

SENATE JUDICIARY
SENATE NO. 1
DATE 2/20/13
SENATE SB 262

2013 MONTANA LEGISLATURE
Senate Judiciary Committee, February 20, 2013

Department of Environmental Quality
John Arrigo, DEQ Enforcement Division Administrator

SB262 – An Act Prohibiting the Department of Environmental Quality (DEQ) from investigating certain anonymous reports of environmental violations

Provisions: This bill prohibits DEQ from conducting an initial investigation into a release of hazardous or deleterious substances or a violation based solely on an anonymous report. An anonymous report includes reports from a person who does not reveal their identity and persons who identify themselves but request anonymity.

The prohibition on initial investigations of anonymous reports applies to the following laws administered by DEQ.

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| Public Water Supply Law | Opencut Mining Act |
| Sanitation in Subdivisions Act | Metal Mine Reclamation Act |
| Motor Vehicle Recycling and Disposal Act | Septic Disposal and Licensure Act |
| Comprehensive Environmental Cleanup and Responsibility Act | Major Facilities Siting Act |
| Clean Air Act of Montana – Incinerators, H ₂ S Standards & Mercury Rules | UST Installer & Inspector Licensing and Permitting Act |
| | Water Quality Act – Ground Water |
| | Megalandfill Siting Act |

In order to maintain primacy of federally-approved programs, the prohibition on initial investigations of anonymous reports does not apply to the following laws.

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| Clean Air Act of Montana | Asbestos Control Act |
| Hazardous Waste Act | Solid Waste Management Act |
| Water Quality Act | Underground Storage Tank Act |
| Strip and Underground Mine Reclamation Act | Strip and Underground Mine Siting Act |

**DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT DIVISION
FISCAL YEAR 2012 (FY12) ENFORCEMENT STATUS REPORT
JULY 1, 2011 through JUNE 30, 2012**

The Enforcement Division (ENFD) is responsible for the implementation, coordination and tracking of Department of Environmental Quality (DEQ) enforcement activities, and for the investigation and response to spills and citizen complaints that allege impacts to human health and the environment. The Enforcement Division consists of the Case Management Bureau and the Complaint Management Section.

I. Complaint Management Statistics

Total number of complaint and spill reports received during the report period was 938.

In an effort to delineate areas of regulatory responsibility for complaints received by the Department, a complaint type is assigned that generally relates to program authority. The Complaint Management Section is responsible for the initial investigation of all complaints to determine their validity and to ensure proper follow-up occurs (if needed). Spills being recorded are typically associated with unauthorized material releases resulting from vehicle accidents, mechanical malfunctions, or human error.

Number of Complaint / Spill Reports by Type (DEQ Program or Environmental Media) and General Group				
Air Quality - Dust	60	Spills (not impacting water)	16.2%	152
Air Quality - Emissions	54	Solid Waste		65
Air Quality - Odors	9	Junk Vehicles		58
Air Quality - Open Burning	24	Septic Pumpers		6
Asbestos	39	Sewage		22
Indoor Air Quality	4	Hazardous Waste		27
Total Air Quality Related	20.3%	Used Oil		10
Water Quality	93	Pesticide or Herbicide		19
Spills (impacting water)	28	Superfund		0
310 or 318 Permit	11	Total Waste Related	22.1%	207
Watershed Management (TMDL)	0	Abandoned Mines		0
Release of Chemicals from Tanks*	0	Strip and Underground Mining		0
Release of Chemicals from Pipelines	71	Opencut Gravel Mining		36
Municipal Wastewater Treatment Systems	4	Metal Mines		8
Underground Storage Tank Regulation	11	Total Mining Related	4.7%	44
Subdivisions	49			
Animal Feedlot Operation	9	Major Facility Siting Act (MFSA)	0.0%	0
Concentrated Animal Feedlot Operations	3			
Surface Water (MPDES) Permits	7	Other (Outside DEQ Authority)	2.2%	21
Ground Water (MGWPCS) Permits	0			
Public Water Supply Systems	38			
Total Water Related	34.5%	TOTAL FOR ALL COMPLAINTS		938

*Note that these are releases reported through ENFD; the Hazardous Waste Site Cleanup Bureau also receives underground storage tank leak reports directly.

Status of complaint and spill reports received during reporting period:

Complaint reports are sent to the ENFD for initial investigation and database entry. Referral occurs when the determination is made that the complaint falls under a specific regulatory permitting authority either within DEQ or the regulatory authority of an outside agency.

Status of Complaint Spill Reports*	
Active (under investigation by ENFD)	269
Active Referred (to other DEQ program for investigation and follow-up)	4
Active Referred Closed (referred to DEQ program for resolution)	87
Active Enforcement Case (complaint that led to a request for enforcement action)	7
Closed (resolved by ENFD)	315
Closed by Program (resolved by other DEQ program)	35
Closed No Violation (ENFD investigation determined no violation occurred)	68
Closed Referred (referred to outside Agency for resolution)	139
Closed Not Enough Information (not enough information was provided or documented to validate)	14
	938

*Status as of 6/30/12. Please note that the status of complaints and spills can change on a daily basis as work progresses.