Department of Environmental Quality
Proposed legislation for 2007 SESSION
For Environmental Quality Council, July 18, 2006

Short Title	Agency Priority
Metal mine reclamation act general revisions	1
Opencut mining fee	2
Opencut Mining Act Amendments	3
AML reclamation/restoration fee	4
Designate use of AML federal funds	5
Continue state building energy conservation program	6
Extend time for board of environmental review consideration	7
Water rights prior to DEQ subdivision or public water supply approval	8
Regulation of Subdivisions on Contaminated Properties	9
Expand Recycling of Electronics and Other Wastes	10
Amend fee provisions in major facility siting act	11
PWS Fee Increase	12
Raise water quality act fee caps	13
Water Quality Act Amendments	14
Extend biodiesel tax credits	15
Incinerator Definition & Negligible Risk	16
Regulate waste at electric generating facilities	17
Collection System Operator Certification	18
Provide earmarked fund for the coal and uranium program	19
Public Water Supply Act Amendments	20
Revise Adoption process for Solid Waste Management Plan	21
Remove Quarterly Reporting Requirement at Motor Vehicle Wrecking Yards	22
UST Penalty Factor Duplication Elimination	23
Change the term Gasohol to Ethanol	24
Clarify Infectious Waste Management Act	25
Clean Renewable Energy Bonds	26
UST Energy Act Implementation	27

Complete Shaded Areas

Form last update 1/16 2006

Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality 53010
Priority Number:	1 Filename: 50-001
Short Title:	Metal Mine Reclamation Act General Revisions
Agency Contact Person/Phone:	Warren McCullough 444-6791

1 Purpose:

1.To allow the Department of Environmental Quality to calculate and request an interim bond amount at mine sites during lengthy environmental analysis of changed site conditions or necessary revision to a reclamation plan; 2. Provide authority for DEQ to assess MEPA fees for those analyses that must be completed with the unilateral invocation of 82-2-337; 3. Provide authority for DEQ to set reclamation bonds for those operations requiring treatment of water discharges (MPDES) at levels higher than that which can be accurately determined. If water quality standards can be met through passive treatment, bond may be set at an appropriately reduced level. For those discharges that are projected to be in excess of a given volume, bond amounts would be set at twice that which is calculated for long-term treatment; and, 4. Ensure DEQ has authority to demand all data needed to accurately assess and characterize the hydrologic regime, and if it is not provided, to unilaterally deny the permit.

2. Background:

Section 82-4-337 4(a) and (b), MCA, expressly prohibited the Department of Environmental Quality from requesting an increase in a reclamation bond while a permit revision or amendment is undergoing environmental analysis. This leaves taxpayers potentially vulnerable to underfunded or unfunded reclamation at operating permit sites, while Environmental Assessments or Environmental Impact Statements are being conducted. A bill that would have repealed this prohibition died in committee in 2005; the process proposed in that bill should be simplified. There exist situations in which DEQ has determined (through 82-2-337) that a reclamation plan must be modified, but to do a proper analysis and comply with MEPA, the cost must be born by the agency. This is an action that should require payment by the operator - agencies are not able to project, nor fund these type of detailed analyses; DEQ and the state have witnessed several bankruptcies that have clearly shown it is difficult if not impossible to project actual water treatment and subsequent long term costs. Allowing bond to be set at higher levels would reduce the liability of taxpayers; and, DEQ is often t

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible*

This legislation would help to avoid situations in which significant amounts of public funds must be used to make up for deficiencies in reclamation bonds filed by mining companies regulated under this act.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☑ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number ☐ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by List FTE amount and program
- ☐ Increases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☑ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): 2005 HB 143
- ☐ Legislation would affect other state agencies (list):
- ☑ Special Interest Groups Affected (list): Montana Mining Association, Western Environmental Trade Associa
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality 53010
Priority Number:	2 **Filename:** 50-002
Short Title:	Opencut Mining Fee
Agency Contact Person/Phone:	Neil Harrington/444-4973

1. Purpose:

Provide funding for two additional environmental specialists and a portion of a half-time administrative support position to adequately meet increased demand for services.

2. Background:

Due to the expected limitations of the current opencut mining program funding sources (RIT and General Fund) to provide additional funding for the program and the need for the new staff indicated above, a additional source of revenue is needed. Unlike other permitted activities, this industry does not cover the costs of permitting and compliance activities through permit fees. Instead, these costs are covered through public funds (General Funds and RIT). This proposal would add an industry fee to adequately staff the

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible.*

$190,958 would be needed for 2.5 new FTE and associated costs.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only
- ☐ Federal Requirement
- ☐ Audit Recommendation (Audit No.)
- ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation
- ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number
- ☑ Local Government Fiscal Impact
- ☑ Increases FTE, or ☐ Decreases FTE by — List FTE amount and program: 2 5 FTE Program 50
- ☐ Increases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☑ Establishes New Revenue ○ Tax ◉ Fee ○ Penalty [amount in #3]
- ☑ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): Fee submitted in HB 361
- ☑ Legislation would affect other state agencies (list): Fee would affect DNRC, FWP, and DOT
- ☑ Special Interest Groups Affected (list): Opencut Mining Industry (Fee & Tax)/ Local Governments, MACO (F
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality 53010		
Priority Number:	3	Filename:	50-003
Short Title:	Opencut Mining Act Amendments		
Agency Contact Person/Phone:	Neil Harrington/444-4973		

1. Purpose:

To increase efficiency of opencut staff by streamlining regulation of low-impact facilities, freeing more time for regulation of higher impact facilities. This would raise the volume limit and also impose an acreage limit on the short form under 82-4-431(2) and by extending the permit application review time frames. This also would allow DEQ to enter into agreements with state and local government agencies and Indian tribes to allow them to regulate opencut mining operations on lands that they own or on which they have jurisdiction. This legislation could allow for a reduced permitting process on operations meeting certain criteria, e.g., based on a maximum permit area and prescribed volume of materials and maximum depth to be excavated, well above and distant from groundwater and important surface water bodies. This also would clarify that permits are issued for opencut mining operations, not only reclamation, and would broaden the description of what constitutes an amendment, because the current description is too limited. This also would revise, update, clarify, delete, and simplify various terms, text, and sections and would revise and define more clearly who may

2. Background:

This changes are necessary to focus limited staff resources on higher-impact sites and streamline regulation of lower-impact sites.

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible.*

None.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only
- ☐ Federal Requirement
- ☐ Audit Recommendation (Audit No.)
- ☑ Major Legislation
- ☐ Anticipated to be Controversial Legislation
- ☐ Bill Draft has been included in Legislation Submittal (if available)
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- ☐ Increases FTE, or ☐ Decreases FTE by — List FTE amount and program
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- ☑ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): HB 361
- ☑ Legislation would affect other state agencies (list): DNRC, FWP, DOT
- ☑ Special Interest Groups Affected (list): Opencut Mining Industry, Local Governments, MACO
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:			
Priority Number:	4	**Filename:**	40-004
Short Title:	AML reclamation/restoration fee		
Agency Contact Person/Phone:	Sandi Olsen 841-5001		

1. Purpose:

This legislation would compensate for reduced federal fees on mined coal for the purposes of providing continued funding to the state's abandoned mined land program. It would create a state fee or tax on coal production. The amount of the fee or tax would equal any reduction in federal fees collected for this purpose.

2. Background:

Congress is evaluating the appropriateness of reducing federal fees on mined coal. A reduction would reduce Montana's grant funding for reclamation of abandoned mines. This proposal would offset the federal reduction, assuring no net loss of funding available for the reclamation of abandoned mines. The fee would then be applied to the cleanup of over 300 high priority abandoned coal and hard rock mine properties in Montana. Estimates for the total cost of these cleanup activities exceed $100,000,000.

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible.*

Funds currently received as federal special revenue funds would be received as state special revenue funds. The proposed fee of 7cents per ton would bring in approximately $2.8 million/year for continued coal and hard rock abandoned mine reclamation.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☑ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number ☐ Local Government Fiscal Impact
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- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☑ Special Interest Groups Affected (list): MT Coal Council
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:			
Priority Number:	5	Filename:	40-005
Short Title:	Designate Use of AML Federal Funds		
Agency Contact Person/Phone:	Sandi Olsen 841-5001		

1. Purpose:

This legislation would place in state a law a requirement that federal Abandoned Mined Lands funds received by Montana from the State-Share federal AML Trust must be used for the purpose of remediating or reclaiming abandoned mined lands in order to protect human health and the environment.

2. Background:

Funds have accumulated in the State-Share AML Trust as a result of Congress appropriating less that the full state share for grants to states to clean up historic coal and hard rock mining disturbances. Federal legislation is pending that may result in the release of certain unappropriated funds over a period of years from the Trust. It is not clear how these funds must be used when released. However, they were collected by the US Office of Surface Mining under the Surface Mining and Reclamation Act through its taxes on coal production for the purposes noted above. The proposed legislation would provide that Montana intends to spend them consistent with the purposes for which they were intended.

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible.*

This legislation may result in a short-term increase in federal funds available to the program, depending on federal legislative changes. These funds may amount to $45 million or more. However, there would be no long-term increase. Funds would be invested in STIPs and continue to be spent at the current rate of approximately $4,000,000 per year until fully expended.

4. Summary Checklist [Check & complete all that apply]--

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- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☑ Special Interest Groups Affected (list): US Office oF Surface Mining Reclamation and Enforcement; Dept. o
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality 53010		
Priority Number:	6	Filename:	20-006
Short Title:	Continue State Building Energy Conservation Program		
Agency Contact Person/Phone:	Georgia Brensdal 841-5240		

1. Purpose:

Continue the State Building Energy Conservation Program by providing general obligation bond authority and appropriation for the 2009 biennium. Expressly authorize in statute that renewable energy measures are eligible for this program provided they meet the program's cost-effectiveness tests.

2. Background:

The SBECP has operated since 1989. DEQ works with state agencies to identify projects that will save energy and money. General obligation bonds are sold to finance the energy saving improvements. Cost savings are captured through the budget process to make the principal and interest payments on the bonds. Work is coordinated with the Long Range Building Program. The legislature approves bond authority and appropriations for the program each session. The bond funds are used to pay the FTE and operating costs including energy studies associated with identifying energy savings from the projects. Legislation is needed to provide authority to sell bonds and to appropriate funds. Legislation will list projects to be completed and will establish or clarify the use of alternative energy as a means to reduce energy costs under the SBECP.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible*

The projects in this program are designed to save energy and thus reduce energy and utility costs. To qualify, savings must at least cover all program costs, including bond debt service. Additional savings above cost are swept annually to the state's Long-Range Buildings Program. Also, LRBP projects with energy savings potential are funded through this program, thus expanding the projects funded through LRBP.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
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- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☐ Special Interest Groups Affected (list):
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality 53010		
Priority Number:	7	**Filename:**	10-008
Short Title:	Extend Time for Board of Environmental Review Consideration of Rulemaking		
Agency Contact Person/Phone:	Tom Livers 4632		

1. Purpose:

Amend 2-4-315 to provide the Board of Environmental Review (BER) an exception to the requirement that agencies must either deny a petition or initiate rulemaking within 60 days after receiving a petition to adopt, repeal, or amend administrative rules. The amendment would give the BER 120 days to deny or initiate rulemaking on a petition.

2. Background:

A decision on a rulemaking petition must be in writing and based on record evidence. The BER meets every two months. Because of the 60-day requirement, unless the BER schedules a special meeting, it must develop a record, decide on the petition, and approve or deny the petition all at one meeting. Extension of the time for consideration of the petition would allow for more public input, development of a more adequate record, and more Board consideration of the merits and drawbacks of the petition.

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible.*

There would be a reduction in BER travel costs by avoiding special meetings necessary to meet the current timeframe. If one special meeting per year were avoided, annual general fund savings would be approximately $2,000.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
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- ☐ Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☐ Special Interest Groups Affected (list):
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality - 5301		
Priority Number:	8	Filename:	50-009
Short Title:	Water Rights Prior to DEQ Subdivision or Public Water Supply Approval		
Agency Contact Person/Phone:	Steve Welch / 444-4964; Jon Dilliard / 444-2409		

1. Purpose:

This legislation will: (1) mandate that all subdivision and public water supply developments that require a DNRC water right have that right in place when an application is made to DEQ for design approval, and (2) expand the exemption from review for systems constructed prior to April 29, 1993, on a remainder parcel (parcel remaining after conveyance of a portion of a tract) that is at least an acre in size to include replacements of those systems.

2. Background:

(1) There is currently no statutory or regulatory requirement that water rights be in place prior to DEQ approval. DEQ is charged with determining that adequate water supply is available in terms of quality, quantity, and dependability for each approval. Currently DEQ could approve a subdivision or a public water supply with an initial determination there is adequate water quantity and dependability and grant approval of the system; however, water rights could eventually be denied during the water rights authorization process. Recently two subdivisions involving public water supplies were approved by DEQ, the water systems were constructed, and lots sold but they did not have water rights issued to supply water to the property. (2) Under the Water Quality Act, the replacement of these systems are exempt from nondegradation review. The Legislature's intent in adopting the exemption in the Sanitation in Subdivisions Act was to exempt systems that are exempt from nondegradation review. This amendment would implement that intent.

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible.*

None

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only
- ☐ Federal Requirement
- ☐ Audit Recommendation (Audit No.)
- ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation
- ☐ Bill Draft has been included in Legislation Submittal (if available)
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- ☐ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by — List FTE amount and program
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- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☑ Legislation would affect other state agencies (list): DNRC
- ☑ Special Interest Groups Affected (list): Montana Builders Association, Montana Realtors Association, Mont
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality - 5301		
Priority Number:	9	**Filename:**	50-010
Short Title:	Regulation of Subdivisions on Contaminated Properties		
Agency Contact Person/Phone:	Steve Welch / 444-4964; Sandi Olsen / 841-5001		

1. Purpose:

This legislation would mandate that new subdivisions on contaminated sites such as Federal Superfund sites (CERCLA) , State Superfund sites (CECRA), Waste Management sites (RCRA), and Abandoned Mines sites (AML) be cleaned up to the appropriate regulatory authority standards for the use intended prior to being given Subdivision and Platting Act and/or Sanitation in Subdivisions Act final approval.

2. Background:

There have been several subdivisions that have been proposed and eventually approved on properties with surface contamination. It is possible that a homeowner/purchaser could unknowingly become exposed to contaminants through contact with either soils or water. Correcting the problem is significantly more complicated, more costly, and less effective if it involves areas with existing residences.

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible.*

No fiscal impact. Other groups: Local city-county planning and health departments are resposonsible for implementation of requirements of the Subdivision and Platting Act.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number ☐ Local Government Fiscal Impact
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- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
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- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☑ Special Interest Groups Affected (list):
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality 53010		
Priority Number:	10	**Filename:**	20-011
Short Title:	Expand recycling of electronics and other wastes		
Agency Contact Person/Phone:	Lou Moore/841-5280		

1. Purpose:

Electronic waste including computers, printers, televisions, CD players, and other electronics are increasingly being disposed of in landfills because there is no viable electronics recycling in Montana. These wastes contain useful materials that can be recovered, and contain materials that are best eliminated from landfills. Legislation is need to increase recycling.

2. Background:

A work group has been formed to examine the issues of electronics recycling. Demonstration events to collect electronics in several Montana cities are planned in the spring and fall of 2006. Results of the demonstration and further research of the work group will be used to formulate legislation.

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible.*

The specific impact is not yet known, but a likely approach would involve tax incentives that would impact the general fund. Certain state special revenue funds such as solid waste fees are also a potential funding source.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number ☐ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by List FTE amount and program
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- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☐ Special Interest Groups Affected (list):
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality 53010		
Priority Number:	11	**Filename:**	50-012
Short Title:	Amend Fee provisions in Major Facility Siting Act		
Agency Contact Person/Phone:	Warren McCullough 444-6791		

1. Purpose:

1. Add language to 75-20-211, MCA specifying that a Major Facility Siting Act application must be accompanied by a fee or an executed fee agreement as already specified in 75-20-215, MCA but without language addressing timing. Alternatively, put the timing language in 75-20-215, MCA.
2. Amend or replace the fee calculation language in 75-20-215(1)(a) to specify that the revenue from the MFSA filing fee must be sufficient to enable the agency, the Board of Environmental Review, and the agencies listed in 75-20-216(6) (Transportation; Fish, Wildlife and Parks; Natural Resources and Conservation; Revenue; etc.) to carry out their responsibilities under this chapter.
3. Modify 75-20-215(5) to eliminate the requirement that the Department refund any unused Major Facility Siting Act application fee money with 6% annual interest. Alternatively, identify a source for funding the potential refunds. Given the current short time line on Major Facility Siting Act reviews, and the relatively small size of any probable refunds, there is no need to pay interest.

2. Background:

1. Major Facility Siting Act requires applicants to submit a filing fee or agreement to cover processing costs, but does not specify when. The agency immediately begins to incur costs for staff time on a mandatory 30-day adequacy review, public scoping meetings, and consultants. Without upfront funding, the agency may not be able to devote sufficient staff or contractor resources to the task, and may be at risk of doing a substandard job, missing a statutory deadline, or being left with unpaid bills if a project is canceled.
2. Recent project experience suggests that filing fees specified in 75-20-215(1)(a) are unlikely to be sufficient to support development of a full Environmental Impact Statement when a third-party contractor is involved.
3. The MFSA application fee is held by the state treasury, which pays no interest. The Act directs the agency to refund any unused application fee money with 6% annual, but does not specify a funding source for the interest. Under the existing law, it appears that any such funds would come from Department of Environmental Quality's General Fund appropriation.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

1. Limited, but unspecified, decrease in liability to Major Facility Siting Act program funding.
2. Decreased liability to program or agency funds. If the applicant is not willing to supplement the funding needed to complete the review of the application, the review could not be completed adequately under the existing fee schedule. **3.** Decrease limited, but unspecified, liability to Department of Environmental Quality appropriations or General Fund.

4. Summary Checklist [Check & complete all that apply]--

- [ ] Housekeeping Only
- [ ] Federal Requirement
- [ ] Audit Recommendation (Audit No.)
- [ ] Major Legislation
- [ ] Anticipated to be Controversial Legislation
- [ ] Bill Draft has been included in Legislation Submittal (if available)
- [ ] Supports Submitted EPP Item Number
- [ ] Local Government Fiscal Impact
- [ ] Increases FTE, or
- [ ] Decreases FTE by

List FTE amount and program

- [ ] Increases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
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- [ ] Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- [x] Legislation would affect other state agencies (list): MDT, DFWP, DNRC, DOR
- [x] Special Interest Groups Affected (list): 2. Applicants, Western Environmental Trade Assoc. & Contractors 3. Applicants
- [ ] Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality - 5301
Priority Number:	12 Filename: 50-013
Short Title:	PWS Fee Increase
Agency Contact Person/Phone:	Jon Dilliard / 444-2409

1. Purpose:

Increase Public Water Supply annual service connection fees by 25% to provide adequate funding for current program activities.

2. Background:

The Public Water Supply annual service connection fee has not increased since it was implemented in 1992. Over the years, program volume, workload and costs have increased. As a result, the revenue provided by the fee has become inadequate. Increases in the fee are necessary for the continued operation of the program to fully implement the laws and regulations and to provide technical assistance to water systems facing increasing and more complicated federal requirements. It is estimated that a statutory increase of 25% in the Public Water Supply service connection fees, from $2.00 per connection per year up to $2.50, will provide adequate funds until FY12.

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible.*

Increase state special revenue in Fund 02204 by $144,000 per year. Agencies impacted: Any agency that owns or operates a public water supply, e.g., Fish Wildlife and Parks and Transportation. Special Interest Groups: Montana Rural Water Systems Association, Montana Section of the American Water Works Association.

4. Summary Checklist [Check & complete all that apply]--

- [ ] Housekeeping Only
- [ ] Federal Requirement
- [ ] Audit Recommendation (Audit No.)
- [ ] Major Legislation
- [x] Anticipated to be Controversial Legislation
- [ ] Bill Draft has been included in Legislation Submittal (if available)
- [ ] Supports Submitted EPP Item Number
- [x] Local Government Fiscal Impact
- [ ] Increases FTE, or [ ] Decreases FTE by — List FTE amount and program
- [x] Increases Existing Revenue — ○ Tax ● Fee ○ Penalty [amount in #3] $144,000
- [ ] Decreases Existing Revenue — ○ Tax ○ Fee ○ Penalty [amount in #3]
- [ ] Establishes New Revenue — ○ Tax ○ Fee ○ Penalty [amount in #3]
- [ ] Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- [x] Legislation would affect other state agencies (list):
- [x] Special Interest Groups Affected (list): Montana Rural Water Users Association, Montana Section of the Am
- [ ] Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality 5301		
Priority Number:	13		50-014
Short Title:	Raise Water Quality Act Fee Caps		
Agency Contact Person/Phone:	Bonnie Lovelace 444-4969		

1. Purpose:

To raise the fee caps in statute for water quality discharge permit fees. The Board of Environmental Review amends individual application and annual fees via rulemaking within the caps set by statute.

2. Background:

Fee caps were set in statute in 1993 and have not been increased since. These fees support the water quality discharge permit program within budgets established by the legislature.

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible.*

State Special: Fiscal impact would only occur after rulemaking by the Board of Environmental Review.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☑ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number ☐ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by List FTE amount and program
- ☐ Increases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☑ Special Interest Groups Affected (list): all permit holders, Western Environmental Trade Association, Leagu
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality 5301		
Priority Number:	14		50-015
Short Title:	Water Quality Act Amendments		
Agency Contact Person/Phone:	Bonnie Lovelace 444-4969		

1. Purpose:

Remove requirement to adopt rules specifying locations and times for suction dredging. Remove certain exemptions for ground water permits as they currently apply to various activities that discharge to waters of the state. Provide the Department the authority to impose technology-based permit requirements for individual permits on a case-by-case basis. Clarify that storm water permits are required for construction activities, certain industrial activities, and municipal storm water. Clarify the Department's authority to review plans and specifications for permitted discharges. Correct two incorrect references to the federal Clean Water Act.

2. Background:

The Water Quality Act contains provisions governing the program for permitting discharge of pollutants to state waters--both surface and groundwaters. The surface water program needs to match federal requirements, but the groundwater program has no direct federal counterpart. These amendments also address areas where gaps appear in permitting discharges of pollutants to state waters or in having clear authority to pursue enforcement for not having a permit.

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible*

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only
- ☑ Federal Requirement
- ☐ Audit Recommendation (Audit No.)
- ☑ Major Legislation
- ☐ Anticipated to be Controversial Legislation
- ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number
- ☐ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by — List FTE amount and program
- ☐ Increases Existing Revenue — ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue — ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Establishes New Revenue — ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☑ Special Interest Groups Affected (list): all permit holders, Western Environmental Trade Association, Contra
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality 53010
Priority Number:	15 **Filename:** 20-016
Short Title:	Extend Biodiesel Tax Credits
Agency Contact Person/Phone:	Lou Moore 841-5280/Brian Spangler 841-5250

1. Purpose:

Extend the time period that tax credits for biodiesel production, blending and storage and oil seed crushing facility may be claimed. MCA 15-32-701, 15-32-702, and 15-32-703 would be amended.

2. Background:

There are tax credits available for constructing and equipping a biodiesel production facility, purchasing storage and blending equipment, and purchasing oil seed crushing equipment. All of these credits have a limitation that they may only be claimed in the year that the property was purchased, or the year that the plant begins production. The incentive does not match the business needs and should be expanded to be used over a term not to exceed five years.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

The allowable tax credits would be extended in use from one to five years. The amount of the credit would not change. There currently are no operating facilities that could take advantage of these tax credits, therefore the fiscal impact is difficult to estimate. Since this revised credit would better fit the business needs of a production facility, it is assumed that there would be higher utilization of the credit and thus there would be an increased impact to the general fund. If two production facilities were to be built, we estimate a reduction of $123,000 annually in taxes paid to the general fund from what would have been paid without the credits. If the credits are intregal to plant construction, the actual net effect is increased taxes collected.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number ☐ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by List FTE amount and program
- ☐ Increases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☑ Legislation would affect other state agencies (list): Revenue
- ☐ Special Interest Groups Affected (list):
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality		
Priority Number:	16	Filename:	50-018
Short Title:	Incinerator Definition & Negligible Risk		
Agency Contact Person/Phone:	Charles Home 5279		

1. Purpose:

This legislation will clarify the definition of "incinerator" and specify that the "negligible risk" standard applies to emission of air pollutants from all existing emitting units and proposed incinerators located at a facility subject to 75-2-215, MCA.

2. Background:

In 75-2-103(11), MCA, an incinerator is defined by its "primary" purpose. This is a subjective determination that has been very controversial at times. This subjective determination creates significant litigation risk. 75-2-215, MCA, requires DEQ to determine if projected emissions constitute a negligible risk, prior to issuing an air quality permit for an incinerator. Interested parties (DEQ, regulated community, environmental groups) have expressed different interpretations as to whether the negligible risk standard applies to emissions from the entire facility or just the portion defined as an "incinerator." This lack of clarity again creates significant litigation risk.

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible*

No significant fiscal impact is anticipated. The clarification of the definition of "incinerator" will not significantly change the number of facilities subject to 75-2-215, MCA. Consequently there will be no significant impact on the department's air permitting resources or permit fee revenue. Application of the "negligible risk" standard to emissions of air pollutants from all existing emitting units and proposed incinerators located at a facility subject to 75-2-215, MCA will not significantly change the amont of Department air permitting resources requiired to complete the permit analysis.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only
- ☐ Federal Requirement
- ☐ Audit Recommendation (Audit No.)
- ☐ Major Legislation
- ☑ Anticipated to be Controversial Legislation
- ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number
- ☐ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by — List FTE amount and program
- ☐ Increases Existing Revenue — ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue — ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Establishes New Revenue — ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☐ Special Interest Groups Affected (list):
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality - 5301		
Priority Number:	17	**Filename:**	50-019
Short Title:	Regulate Waste at Electrical Generating Facilities Under Solid Waste Act		
Agency Contact Person/Phone:	Ed Thamke 444-6748		

1. Purpose:

Removal of the 75-10-214 MCA exemption in the solid waste laws given to electrical generation facilities for on-site disposal of their waste by-products. The waste of primary concern is coal combustion waste (CCW) consisting of fly and bottom ash. The large volume waste stream is classified as solid waste by the Environmental Protection Agency but is not currently regulated in Montana.

2. Background:

Coal combustion waste (CCW) had been regulated under the Major Facility Siting Act (MFSA) and, to avoid double regulation, was exluded from regulation under the solid waste law. In 2001 the Legislature removed fossil fuel power plants from regulation under MFSA. However, the exemption from solid waste laws was not repealed. This was raised as an agency issue during EPP for the 2005 session but was not carried forward on DEQ's legislative agenda. It was subsequently introduced by Rep. Sue Dickenson and carried forward as HB48 in the 2005 session, but the bill failed.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

Potential state special revenue (fee) increase due to additional waste stream being regulated. However, the agency is meeting with stakeholders to ensure the fees are commensurate with increased agency workload.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number ☐ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by List FTE amount and program
- ☑ Increases Existing Revenue ○ Tax ◉ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☑ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☑ Special Interest Groups Affected (list): Electrical generating facilities, possibly WETA.
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality - 5301		
Priority Number:	18	Filename:	50-020
Short Title:	Collection System Operator Certification		
Agency Contact Person/Phone:	Jon Dilliard / 444-2409		

1. Purpose:

Modifications to the Water Treatment Plant Operators Act, Montana Code Annotated Title 37, Chapter 42, Parts 1, 2, and 3. To require a wastewater collection certified operator in responsible charge for all community public wastewater systems over 3,300 in population. Also, add language to allow for voluntary wastewater collection certification for all other systems. The voluntary program must be able to collect fees and require those certified on a voluntary basis to follow the same regulations. In addition, add language and a definition for industrial wastewater certification program to ensure that the Department has authority to regulate and that it can be enforced, as necessary.

2. Background:

The Water Treatment Plant Operators Act Montana Code Annotated Title 37, Chapter 42, Parts 1, 2, and 3 does not authorize DEQ to impose certification requirements on wastewater collection system operators. Large communities in Montana employ wastewater operators specifically to be responsible for the collection portion of the wastewater systems. These operators and others have indicated that they would like a certification program developed specifically for their field of work. This is not a new approach and nationally other State certification programs have already began certifying wastewater collection system operators. By developing a program in Montana it would aid in maintaining the collection system infrastructure and allow for certification reciprocity with other states.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

The development of the wastewater collection certification will increase state special revenue (fund 02420) by approximately $3,600 by including a new group of operators that will require certification.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number ☑ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by List FTE amount and program
- ☐ Increases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☑ Establishes New Revenue ◉ Tax ○ Fee ○ Penalty [amount in #3] $3,600
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☑ Legislation would affect other state agencies (list): State agencies required to have a collection system op.
- ☐ Special Interest Groups Affected (list):

☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Dept. of Environmental Quality		
Priority Number:	19	**Filename:**	50-022
Short Title:	Provide earmarked funds for coal and uranium program		
Agency Contact Person/Phone:	Neil Harrington/444-4973		

1. Purpose:

To provide for a stable source of funding to meet the needs of the program.

2. Background:

The program currently receives approximately 80% of its funding (earmarked for coal only) from the US Office of Surface Mining (OSM) and the remaining 20% from the Resource Indemnity Trust. OSM has not been providing the level of funding requested in recent years; if this trend continues, it will seriously impact the ability to effectively administer the program.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

The total number of current FTE's in the coal and uranium program is 16.2. An additional 0.2 FTE is proposed as part of a 0.5 administrative assistant for the bureau in which this program is housed.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only
- ☐ Federal Requirement
- ☐ Audit Recommendation (Audit No.)
- ☑ Major Legislation
- ☐ Anticipated to be Controversial Legislation
- ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number
- ☐ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by — List FTE amount and program
- ☐ Increases Existing Revenue — ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue — ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☑ Establishes New Revenue — ◉ Tax ○ Fee ○ Penalty [amount in #3] — See 3. above
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☑ Special Interest Groups Affected (list): Coal Mining Industry
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality - 5301		
Priority Number:	20	Filename:	50-023
Short Title:	Public Water Supply Act Amendments		
Agency Contact Person/Phone:	1 & 2--Jon Dilliard (2409); 3 & 4--Todd Teegarten (5324)		

1. Purpose:

The proposed legislation would remove an exemption from the public water and wastewater plan and specification review process in the Public Water Supply Act for facilities that are subject to Montana Pollution Discharge Elimination System permitting under the Water Quality Act. Second, the proposed legislation would remove a requirement that industrial wastewater facilities obtain plan and specification review prior to construction or alteration if they also have an MPDES permit. Third, the legislation would expressly add

2. Background:

(1) Public wastewater systems are required to have plans and specifications reviewed by the Department prior to construction or modification. MCA 75-6-112 exempts any facility that requires an MPDES permit from plan and specification review. The MPDES review process only regulates effluent discharge limits and does not include a detailed review of collection, transportation and treatment designs. (2) Industrial discharges are not adequately addressed by the current design standards and are not critical as long as discharge limits are met. There will be little if any impact from this proposed change because virtually all facilities that would be required to undergo a PWS plan and specification review have been getting the review along with the MPDES permit. (3) The EPA requires the Board of Environmental Review to adopt capacity development

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible.*

The capacity development amendment would ensure that Montana's future Drinking Water State Revolving Fund allocation is not reduced due to lack of this provision. Agencies affected: Any agency that owns or operated a wastewater treatment facility that has a discharge. (None known) Special interest groups: Montana Rural Water Association, Montana Section of the American Water Works Association, Montana Water Environment Association. League of Cities and Towns.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number ☑ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by List FTE amount and program
- ☐ Increases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☐ Special Interest Groups Affected (list): Montana Rural Water Association, Montana Section of the American
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department Of Environmental Quality 53010		
Priority Number:	21	**Filename:**	20-024
Short Title:	Revise Adoption Process for Solid Waste Management Plan		
Agency Contact Person/Phone:	Lou Moore 841-5280/Brian Spangler 841-5250		

1. Purpose:

Legislation is proposed to amend MCA 75-10-111 to streamline the Integrated Solid Waste Management Plan adoption process and make it consistent with the Montana Administrative Procedure Act.

2. Background:

DEQ must review the Integrated Solid Waste Management Plan every 5 years, update it as necessary in conjunction with local governments and interested persons, and adopt the proposed plan through a multi-tiered process. This process includes at least 3 public hearings around the state, then a final additional public hearing under the Montana Administrative Procedure Act conducted by the Board of Environmental Review, which then adopts the plan. Because local governments and interested parties must be consulted in writing the plan, there are many opportunities for comments to be incorporated early in the process. Two separate public hearing processes are cumbersome, lengthy, and confusing. The new process would follow the Montana Administrative Procedure Act (MAPA) and the plan would be adopted by the Department.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

None

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number ☐ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by List FTE amount and program
- ☐ Increases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☐ Special Interest Groups Affected (list):
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality - 5301		
Priority Number:	22	**Filename:**	50-026
Short Title:	Remove quarterly report requirement from MCA 75-10-513(2).		
Agency Contact Person/Phone:	Ed Thamke 444-6748		

1. Purpose:

Remove the Motor Vehicle Wrecking Yard quarterly inventory report requirement from MCA 75-10-513(2). This requirement is redundant to the recordkeeping requirement found at MCA 75-10-512. The requirement is the Department of Justice's and this law puts the responsibility on DEQ to ensure compliance. Having DEQ verify that the quarterly reporting has been submitted to Department of Justice (DoJ) slows down annual license renewal and creates unnecessary work.

2. Background:

If the quarterly report is needed by the Department of Justice (DoJ), place the reporting requirement in Title 61, Chapter 3 because the information contained in the report is directed to Motor Vehicle Titles and the proper submittal of them to DoJ.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number ☐ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by List FTE amount and program
- ☐ Increases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☑ Legislation would affect other state agencies (list):
- ☐ Special Interest Groups Affected (list):
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	5301 - Department of Environmental Quality		
Priority Number:	23	**Filename:**	30-027
Short Title:	UST Penalty Factor Duplication Elimination		
Agency Contact Person/Phone:			

1. Purpose:

Repeal section 75-11-525(4), which duplicates and conflicts with 75-1-1001.

2. Background:

HB 429, passed by the 59th Legislature and codified as 75-5-1001, created a standard set of factors that must be considered for penalty calculations. Section 75-11-525(4) contains penalty factors and should have been amended or repealed by HB 429 but was overlooked. Section 75-11-525(4) also contains directions to the Department to publish a schedule of maximum and minimum penalties. Some of the penalty factors in 75-5-1001 are unique to the violator, therefore penalties cannot be calculated and published before the violation has occurred. The Department proposes to repeal 75-11-525(4) in its entirety.

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible.*

None.

4. Summary Checklist [Check & complete all that apply]--

- [x] Housekeeping Only
- [ ] Federal Requirement
- [ ] Audit Recommendation (Audit No.)
- [ ] Major Legislation
- [ ] Anticipated to be Controversial Legislation
- [ ] Bill Draft has been included in Legislation Submittal (if available)
- [ ] Supports Submitted EPP Item Number
- [ ] Local Government Fiscal Impact
- [ ] Increases FTE, or [ ] Decreases FTE by — List FTE amount and program
- [ ] Increases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- [ ] Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- [ ] Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- [ ] Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- [ ] Legislation would affect other state agencies (list):
- [x] Special Interest Groups Affected (list): Petroleum Marketers Association UST Owners & Operators
- [ ] Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality 53010		
Priority Number:	24	**Filename:**	20-028
Short Title:	Change the term Gasohol to Ethanol		
Agency Contact Person/Phone:	Lou Moore 841-5280		

1. Purpose:

Update state statutes to remove the term "gasohol" and replace it with "ethanol". This would eliminate public confusion. Ethanol is the terminology used in other states. This would allow us to better define ethanol blends within the statute. Also, to have a placeholder for general ethanol legislative changes that may be necessary.

2. Background:

Gasohol is an outdated term that generally refers to a specific blend of 10% ethanol in gasoline. However, in Montana statute it is defined as a blend of 10% ethanol or greater. It does not include E-8, or a blend of 8% ethanol which is most commonly found in Montana. Many statutes need to be revised to provide an accurate and consistent definition of ethanol.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible*

No fiscal impact anticipated

4. Summary Checklist [Check & complete all that apply]--

- [x] Housekeeping Only
- [ ] Federal Requirement
- [ ] Audit Recommendation (Audit No.)
- [x] Major Legislation
- [ ] Anticipated to be Controversial Legislation
- [ ] Bill Draft has been included in Legislation Submittal (if available)
- [ ] Supports Submitted EPP Item Number
- [ ] Local Government Fiscal Impact
- [ ] Increases FTE, or [ ] Decreases FTE by — List FTE amount and program
- [ ] Increases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- [ ] Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- [ ] Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- [ ] Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- [x] Legislation would affect other state agencies (list): Revenue, Transportation
- [x] Special Interest Groups Affected (list): Ethanol and renewable fuels advocates
- [ ] Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality - 5301		
Priority Number:	25	**Filename:**	50-030
Short Title:	Clarify Infectious Waste Management Act 75-10-1006 MCA.		
Agency Contact Person/Phone:	Ed Thamke 444-6748		

1. Purpose:

DEQ is currently in the process of drafting administrative rules as required by the Infectious Waste Management Act. The purpose of the act states in part "to protect the public health, safety and welfare of citizens of Montana..." Implementation of the act involves two agencies. To complete rule writing, the statue has to be modified to distinguish between DEQ's and DPHHS jurisdiction and responsibilities within the Act.

2. Background:

When the Infectious Waste Management Act was passed in 1991, the responsible agency was the Department of Health and Environmental Sciences (DHES). In 1995, portions of DHES were moved into the new Departments of Environmental Quality (DEQ) and Public Health and Human Services (DPHHS). DPHHS retained many of the program elements addressed within the act but DEQ maintains responsibility for licensure of the medical waste management facilities.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

None

4. Summary Checklist [Check & complete all that apply]--

- [x] Housekeeping Only
- [ ] Federal Requirement
- [ ] Audit Recommendation (Audit No.)
- [ ] Major Legislation
- [ ] Anticipated to be Controversial Legislation
- [ ] Bill Draft has been included in Legislation Submittal (if available)
- [ ] Supports Submitted EPP Item Number
- [ ] Local Government Fiscal Impact
- [ ] Increases FTE, or [ ] Decreases FTE by — List FTE amount and program
- [ ] Increases Existing Revenue — ○ Tax ○ Fee ○ Penalty [amount in #3]
- [ ] Decreases Existing Revenue — ○ Tax ○ Fee ○ Penalty [amount in #3]
- [ ] Establishes New Revenue — ○ Tax ○ Fee ○ Penalty [amount in #3]
- [ ] Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- [x] Legislation would affect other state agencies (list): DPHHS
- [ ] Special Interest Groups Affected (list):
- [ ] Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality 53010		
Priority Number:	26	**Filename:**	20-031
Short Title:	Clean Renewable Energy Bonds		
Agency Contact Person/Phone:	Lou Moore 841-5280/Kathi Montgomery 841-5243		

1. Purpose:

Authorize the issuance of Clean Renewable Energy Bonds to finance eligible renewable energy projects.

2. Background:

The federal Energy Tax Incentives Act of 2005 established Clean Renewable Energy Bonds, a zero-interest financing mechanism in which bondholders are rewarded through federal tax credits rather than interest earnings. This proposal is a placeholder while DEQ analyzes whether this mechanism could be advantageous for cost-effective renewable energy projects in state facilities or in other projects that would yield an economic return to state government. Since the State of Montana would issue these bonds, there would have to be a revenue steam accruing back to the State to cover debt service; the main advantage is that the State could essentially offload its interest costs to the federal government through the zero-interest/federal tax credit tradeoff. This also assumes that a second round of federal tax credits will be available in the future.

3. Fiscal Imact by Fund Type: *This impact should be as specific as possible.*

DEQ would recommend proceeding only if this financing mechanism would provide an economic return on state renewable energy projects.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only ☐ Federal Requirement ☐ Audit Recommendation (Audit No.) ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number ☐ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by List FTE amount and program
- ☐ Increases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☐ Special Interest Groups Affected (list):
- ☐ Other:

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Proposed 2007 Session Legislation

Agency Name & No:	Department of Environmental Quality - 5301		
Priority Number:	27	**Filename:**	50-032
Short Title:	UST Energy Act Implementation		
Agency Contact Person/Phone:	Ed Thamke 444-6748		

1. Purpose:

There is a chance that implementation of the federal Energy Policy Act of 2005 could necessitate statutory changes in Montana. Much needs to be defined and interpreted by EPA and their workgroups before we will know. An example of potential interpretations that would require statutory change could be: Establishing authority to require Financial Responsibility for Installers and tank manufacturers – if we don't chose to require double walled systems near "community water systems." Community water systems must still be defined.

2. Background:

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

Uncertain at this time of the funding level, anticipate ~$200,000 federal special revenue on a one time basis.

4. Summary Checklist [Check & complete all that apply]--

- ☐ Housekeeping Only
- ☑ Federal Requirement
- ☐ Audit Recommendation (Audit No.)
- ☐ Major Legislation
- ☐ Anticipated to be Controversial Legislation
- ☐ Bill Draft has been included in Legislation Submittal (if available)
- ☐ Supports Submitted EPP Item Number
- ☐ Local Government Fiscal Impact
- ☐ Increases FTE, or ☐ Decreases FTE by — List FTE amount and program
- ☐ Increases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Decreases Existing Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Establishes New Revenue ○ Tax ○ Fee ○ Penalty [amount in #3]
- ☐ Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- ☐ Legislation would affect other state agencies (list):
- ☐ Special Interest Groups Affected (list):
- ☐ Other: