

Fiscal Note Request SB0336, As Introduced

(continued)

5. The three current CBM operations include 550 wells; this is an average of 183 wells per operation. Using this average, two additional operations in the next biennium would increase the number of wells to 916 (550+183+183). The Montana statewide oil and gas environmental impact statement (FY 2003) estimates that one well and its associated infrastructure will, on average, disturb 2 acres. The total disturbance from CBM operations that would be subject to regulation by this bill estimated for the next biennium is estimated to total 1,832 acres (916 X 2).
6. In the context of permit application review and field inspections necessary under this bill in the next biennium, the above assumptions indicate the following. The CBM regulatory program required by this bill would be new for DEQ and would require the hiring of new staff. For the next biennium, 4.00 FTE would be needed: a program manager (pay band 7), two environmental specialists (pay band 6) consisting of a soils/vegetation scientist and a hydrologist, and an administrative specialist (pay band 5). The program manager would be responsible for writing job descriptions and hiring of the other staff, contract preparation and management for initial permit review support, coordinating the initial rule-making process, and then program and personnel oversight and management. The environmental specialists would be needed to conduct technical permit reviews and site/compliance inspection work for required operational controls of surface and hydrologic resources, reclamation involving soils handling, revegetation and post mining land uses, water and soil management and protection with respect to constructed ponds and land disposal of pumped groundwater, and bonding. The administrative specialist would be needed to handle and manage the required fees and billing, information/data management needs of the program, and general administrative support.
7. All of the new staff would be located in the Billings office of DEQ, because primarily southeastern Montana and secondarily other eastern Montana areas are the main focus of CBM activity. A program manager would be hired as early as possible in FY 2006 and the other staff in the second half of FY 2006 (1.00 FTE + 1.50 FTE (3 X 0.50 FTE) = 2.50 FTE FY 2006). Thus, personal services costs would be \$130,295 FY 2006 and \$196,890 in FY 2007. Operating expenses are \$189,043 and \$129,214, respectively including: Office rent and vehicle leasing \$10,000 and \$16,000; office and field supplies and services (e.g., desks, computers, telephones, janitorial, consulting, printing, inspection supplies, and education/training) \$132,892 and \$41,400; travel \$14,880 and \$24,560 for staff meetings in Helena, site inspections, and training; and indirect at \$31,271 and \$47,254, respectively. Due to the inability to accurately predict the number of permits including the number of wells to be permitted and the workload associated with the permit review, DEQ is including \$75,000 in contracted services. If the permit application activity exceeds capability of the FTEs requested, DEQ would either hire contractors or request a modified FTE to provide mandated services within the statutory time frames.
8. The bill provides for a special revenue fund for CBM program support through permit application fees. For the purpose of this analysis, the fees collected under the bill are assumed to be \$22,000 in FY 2006 (4 permit applications X \$5,500 per application) and \$5,500 (for one application only) in FY 2007. Also, it is assumed that the three existing operations would receive CBM permits in FY 2006 and would therefore pay the \$100 annual report fee in FY 2007, resulting in an additional \$300 deposited in the special revenue account in FY 2007. All other funding is assumed to be provided by the general fund.

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FISCAL IMPACT:

Department of Environmental Quality (DEQ)

	FY 2006 <u>Difference</u>	FY 2007 <u>Difference</u>
FTE	2.50	4.00
<u>Expenditures:</u>		
Personal Services	\$130,295	\$196,890
Operating Expenses	<u>\$189,043</u>	<u>\$129,214</u>
TOTAL	\$319,338	\$326,104
<u>Funding of Expenditures:</u>		
General Fund (01)	\$297,338	\$320,304
State Special Revenue (02)	<u>\$22,000</u>	<u>\$5,800</u>
TOTAL	\$319,338	\$326,104
<u>Revenues:</u>		
State Special Revenue (02)	\$22,000	\$5,800
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
General Fund (01)	(\$297,338)	(\$320,304)
State Special Revenue (02)	\$0	\$0

LONG-RANGE IMPACTS:

There are currently 550 wells producing CBM in Montana. In its expanded development scenario, the Montana statewide oil and gas environmental impact statement (FY 2003) predicted between 10,000 and 26,000 wells could potentially be developed in the state in the next 20 years. Based on this prediction, it is likely DEQ would request additional FTE from future legislatures to administer the requirements of this bill.

TECHNICAL NOTES:

Department of Environmental Quality (DEQ)

1. Reclamation is defined in section 3 as making the land capable of supporting the uses that the land was capable of supporting prior to coal bed methane operations. Several other sections of the bill are not consistent with this requirement. Section 9(3)(b)(i) allows a post-operation industrial land use. Section 10(8)(c) requires reclamation to a condition of comparable utility and integrity as that of adjacent areas under sound management. Section 10(8)(c) allows wastewater impoundments and land application and disposal sites to be reclaimed to provide only "some utility."
2. Section 10(2) provides that the reclamation plan provide performance standards. Performance standards are requirements that are established in law and rule. The reclamation plan should not contain performance standards. It should contain the operator's site-specific plan for complying with the performance standards.
3. Section 10(8) requires that land be reclaimed to "comparable stability and integrity" as that of adjacent areas under sound management. This is similar to the requirement in the Metal Mine Reclamation Act that land be reclaimed to "comparable stability and utility" as that of adjacent areas. The purpose for substitution of the term "integrity" for "utility" is not apparent and creates an ambiguity.
4. Section 11(1)(c)(i) provides for a contested case hearing on a decision by the department to extend the time to visit the site. The extension would likely expire before a contested case hearing could be held.

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5. Both section 16 and section 26 provide for issuance of notices of violation and suspension and revocation orders.
6. Section 82-11-123, MCA, which is administered by the Board of Oil and Gas Conservation, also requires restoration of land disturbed by oil or gas operations.
7. On October 1, 2005, all coal bed methane operators will be required to have a permit to conduct coal bed methane operations. If no permit were issued on that date, existing operators will be required to shut down and could not resume operations until they apply for permits and the application review process is completed. It is unlikely that permits for coal bed methane operations could be issued on that date. However, the statutes authorizing the application process do not become effective until October 1. Rules could not be adopted until after or just before October 1. HB 336 provides for a 90-day application review period, which is extended if in-depth review under MEPA is necessary. The date on which the permit requirement becomes effective should therefore be delayed.

Department of Natural Resources & Conservation (DNRC)

8. SB 336 would create a duplicate regulatory authority within the DEQ and split responsibility for natural gas exploration and production between the Board of Oil and Gas (BOGC) and DEQ. The regulatory, quasi-judicial, and enforcement functions for all natural gas production is functionally identical, regardless of the formation from which the gas is produced. The DNRC through the Trust Land Management Division manages 6.2 million acres of state school trust mineral estate, of which approximately 1.2 million acres is currently leased for oil and gas exploration or production. Under SB 336, the Trust Land Management Division minerals bureau and field office staff would have to work with two separate regulatory entities relative to oil and gas activity on and adjacent to state school trust lands.