrient loading offsets or trading credits to satisfy permitting requirements, including nutrient effluent limitations established pursuant to this part and nutrient effluent limitations derived from waste load allocations established pursuant to 75-5-703.

(2) Nutrient loading offsets and trading credits may be authorized for increases in or continuation of nutrient discharges when a net decrease in nutrient loading within the United States geological survey-designated 12-digit hydrologic unit code subbasin, or immediately adjacent 12-digit hydrologic unit code subbasin when the project is in close proximity to the adjacent 12-digit hydrologic unit code subbasin, is achieved through reductions from other point sources or nonpoint sources within the subbasin, either up gradient or down gradient of the applicant. The applicant shall quantify and verify reductions from projects based on the methodologies developed by the department pursuant to subsection (4) or based on sufficient and credible site-specific data and methodologies that are reviewed and accepted by the department.

(3) For reductions that satisfy subsections (2) and (4), the offset or trading credit must be measured as:

- (a) 100% of a reduction from point source discharges;
- (b) 80% of a reduction from an up-gradient, nonpoint source discharge; or
- (c) 50% of a reduction from a down-gradient, nonpoint source discharge.

(4) (a) The department shall establish acceptable methodologies, based on readily available

watershed characteristics, to determine the reduction in nutrient loading for nonpoint sources, including for:

- (i) riparian fencing programs based on the number of feet of streambank;
- (ii) riparian vegetation programs based on the number of acres vegetated;
- (iii) development of wetlands in areas of irrigation water return flows based on the number of acres associated with the return flows; or
- (iv) removal of septic systems based on the number and size of septic systems removed.

(b) Other projects and methods may be proposed by an applicant or permittee that are supported by science and data modeling-and are not contrary to existing data.

(c) The department shall use the methodologies established pursuant to this subsection (4) unless there is clear and convincing evidence that the nutrient loading of the proposed action would be substantially different from that determined by the established methodologies.

Section 2. Directions to department. To implement the provisions of [section 1], the department shall amend:

- (1) department circular DEQ-13, Montana's policy for nutrient trading, as adopted in December 2012; and
- (2) ARM 17.30.1701.

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

Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 5. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 736, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2025.

President of the Senate

Signed this _____ day
of _____, 2025.

HOUSE BILL NO. 736

INTRODUCED BY S. FITZPATRICK

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