

DEPARTMENT OF ENVIRONMENTAL QUALITY

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November 17, 1998

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Dear Todd:

Enclosed is the final Department of Environmental Quality report to the Environmental Quality Council in accordance with 75-1-314, MCA. Please thank the Council for their input and comments on our draft report. If you or any members of the Council have any comments or questions, please feel free to contact me or John Arrigo at 444-5327.

Sincerely,

A handwritten signature in cursive script that reads "Mark Simonich".

MARK SIMONICH
Director

cc: John Arrigo, ENFD

**REPORT TO THE MONTANA
ENVIRONMENTAL QUALITY COUNCIL**

**ENVIRONMENTAL ENFORCEMENT
AND COMPLIANCE FOR FY97 AND FY98**

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

November 17, 1998

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Section 1. Introduction

This report is submitted to the Environmental Quality Council (EQC) by the Department of Environmental Quality (DEQ) to meet the reporting requirements prescribed in § 75-1-314, MCA. The period covered by this report covers July 1, 1997 through June 30, 1998. The report is organized according to DEQ's division structure and statutory authority. Section 2 describes the compliance assistance activities provided by DEQ's regulatory bureaus and this information generally follows the order of the reporting requirements listed in the statute. Response to citizen complaints and spill reports and a summary of formal enforcement actions are contained in Section 3. Answers to EQC follow-up questions are provided in Section 4.

Section 2. Compliance and Enforcement Activities

Permitting and Compliance Division

Community Services Bureau

Montana Solid Waste Management Act, 75-10-201, et seq, MCA

Montana Megalandfill Siting Act, 75-10-901, et seq, MCA

Montana Infectious Waste Management Act, 75-10-1001, et seq, MCA

Cesspool, Septic Tank and Privy Cleaners Act, 37-41-101, et seq, MCA

1. Program description

The Solid Waste Regulatory and Licensing Programs regulate the proper disposal of wastes in Montana. These wastes include municipal solid waste, commercial and industrial non-hazardous wastes, infectious medical wastes, used tires, construction and demolition debris, and septic tank pumpings. Some wastes are excluded from regulation because they are either self-regulating or are regulated as part of another program. These wastes include on-farm agricultural wastes, wastes from the operation of a mine, mill, smelter, electrolytic reduction facility, electric generating facility, or petroleum refining facility. Wastes from the drilling and production of oil and natural gas are also exempt, as are remediation wastes under State and Federal Superfund Programs.

2. Activities and efforts taking place to promote compliance and assistance

Compliance Assistance Inspections

The major outreach efforts conducted by the Solid Waste Program are the site visits to proposed facilities and inspections of license holders. Regulatory program goals include visiting every solid waste facility at least once a year, major landfills at least twice a year, and problem facilities as often as necessary to achieve compliance. The Licensing Program staff visit every proposed solid waste facility and actively encourage prospective applicants to attend pre-submittal scoping meetings to facilitate the licensing process. Septic tank pumpers are subject to limited inspections due to lack of program funding.

Technical Assistance Training

The major formal educational outreach is a series of regular training sessions conducted for landfill operators organized by the Montana State University Extension Service through a contract from the Solid Waste Program with the Montana Association of Counties. Program staff participate or instruct at all of the training sessions. The staff of both programs spend considerable time in answering questions over the telephone. The Pollution Prevention Program of the Pollution Prevention and Assistance Division provides informational materials, public outreach, and telephone contact information on waste reduction, waste minimization, and household hazardous waste questions.

3. Size and description of the regulated community

There are currently 251 licenses issued by the Solid Waste Program in Montana, as compared to 119 in 1995. These include:

Table 1. List of Solid Waste Licenses Issued in Montana in 1995 and 1997

	1997	1995
Burn Sites	11	9
Compost Sites	3	2
Infectious Waste Sites	1	1
Class II Landfills (Municipal solid waste landfills)	32	42
Class III Landfills (Inert waste landfills)	47	47
Incinerators	1	1
Resource Recovery Facilities	3	3
Sewage Sludge Sites	1	1
Soil Treatment Facilities	10	4
Transfer Stations	8	9
Septic Tank Pumpers	131	NA
Septage Sites (Used under pumper license)	165	

Changes between 1995 and 1997 are the result of the closure of some smaller Class II landfills in the face of modern regulations on proper waste disposal methods, an increase in the number of Soil Treatment Facilities, and the addition of the Septic Tank Pumpers to the Solid Waste Program as a result of reorganization.

4. Number, description, method of discovery, and significance of noncompliances, including those that are pending

In FY96 and FY97, the Solid Waste Program conducted 167 solid waste facility inspections. Of these, 96 major and 84 minor violations were noted during the inspections. Some facilities had multiple violations and some had none. The majority of the violations were actual environmental threats, such as inadequate cover, poor run-off controls and litter problems. Seven landfills are in corrective measures for groundwater contamination and another four landfills are required to do additional sampling because of low levels of groundwater contamination. Four landfills require methane gas control measures. The lower numbers of landfill inspections in FY97 was a result of staff losses, required vacancy savings, relocation disruption, and increased emphasis on groundwater and methane problems discovered in monitoring required by new rules.

Table 2. Number of Landfill Violations and Inspections for 1994 through 1997

	FY94	FY95	FY96	FY97
Major Violations	96	58	81	15
Minor Violations	39	58	62	22
Total	135	116	143	37
Landfill Inspections	107	132	127	37

5. Description of how the department had addressed the noncompliance listed above and inclusion of noncompliances that are pending

Most landfills resolve problems as soon as they are noted in an inspection report. The Solid Waste Program emphasizes education and assistance over enforcement. Only two landfills have had their licenses revoked for numerous solid waste violations since 1991.

Montana Motor Vehicle Recycling and Disposal Act, 75-10-501, et seq, MCA

1. Program description

The Montana Motor Vehicle Recycling and Disposal Program administers and enforces the Montana Motor Vehicle Recycling and Disposal Act. This Act requires the Department of Environmental Quality to license and regulate motor vehicle wrecking facilities (MVWFs) and to administer a program for the control, collection, recycling and disposal of junk vehicles and component parts. The state program (Program) provides annual financial grants to counties to administer the Program on a local level. The Program oversees the operation of the county programs and approves their annual budgets and expenditures.

2. Activities and efforts taking place to promote compliance and assistance

Program efforts and activities promoting compliance and providing assistance fall into several general categories identified and discussed below:

Compliance Assistance Inspections

MVWFs and motor vehicle graveyards are usually inspected for compliance each year. The inspections include a detailed assessment of the adequacy of the facility's shielding to screen the junk vehicles and component parts from public view, as required in the laws and rules, and a review of the facility's records. Any noncompliance noted during the inspection is recorded in the inspection report, brought to the operator's attention, and is scheduled for correction. If the violation continues unabated to the next scheduled inspection or beyond the scheduled date for compliance, enforcement action may be required.

Technical Assistance Training

Each county program has been provided a Motor Vehicle Recycling and Disposal Program REFERENCE AND GUIDANCE MANUAL. This manual is comprehensive. Annual training is provided to all county programs. The training is usually offered in Billings and in Helena.

Internet

Although not a newsletter, the Program does have an Internet Home-Page. One goal is to provide "interactive" forms so they can be completed and re-submitted using the "Web".

Other

The Program is in the process of developing a "Resource Manual" of other state's junk vehicle activities which will be made available to county program personnel as needed.

3. Size and description of the regulated community

The regulated community includes any Montana citizen, government or commercial entity possessing a junk vehicle in Montana. The following chart provides a synoptic description.

Table 3. Summary of Junk Vehicle Violations Discovered in 1997 and 1998

GROUP	TOTAL	INSPECTIONS	CITIZEN COMPLAINTS OR REFERRALS	PORTION IN COMPLIANCE TO DATE
CITIZENS FY97	850,000		1,817	99.9%
COUNTIES FY97	54	44		*100%
COUNTIES FY98	54	49		*100%
MVWF FY97	198	191		99.95%
MVWF FY98	189	198		**92%

*Violations discovered at the county level were immediately corrected, leading to 100% compliance.

**Note FY98 follow-up inspections are not complete. Also, more than one inspection may have been performed per MVWF.

Montana Citizens

Any Montana citizen possessing one or more junk vehicles, regardless of ownership, shall shield or remove the vehicle(s). Approximately 59,500 vehicles may have been retired in FY97. Of those vehicles, 1,817 (2%) complaints were received and dealt with at the county or state level. Of the complaints received, 1,705 were resolved.

County Motor Vehicle Graveyards

Each county shall acquire, develop, and maintain property for free motor vehicle graveyards. Ten of 56 counties have merged with other counties or districts. There are 54 licensed county motor vehicle graveyards.

FY97- 44 inspections were conducted and six violations were found, or 86% of the facilities inspected were in compliance.

FY98- 49 inspections were conducted and 14 violations were found, or 72% of the facilities inspected were in compliance.

Note: All county motor vehicle graveyards corrected their violations and were reissued annual licenses.

Motor Vehicle Wrecking Facilities (MVWFs)

In FY98 there were 189 licensed MVWFs: 198 inspections of MVWFs were conducted, and of those, 56 were found to have violations, or 72% were in compliance.

In FY97 there were 198 licensed MVWFs: 191 inspections of MVWFs conducted, and of those, 52 were found to have violations, or 73% were in compliance. Only one facility is still noncompliant.

Note: Violations were corrected by the respective MVWFs, leading to the overall compliance rates shown in the table above.

4. Number, description, method of discovery, and significance of noncompliances, including those that are pending

It is important to note that all violations are aesthetic, licensing, or record keeping issues. When contamination issues (water or ground) present themselves (i.e. fluid removal), staff alert other appropriate programs within DEQ or other agencies as appropriate. For FY97, 1,817 citizen complaints were investigated by county or state Program staff. Routine and complaint-triggered inspections discovered moderate or minor violations in 92% of the cases. Some investigations lead to formal enforcement activities with ongoing actions. Some formal enforcement actions, initiated as far back as 1994, have recently been closed.

5. Description of how the department has addressed the noncompliance listed above and inclusion of noncompliances that are pending

Citizens (FY98 data is not available):

County Motor Vehicle Graveyard contacts FY97:	1,817
Number of continuing violations	95
Number referred for legal action	17

Motor Vehicle Wrecking Facilities (FY97):

Informal Warning (IW)	5
Compliance Plan Requested (CPR)	1
CPR, Received (CPRE)	9

**Montana Public Water Supplies, Distribution and Treatment Act, 75-6-101, et seq, MCA
Water Treatment Plant Operators Act, 37-42-101, 102, 103, et seq, MCA**

1. Program description

The Public Water Supply Section (PWSS) in the Community Services Bureau implements and enforces the Montana Public Water Supplies, Distribution and Treatment Law, the Water Treatment Plant Operators Law, and has primary enforcement authority (primacy) for implementation and enforcement of the federal Safe Drinking Water Act (SDWA - 42 U.S.C. 300f et. seq.). There are three programs in the PWSS: The Engineering Services Program, the Field Services Program, and the Water and Wastewater Operator Certification Program. As the primacy agency in Montana, the PWSS regulates approximately 1,970 public water supplies. Public water supplies are defined in Title 75, Chapter 6 as any supply serving 15 or more service connections or 25 or more people for at least 60 days of the calendar year. Public water suppliers must comply with stringent monitoring and treatment requirements. Title 37, Chapter 42, defines a water or wastewater operator as the person in direct responsible charge of the operation of a water treatment plant, water distribution system, or wastewater treatment plant. The statute requires owners of certain public water and wastewater facilities to retain the services of a

certified operator. Approximately 1,500 certified operators are employed by approximately 1,150 public water and wastewater system owners in Montana.

The PWSS also implements training, testing, and continuing education services for water and wastewater operators; provides technical assistance to water system operators and managers; helps resolve water system contamination problems; reviews plans for water and wastewater improvements to ensure conformance with minimum water system design and construction standards; and provides general assistance to the public and other state and federal agencies. Reports for the implementation of Title 75, Chapter 6 and Title 37, Chapter 42 are addressed separately below.

2. Activities and efforts taking place to promote compliance and assistance

Public Water Supplies, Distribution and Treatment

Many of these section activities overlap with section activities under Title 37, Chapter 45. Section staff participate in a very active statewide operator training program that also involves other technical assistance providers. The program emphasizes operator training, technical assistance, and proper water treatment and monitoring. These activities promote public health protection through preventive measures.

The section performs routine sanitary surveys (inspections) of public water systems to identify possible system deficiencies that may affect compliance. The section also provides technical assistance to water suppliers to address specific compliance issues. Some technical assistance is provided in the office or via the telephone, and some is provided directly on site, depending upon circumstances. Plan review is performed prior to construction of system improvements to ensure compliance with minimum design standards. Conformance with minimum design standards helps to ensure a long-term life of system components, and minimizes the possibility of noncompliance problems related to system construction. These activities are summarized in Table 4 below.

Table 4. Summary of Technical Assistance Efforts in the PWSS

Activity	1996	1997
Sanitary Surveys (Inspections)	276	206
Technical Assistance Site Visits	130	230
Training/Education (staff-days of training)	60	60
Plan Review	290	320

Water Treatment Plant Operators

During FY97 and FY98, the Water and Wastewater Operator Certification (WWOC) Program has undertaken the following activities to promote compliance with the statutory goals of the program:

Information/Education:

Certification of operators: Processed 643 operator applications, certified 312 new operators, and processed renewals for 2,967 water and wastewater operator certifications.

Training and information: Trained new operators on certification requirements at four (4) water schools; notified 223 non-transient non-community (NTNC) systems of certification requirements which took effect July 1, 1998; co-managed a contract with Montana State University to upgrade a groundwater training manual for small systems; continually explored new technology (i.e., CD-ROMs and Internet) to make training more accessible to operators; and supported new operator training in conjunction with examination sessions being held at small system training, DEQ water schools, in DEQ offices, and at Montana Rural Water Systems and Montana Association of Water and Sewer Systems conferences.

Examinations: Held 55 examination sessions.

Technical Assistance:

Outreach: Spoke at seven (7) conferences or water schools and contributed to seven (7) Montana and regional newsletters.

Peer Review: Held seven (7) Water and Wastewater Operator Advisory Council meetings, and eight (8) Continuing Education Credit Review Committee meetings.

3. Size and description of the regulated community

Public Water Supplies, Distribution and Treatment

The PWSS regulates approximately 1,970 public water supply systems. A community water system is a public water supply system which serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents. There are approximately 650 community systems. A transient water system means a public water supply system that is not a community water system and that does not regularly serve at least 25 of the same persons for at least six months a year (restaurants, bars, campgrounds, motels, etc.). There are approximately 1,100 transient systems. A non-transient water system is a public water supply system that is not a community water system and that regularly serves at least 25 of the same persons for at least six months per year (businesses, schools). There are approximately 220 non-transient systems. Public systems in Montana serve up to 800,000 people daily.

Water Treatment Plant Operators

Although exact numbers vary continually, there are approximately 650 community public water supply systems and 220 non-transient public water supply systems that must retain the services of a certified operator. There are presently 268 public sewage systems that must retain the services of certified operators.

The requirement for certified operators at community public systems has been in effect for 31 years, but the requirement for operators at non-transient systems went into effect on July 1, 1998. The process to certify non-transient operators was begun in November, 1997, and 120 of the 227 currently identified non-transient systems already have certified operators.

4. Number, description, method of discovery, and significance of noncompliance, including those that are pending

Public Water Supplies, Distribution and Treatment

Introduction: The data presented in this section are taken from annual compliance reports prepared by the PWSS for calendar years 1996 and 1997. These annual reports are a requirement of the SDWA. The data were not recalculated for the time period July 1, 1996 through June 30, 1998 because the information in these reports should effectively provide the same information.

Noncompliance is normally discovered through submission by the water supplier of sample results and self-monitoring reports, or through the failure to submit this required information. Noncompliance is also discovered through routine inspections, and by direct contact with system operators or owners. The PWSS attempts to notify water suppliers of every violation in writing, and offers instructions and technical assistance to help them return to compliance. Amendments to the SDWA in 1986 resulted in the creation of voluminous, complex new monitoring and treatment requirements for public water suppliers. Although the number of violations has greatly increased since implementation of these regulatory requirements, the quality of water served by public water suppliers has dramatically improved through implementation of the requirements. Public notification is required for all violations.

This report addresses only major monitoring and reporting violations and significant noncompliance (SNC). EPA has defined major monitoring and reporting violations for various regulatory requirements. A major violation would create a possible public health risk due to the lack of adequate water quality monitoring. Significant noncompliance status is assigned to water suppliers who have a history of violations, or who have treatment violations that may directly affect public health.

"Phase 2/5" Rules. Tables 5 and 5a show the violations of maximum contaminant levels (MCLs) and monitoring requirements for synthetic organic chemicals (SOCs), volatile organic chemicals (VOCs), inorganic chemicals (IOCs), and for nitrate in calendar years 1996 and 1997, respectively.

Most of the MCL violations are for naturally occurring fluoride and nitrate, but some of the nitrate violations may be the result of contamination from improper sewage disposal or agricultural practices. Most of the MCL violations have been addressed through treatment or through the use of alternate water sources.

Monitoring violations resulted from late samples, missed samples, improper sampling procedures, or confusion over complex monitoring requirements. As mentioned, public notification is required for all violations.

Table 5. Violations of the Phase 2 and Phase 5 Rules in 1996

	MCL (mg/l)	MCLs		Treatment Techniques		Significant Monitoring/Reporting	
		Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations
SOCs		0	0			0	0
VOCs		0	0			105	82
IOCs		15	9			79	12
Total Trihalomethanes	0.10	0	0			8	8
Total Nitrate and Nitrite	10 (as nitrogen)	19	10			175	149
TOTAL		34	19			367	251

Table 5a. Violations of the Phase 2 and Phase 5 Rules in 1997

	MCL (mg/l)	MCLs		Treatment Techniques		Significant Monitoring/Reporting	
		Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations
SOCs		0	0			0	0
VOCs		0	0			96	96
IOCs		6	3			69	69
Total Trihalomethanes	0.10	0	0			6	6
Total Nitrate and Nitrite	10 (as nitrogen)	24	12			231	199
TOTAL		30	15			402	370

Total Coliform Rule. Tables 6 and 6a show the violations of the MCLs and monitoring requirements for the TCR in 1996 and 1997, respectively.

Because the presence of fecal coliform bacteria can indicate contamination from the feces of warm-blooded animals, MCL violations are categorized as acute MCL violations when the routine and/or the check sample(s) are positive for fecal coliform bacteria. Boil water orders are issued when an acute MCL violation occurs. Health advisories are issued when non-fecal coliform bacteria are found in the routine sample and in check samples. Most of these violations result from improper disinfection of water systems following repairs, inadequately protected water sources, or biofilms that exist within water distribution systems. Most of the monitoring violations are the result of late samples or missed samples.

Table 6. Violations of the Total Coliform Rule in 1996

	MCL (mg/l)	MCLs		Treatment Techniques		Significant Monitoring/Reporting	
		Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations
Acute MCL Violation	Presence	23	23				
Non-acute MCL violation	Presence	38	38				
Major routine and follow up monitoring						2,096	709
Sanitary survey						Not available	N/A
TOTAL		51	51			2,096	709

Table 6a. Violations of the Total Coliform Rule in 1997

	MCL (mg/l)	MCLs		Treatment Techniques		Significant Monitoring/Reporting	
		Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations
Acute MCL Violation	Presence	30	30				
Non-acute MCL violation	Presence	95	95				
Major routine and follow up monitoring						1608	740
Sanitary survey						Not available	N/A
TOTAL		125	125			1,608	740

Surface Water Treatment Rule. Tables 7 and 7a show the violations of the treatment technique requirements (filtration and disinfection), and of the monitoring requirements of the SWTR.

Treatment technique violations are typically the result of inadequate filtration or disinfection when water quality or water demands are extreme. Many of the water supply owners that failed to install filtration equipment experienced difficulty in securing funding for the necessary improvements. DEQ has issued administrative orders requiring these owners to install filtration treatment. Most of the water suppliers who failed to monitor their water treatment processes adequately were very small water systems.

Table 7. Violations of the Surface Water Treatment Rule in 1996

	MCL (mg/l)	MCLs		Treatment Techniques		Significant Monitoring/Reporting	
		Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations
Filtered systems							
Monitoring, routine/repeat						130	13
Treatment techniques				114	19		
Unfiltered systems							
Monitoring, routine/repeat						84	9
Failure to filter				13	13		
TOTAL				127	32	214	22

Table 7a. Violations of the Surface Water Treatment Rule in 1997

	MCL (mg/l)	MCLs		Treatment Techniques		Significant Monitoring/Reporting	
		Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations
Filtered systems							
Monitoring, routine/repeat						429	17
Treatment techniques				203	23		
Unfiltered systems							
Monitoring, routine/repeat						95	15
Failure to filter				15	15		
TOTAL				218	38	524	32

Lead and Copper Rule. Tables 8 and 8a show monitoring and treatment technique violations of the LCR in 1996 and 1997, respectively.

Lead and copper exceedances result from corrosion of lead and copper in plumbing components, not from contamination of source water. Many of the suppliers who failed to install a treatment system did so because of uncertainties regarding appropriate treatment chemicals and/or treatment methods. Each water source is unique, and the appropriate corrosion control chemical or method must be selected carefully.

Most of the monitoring violations resulted from late or missed samples, or from confusion over complex monitoring requirements. Many water supply owners failed to provide the required educational materials to the public regarding lead or copper exceedances, or failed to notify DEQ that they had provided the required public education materials.

Table 8. Violations of the Lead and Copper Rule in 1996

	MCL (mg/l)	MCLs		Treatment Techniques		Significant Monitoring/Reporting	
		Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations
Initial lead and copper tap M/R						80	80
Follow-up or routine lead and copper tap M/R						183	161
Treatment installation				63	63		
Public education				51	51		
TOTAL				114	114	260	238

Table 8a. Violations of the Lead and Copper Rule in 1997

	MCL (mg/l)	MCLs		Treatment Techniques		Significant Monitoring/Reporting	
		Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations
Initial lead and copper tap M/R						167	59
Follow-up or routine lead and copper tap M/R						238	119
Treatment installation				63	63		
Public education				51	51		
TOTAL				114	114	405	178

Radionuclides Rule. Tables 9 and 9a show monitoring violations for radionuclides in 1996 and 1997. Only community water supplies must be sampled for radionuclide testing. No current MCL violations exist. The number of monitoring violations for radium is unknown because radium testing is not required unless the gross alpha test results indicate when and if radium testing is necessary. Most community water supplies have been sampled at least once for these radionuclides, but many failed to sample or report during 1996 and 1997.

Table 9. Violations of the Radionuclides Rule in 1996

	MCL (pCi/l)	MCLs		Treatment Techniques		Significant Monitoring/Reporting	
		Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations
Radionuclide MCLs		0	0			0	0
Gross alpha	15 pCi/l	0	0			315	315
Radium-226 and radium-228	5 pCi/l	0	0			Not available	N/A
TOTAL		0	0			315	315

Table 9a. Violations of the Radionuclides Rule in 1997

	MCL (pCi/l)	MCLs		Treatment Techniques		Significant Monitoring/Reporting	
		Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations	Number of Violations	Number of Systems With Violations
Radionuclide MCLs		0	0			1	1
Gross alpha	15 pCi/l	1	1			230	230
Radium-226 and radium-228	5 pCi/l	0	0			Not available	N/A
TOTAL		0	0			231	231

Water Treatment Plant Operators

During FYs 95, 97 and 98, 91 contacts were made with water system owners, informing them of noncompliance with the certification rules and requirements. These contacts are illustrated in Table 10 below. Note that the decrease in contacts in FY98 is due to staff shortage and problems with the current database. A significant increase in contacts should be seen in FY99 since the WWOC staff went from 1.84 FTEs to 3 FTEs on June 15, 1998. Plans to switch from the present stand-alone Public Water Supply and WWOC DOS databases to a centralized ORACLE database should also reduce the labor and time in identifying and processing compliance information. Most violations in the WWOC program are discovered through review of database records, inspections, citizen complaints, and notification by the system owner or operator. A summary of public systems in compliance with certification requirements is shown in Table 11.

Table 10. Compliance Contacts in the WWOC Program 1996-98

Compliance Contacts				
Type of Contact	FY96	FY97	FY98	Totals
Warning letter	12	51	25	88
Letter of violation	0	2	0	2
Sent to Enforcement	0	1	0	1
Totals	12	54	25	91

Table 11. Public Systems in Compliance with Certification Requirements in 1996 and 1997

Compliance with Operator Certification Requirements in Title 37, Chapter 42				
Type of System	Number of systems	Systems in compliance	Systems out of compliance	Percent <u>out of</u> compliance
(Community) Public Water	636	557	79	12%
Public Wastewater	268	199	69	26%

5. Description of how the department has addressed the noncompliance

Public Water Supplies, Distribution and Treatment

There are many technical violations because of complex new regulatory requirements. Most of these do not result in significant public health risks, but water suppliers are notified of virtually every violation and given instructions on how to return to compliance. Water suppliers have also been given instructions regarding public notification for every violation.

Informal enforcement efforts are also implemented through phone calls, office visits, field visits (technical assistance), training sessions, and through contracted technical assistance. In order to promote uniform responses to violations, the PWSS has implemented draft versions of enforcement response guides for each rule discussed above. The section has also addressed old back-logged enforcement cases in order to proceed with new noncompliance issues. Particular attention is given to significant noncompliers (SNCs). Once a water supply is identified as a SNC, more formal enforcement actions are implemented (see the discussion of formal enforcement prepared by the Enforcement Division).

Most water suppliers are determined to remain in compliance. Compliance with regulatory requirements protects consumers from unacceptable health risks, promotes public confidence in

the water supplier, eliminates the possibility of penalties, and may result in reduced monitoring requirements.

Water Treatment Plant Operators

Most violations in the WWOC program are discovered through review of database records, inspections, citizen complaints, and notification by the system owner or operator. When a system is found to be out of compliance, the system owner is notified of the regulations requiring certification in a warning letter and given until the next exam cycle to either identify a certified operator or to get someone certified. If the requirements in the warning letter are not met, a letter of violation is sent by certified mail giving the system owner 30 days to meet the requirements. If the supplier does not address the requirements of the violation letter, an enforcement request is submitted to the Enforcement Division. Administrative penalties may be assessed against systems found to be in violation of the relevant operator certification requirements contained in regulations adopted pursuant to the Public Water Supplies, Distribution and Treatment Law, Title 75, Chapter 6.

6. Quantitative trend information

Public Water Supplies, Distribution and Treatment

In 1986, Congress amended the SDWA to require the Environmental Protection Agency to adopt many new monitoring and treatment regulations for public water supplies. Because of the complexity and volume of the new requirements, the number of violations has increased dramatically since 1986. However, the quality of drinking water provided to the public has improved even more dramatically because of the new requirements.

While improvements in compliance are obviously necessary, resources are regularly prioritized to devote attention to correcting the most significant public health risks.

Water Treatment Plant Operators

The number of systems in noncompliance may go up in FY99 with the addition of 227 non-transient non-community (NTNC) systems that are now required to have certified operators. However, 53% of the NTNC systems are already in compliance at the time of this report.

Compliance tracking should be easier in the future with the additional WWOC staff and the proposed new centralized database.

Air and Waste Management Bureau

Asbestos Control Act, 75-2-501, et seq., MCA

1. Program description

As a state program authorized by EPA, and through the Asbestos Control Act and its administrative rules, the Asbestos Control Program regulates a universe of asbestos abatement activities and waste streams to at least the equivalent of regulations under two different federal programs. The program regulates asbestos abatement in public and non-profit private schools in a manner equivalent to the requirements of 40 CFR 763 (ASHERA). The program regulates asbestos abatement in buildings other than public schools in a manner equivalent to the requirements of 40 CFR Part 61, Subpart M (NESHAP). The program also maintains standards for asbestos-related occupation accreditation and course approval. Routine compliance inspections of regulated abatement activities are conducted. Additional compliance inspections are made during the investigation of complaints. Technical assistance and compliance outreach to abatement contractors and the public is also provided by the program.

2. Compliance assistance promotion

The program is engaged in several activities to provide compliance assistance. Ongoing efforts include response to written and telephone requests for information. Requests for information deal with diverse topics such as accreditation requirements, identification of asbestos-containing materials and best work practices. During FY97 and FY98, the program responded to 1,451 and 1,556 requests for information, respectively.

3. Size and description of the regulated community; estimate of rate of compliance

Any asbestos abatement project or building demolition of asbestos-containing material 3 linear or 3 square feet or more is subject to regulation by the Asbestos Control Program. In FY97, 144 permits were issued for asbestos abatement projects. In FY98, 180 permits were issued for asbestos abatement projects. In FY97 and FY98, 37 and 30 inspections, respectively, were conducted by the program. In FY97, the program identified violations at four (4) abatement projects. In FY98, the program identified violations at nine (9) abatement projects. The overall rate of compliance can best be defined as the number of handlers with observed violations divided by the total number of inspections conducted. Using this formula, the compliance rates for FY97 and FY98 were 89% and 73%, respectively. About half of the violations were detected during complaint investigations.

4. Description of documented noncompliance and response to violations

A summary of the observed violations, including identification of handler category, description of violation, significance of violation, method of discovery, date of violation, date and type of response to violations, and date of return to compliance, is included in Table 12. The Asbestos Control Program takes a variety of actions toward observed violations. The response is a

function of the severity of the deviation from requirements as defined by NESHAP demolition and renovation guidelines. A significant violator (SV) is identified as a source which deviates from the requirements on notification, emissions control, transport or disposal of asbestos-containing material or waste.

Table 12. Summary of Asbestos Violations FY97 and FY98

Source Category	Description of Violation	Significance of Violation ¹	Method of Discovery	Date of Violation Discovery	Date and Type of Response to Violations ²	Date of Return to Compliance
FY97						
Owners	Unpermitted abatement project with unaccredited workers	SV	Complaint	5/29/97, 6/11/97	1/7/98 ER	Pending
Contractor, Worker	Used unaccredited worker	Non SV	Record review	8/29/96	9/11/96 NOV	12/17/96
Contractor	Offering unapproved course	Non SV	Record Review	9/10/96	9/10/96 NOV	12/26/96
Owner, Contractor	Unpermitted abatement project	Non SV	Complaint	6/16/97	7/15/97 NOV	12/22/97
FY98						
Owner, Worker	Unpermitted asbestos abatement with unaccredited worker	SV	Complaint	1/20/98	1/22/98 ER	Pending
Contractor	Unpermitted abatement project with unaccredited workers	SV	Complaint	10/29/97	1/5/98 ER	Pending
Contractor	No notification	Non-SV	Complaint	2/19/98	NOV 3/2/98	3/26/98
Owner	Unpermitted asbestos abatement	SV	Complaint	12/18/97	1/22/98 ER	Pending
Owner	Unpermitted asbestos abatement, no pre-demolition inspection	SV	Inspection	7/23/97	Pending	Pending

Source Category	Description of Violation	Significance of Violation ¹	Method of Discovery	Date of Violation Discovery	Date and Type of Response to Violations ²	Date of Return to Compliance
Owner, Contractor	No permit	Non SV	Inspection	7/11/97	7/29/97 NOV	12/22/97
Owner, Contractor	No notification	Non SV	Complaint	8/20/97	9/17/97	3/3/98, 5/12/98
Contractor	No notification	Non SV	Inspection	1/8/98	1/9/98	3/23/98
Worker	No accreditation	SV	Inspection	3/24/98	5/14/98 ER	Pending

Notes to Table

1 SV = Significant Violator-a source which deviates from requirements on notification, emissions control, transport or disposal of asbestos containing material or waste.

2 Type of Enforcement-

NOV = Notice of Violation

ER = Enforcement Request

Montana Hazardous Waste Act, 75-10-401, et seq., MCA

1. Program description

As a state program authorized by EPA, and through the Montana Hazardous Waste Management Act and its administrative rules, the Hazardous Waste Program controls a universe of waste which is identical to the federal program administered by EPA. The program identifies and regulates hazardous waste generators, transporters, recycling facilities, and used oil handlers at least equivalent to the requirements of the federal program. The program administers requirements for permitted hazardous waste management facilities which are equivalent to the federal program, including provisions for facility wide corrective action. The program conducts inspections of the regulated community on an ongoing basis to determine compliance. Additional compliance inspections are made during the investigation of complaints. The program has developed and follows a consistent policy for categorizing hazardous waste violations and for taking action appropriate to the seriousness of the violation. Technical assistance and compliance outreach to generator operators and the public is also provided by the program.

2. Compliance assistance promotion

The program is engaged in several activities to provide compliance assistance. Ongoing efforts include response to written and telephone requests for information, waste minimization review during compliance evaluation inspections, the development of a small business handbook, contractor service contact lists, and waste stream-specific handouts to answer frequently asked questions. One-time efforts at compliance assistance conducted during FY97 and FY98 include assisting the MSU Pollution Prevention Program in the development of its outreach information and its guidebook for conducting environmental self audits. Program staff produced two public service advertisement videos on used oil and hazardous waste management during this time frame. Program personnel also provided general and industry sector-specific presentations on hazardous waste management when requested.

3. Size and description of the regulated community and estimated rate of compliance

As of July 1, 1998, there are 12 hazardous waste management facilities in Montana with final or temporary permits (interim status) and numerous hazardous waste handlers. The number of handlers remained relatively stable over the last two fiscal years. Table 13 presents the number and types of handlers regulated by the program for FY97 and FY98.

Table 13. Number of Hazardous Waste Handlers Regulated by the Department

Handler Category	FY97	FY98
Treatment, Storage and Disposal Facilities (TSD)	12	12
Large Quantity Generator (LQG)	81	73
Small Quantity Generator (SQG)	103	105
Conditionally Exempt Generator (CEG)	568	570
Used Oil Handler (UOH)	46	49
Transporters	50	43

TSD - A facility that is required to have a permit to treat, store, or dispose of hazardous waste

LQG - A large quantity generator is one that produces greater than 2,200 pounds of hazardous waste in any month.

SQG - A small quantity generator is one that produces between 220 and 2,200 pounds of hazardous waste in any month.

CEG - A conditionally exempt generator is one that produces less than 220 pounds of hazardous waste in any month.

UOH - A used oil handler.

TRANSPORTERS - A transporter of hazardous waste.

In FY97 and FY98, 318 and 288 inspections, respectively, were conducted by the Hazardous Waste Program.

In FY97, the program identified violations at 35 handlers. In FY98, the program identified violations at 44 handlers. The overall rate of compliance can best be defined as the number of handlers with observed violations divided by the total number of inspections conducted. Using this formula, the compliance rates for FY97 and FY98 were 89% and 85%, respectively.

4. Description of documented noncompliance and response to violations

A summary of the observed violations, including identification of handler category, description of violation, significance of violation, method of discovery, date of violation, date and type of response to violations, and date of return to compliance, is included in Table 14.

The Hazardous Waste Program takes a variety of actions toward documented violations. The response is a function of the severity of the deviation from requirements as defined by violation class and violator category. Class 1 violations are deviations from regulations or provisions of compliance orders, consent agreements, consent decrees, or permit conditions which could result in a failure to: a) assure that hazardous waste is destined for and delivered to authorized treatment, storage, or disposal facilities (TSDFs); or b) prevent releases of hazardous waste or constituents, both during the active and any applicable post-closure periods of the facility operation where appropriate; or c) assure early detection of such releases; or d) perform

emergency clean-up operations or other corrective actions for releases. Class 2 violations are those violations that do not meet the criteria for Class I violations.

With regard to violator category, a High Priority Violator (HPV) is a handler who has caused exposure or a substantial likelihood of exposure to hazardous constituents or is a chronic violator. A Low Priority Violator is a handler with only Class 2 violations and who is not a High Priority Violator. The timely and appropriate response to each of these is set forth in the Cooperative Enforcement Agreement with EPA.

The average time for return to compliance over FY97 and FY98 was 32 days. The longest time for return to compliance for informal enforcement was 86 days. Many minor violations, such as proper marking of waste containers, can be and are resolved by the handler in the field at the time of inspection. As such, these actions represent an almost instantaneous return to compliance. Such violations are noted, nevertheless, in the inspection report and RCRIS database to allow tracking and identification of patterns of waste mismanagement.

Table 14. Summary of Hazardous Waste Violations FY97 and FY98

Handler Category ¹	Description of Violation	Significance of Violation ²	Method of Discovery	Date of Violation Discovery	Date and Type of Response to Violations ³	Date of Return to Compliance
FY97						
TSD	Failure to maintain hazardous waste containers in good condition	Non HPV	Inspection	8/6/96	8/21/96 WL	9/18/96
TSD	Failure to perform maintenance on storage facility	Non HPV	Inspection	9/4/96	9/16/96 WL	10/4/96
TSD	Failure to conduct tank inspection	Non HPV	Inspection	10/23/96	11/26/96 WL	1/8/97
TSD	Failure to maintain cap	Non HPV	Inspection	10/23/96	11/19/96 WL	12/16/96
LQG	Accumulated precipitation on drip pad	Non HPV	Inspection	2/12/97	2/27/97 WL	5/20/97
LQG	Failure to characterize hazardous waste	Non HPV	Inspection	3/31/97	4/16/97 WL	6/19/97
LQG	Failure to mark containers	Non HPV	Inspection	8/28/96	8/28/96 WL	9/3/96
LQG	Used oil release to ground	Non HPV	Inspection	7/30/96	7/31/96 WL	8/20/96
LQG	Used oil release to ground	Non HPV	Inspection	8/8/96	8/20/96 WL	9/16/96
LQG	Failure to mark hazardous waste containers	Non HPV	Inspection	4/7/97	4/7/97 WL	4/15/97
SQG	Exceeding accumulation time limits	Non HPV	Inspection	1/14/97	2/7/97 WL	3/20/97
SQG	Used oil management standards	Non HPV	Inspection	7/2/96	7/2/96 WL	7/29/96

Handler Category ¹	Description of Violation	Significance of Violation ²	Method of Discovery	Date of Violation Discovery	Date and Type of Response to Violations ³	Date of Return to Compliance
SQG	Failure to mark hazardous waste containers	Non HPV	Inspection	7/12/96	7/19/96 WL	8/8/96
SQG	Failure to keep manifest records	Non HPV	Inspection	8/28/96	8/30/96 WL	9/3/96
SQG	Failure to keep manifest records	Non HPV	Inspection	8/14/96	8/14/96 WL	8/19/96
SQG	Failure to mark hazardous waste containers	Non HPV	Inspection	3/10/97	3/20/97 WL	4/2/97
SQG	No Land Disposal record keeping	Non HPV	Inspection	8/14/96	8/14/96 WL	8/21/96
SQG	Failure to characterize hazardous waste	Non HPV	Complaint	9/19/96	9/26/96 WL	10/30/96
SQG	Exceed disposal time limits	Non HPV	Inspection	3/27/97	4/9/97 WL	4/30/97
SQG	Failure to mark used oil tank	Non HPV	Inspection	6/20/97	6/30/97 WL	7/10/97
CEG	Used oil marketer analysis/documentation	Non HPV	Inspection	6/17/97	6/24/97 WL	8/4/97
CEG	Failure to label used oil drums	Non HPV	Complaint	8/15/96	8/15/96 WL	10/8/96
CEG	Used oil record keeping	Non HPV	Inspection	7/1/96	7/1/96 WL	7/25/96
CEG	Used oil spill cleanup	Non HPV	Inspection	7/30/96	8/8/96	9/26/96
UOH	Used oil management standards	Non HPV	Inspection	8/7/96	8/16/96 WL	9/24/96
UOH	Used oil transporter and marketer violation	Non HPV	Inspection	7/2/96	7/2/96	8/23/96
NN	Used oil cleanup	Non HPV	Inspection	7/29/96	8/9/96 WL	9/4/96

Handler Category ¹	Description of Violation	Significance of Violation ²	Method of Discovery	Date of Violation Discovery	Date and Type of Response to Violations ³	Date of Return to Compliance
NN	Used oil cleanup	Non HPV	Inspection	1/16/97	2/4/97 WL	4/3/97
NN	Used oil contaminated soil cleanup	Non HPV	Inspection	6/5/97	6/10/97 WL	6/19/97
NN	Used oil marketer notification	Non HPV	Inspection	8/21/96	8/28/96 WL	10/9/96
NN	Used oil spill/leak cleanup	Non HPV	Complaint	9/12/96	9/12/96 WL	10/8/96
NN	Used oil labeling	Non HPV	Inspection	8/1/96	8/22/96 WL	9/5/96
NN	Improper used oil storage	Non HPV	Inspection	5/14/97	5/22/97 WL	6/17/97
NN	Failure to characterize hazardous waste	Non HPV	Inspection	6/4/97	6/9/97 WL	7/1/97
NN	Failure to characterize hazardous waste	Non HPV	Inspection	2/13/97	2/28/97	4/4/97
FY98						
TSD	Inadequate inspection records	Non HPV	Inspection	7/25/97	8/12/97 WL	11/6/97
TSD	Failure to maintain cap	Non HPV	Inspection	9/9/97	9/23/97 WL	10/30/97
TSD	Used oil container marking	Non HPV	Inspection	9/19/97	10/2/97 WL	11/25/97
TSD	Open containers	Non HPV	Inspection	10/14/97	11/10/97 WL	12/1/97
TSD	Universal waste management standards	Non HPV	Inspection	11/3/97	11/24/97 WL	1/7/98
TSD	Failure to maintain cap	Non HPV	Inspection	11/4/97	12/4/97 WL	12/24/97

Handler Category ¹	Description of Violation	Significance of Violation ²	Method of Discovery	Date of Violation Discovery	Date and Type of Response to Violations ³	Date of Return to Compliance
LQG	Operating unpermitted land disposal unit	HPV	Self reported	2/13/98	5/18/98 ER	Pending
LQG	Improper land ban records	HPV	Record review	4/20/98	6/2/98 ER	Pending
LQG	Failure to mark used oil containers	Non HPV	Inspection	5/5/98	5/18/98 WL	5/28/98
LQG	Failure to mark used oil containers	Non HPV	Inspection	5/5/98	5/12/98 WL	5/19/98
LQG	Failure to characterize hazardous waste	Non HPV	Inspection	12/29/97	1/23/98 WL	2/2/98
SQG	Used oil management standards	Non HPV	Complaint	10/1/97	10/2/97 WL	10/14/98
SQG	Failure to keep hazardous waste containers closed	Non HPV	Inspection	5/20/98	6/2/98 WL	6/12/98
SQG	Exceed accumulation time limits	Non HPV	Inspection	3/19/98	4/20/98 WL	5/5/98
SQG	Exceed accumulation amount limits	Non HPV	Inspection	11/25/97	1/7/98 WL	1/27/98
SQG	Failure to register	Non HPV	Inspection	12/24/97	1/13/98 WL	1/30/98
SQG	Failure to characterize hazardous waste	Non HPV	Inspection	11/5/97	11/24/97 WL	1/6/98
SQG	Unlawful disposal of hazardous waste	HPV	Inspection	8/7/97	9/29/97 ER	8/5/98
SQG	Failure to keep hazardous waste containers closed	Non HPV	Inspection	2/5/98	2/18/98 WL	4/3/98

Handler Category ¹	Description of Violation	Significance of Violation ²	Method of Discovery	Date of Violation Discovery	Date and Type of Response to Violations ³	Date of Return to Compliance
SQG	Failure to mark used oil containers	Non HPV	Complaint	6/19/98	8/13/98 WL	Pending
SQG	Failure to properly package universal waste	Non HPV	Inspection	3/18/98	3/26/98 WL	4/16/98
SQG	Failure to mark hazardous waste containers	Non HPV	Inspection	3/18/98	5/4/98 WL	6/5/98
SQG	Operating an unlawful TSD	HPV	Inspection	8/7/97	9/29/97 ER	8/5/98
SQG	Failure to characterize hazardous waste	Non HPV	Inspection	12/22/97	1/8/98 WL	1/26/98
SQG	Failure to mark used oil tank	Non HPV	Inspection	3/19/98	3/24/98 WL	4/3/98
SQG	Failure to mark used oil containers	Non HPV	Inspection	4/6/98	4/7/98 WL	4/14/98
SQG	Failure to characterize hazardous waste	HPV	Inspection	3/3/98	5/1/98 ER	Pending
SQG	Failure to register as a hazardous waste generator	Non HPV	Inspection	11/21/97	12/3/97 WL	2/10/98
SQG	Operating an unlawful TSD	HPV	Inspection	3/20/98	5/1/98 ER	Pending
SQG	Failure to characterize hazardous waste	Non HPV	Inspection	5/20/98	6/3/98 WL	6/30/98
GCE	Failure to mark used oil containers	Non HPV	Inspection	12/24/97	1/16/98 WL	2/10/98
GCE	Failure to mark used oil containers	Non HPV	Inspection	3/19/98	4/6/98 WL	5/28/98

Handler Category ¹	Description of Violation	Significance of Violation ²	Method of Discovery	Date of Violation Discovery	Date and Type of Response to Violations ³	Date of Return to Compliance
GCE	Failure to register as a halogenated solvent user	Non HPV	Inspection	6/16/98	6/25/98 WL	7/9/98
GCE	Failure to mark used oil containers	Non HPV	Inspection	6/19/98	7/16/98 WL	8/6/98
GCE	Failure to register as a halogenated solvent user	Non HPV	Inspection	4/8/98	4/28/98 WL	5/11/98
GCE	Used oil as a dust suppressant	Non HPV	Inspection	5/13/98	6/2/98 WL	6/19/98
GCE	Failure to mark used oil containers	Non HPV	Complaint	6/4/98	6/10/98 WL	6/29/98
GCE	Failure to mark used oil containers	Non HPV	Inspection	2/6/98	2/20/98 WL	5/29/98
GCE	Failure to mark used oil containers	Non HPV	Inspection	5/12/98	5/28/98 WL	6/4/98
GCE	Failure to mark used oil containers	Non HPV	Inspection	5/11/98	5/22/98 WL	6/30/98
UOH	Used oil management standards	Non HPV	Complaint	6/2/98	6/8/98	8/3/98
UOH	Improper storage of used oil	Non HPV	Inspection	8/29/97	9/2/97 WL	11/14/97
UOH	Used oil management standards	Non HPV	Inspection	10/1/97	10/20/97 WL	12/6/97
UOH	Used oil management standards	Non HPV	Inspection	5/15/98	6/2/98 WL	6/5/98

¹ Handler Category:

TSD - A facility that is required to have a permit to treat, store, or dispose of hazardous waste.

LQG - A large quantity generator is one that produces greater than 2,200 pounds of hazardous waste in any month.

SQG - A small quantity generator is one that produces between 220 and 2,200 pounds of hazardous waste in any month.

CEG - A conditionally exempt generator is one that produces less than 220 pounds of hazardous waste in any month.

UOH - A used oil handler.

TRANSPORTERS - A transporter of hazardous waste.

NN - (Non-notifier) An entity who is not required to notify DEQ of their waste management activities.

² HPV = High Priority Violator

³ Type of Enforcement:

WL = Warning Letter

ER = Enforcement Request

Clean Air Act of Montana, 75-2-101, et seq., MCA

1. Program description

The Air and Waste Management Bureau (AWMB) is responsible for administering those portions of the Federal Clean Air Act (42 U.S.C. 7401 et seq.), Clean Air Act of Montana (75-2-101, et seq., MCA)(CAA) and companion regulations (40 CFR Parts 50 through 99, Administrative Rules of Montana Title 17 Chapter 8), pertaining to compliance of air emissions from various types of facilities.

Typical compliance staff duties within the Air and Waste Management Bureau include:

- * Regulating emissions of criteria and hazardous air pollutants regulated in the CAA in potentially environmentally sensitive, heavily industrialized, heavily populated, and diverse topographic environments throughout the entire state;
- * Conducting regular compliance inspections of all operating facilities pursuant to current permits;
- * Recommending enforcement actions to the bureau chief and the Enforcement Division;
- * Actively participating in the development of departmental policy regarding air quality standards and compliance processes;
- * Coordinating and participating in a variety of technical, public, and general information meetings with other state and federal agencies, special interest groups, landowners, private businesses and the general public regarding compliance with air quality standards;
- * Collecting and managing extensive correspondence, maps, and data files pertaining to air emissions, and using, to the extent available, state-of-the-art computer technology;
- * Gathering a wide diversity of information on emissions, emission controls - regulation and the related fields - engineering, chemistry, computer programs, etc. The bureau then uses and disseminates the information to industry, government agencies and the general public as requested.

2. Compliance assistance activities

Air and Waste Management Bureau (AWMB) staff members provide compliance and technical assistance on a regular basis through ongoing communication with the regulated community. This assistance occurs during inspections, in the development of annual emission inventories, and in written and verbal response to questions. Assistance is also provided through the semi-annual visible emissions observation (Smoke School) training and certification made available by DEQ.

While the AWMB has primary responsibility for air quality compliance activities, other bureaus within DEQ also provide compliance assistance. The Pollution Prevention Bureau provides a broad range of services to promote compliance and assistance to Montana's businesses and

communities. The bureau provides onsite analyses and advice, workshops, and educational materials for business owners and communities in meeting environmental regulations. The Small Business Assistance Program helps small businesses comply with air quality standards through site assessments, workshops, and the operation of a telephone hotline. This Program also offers financial assistance to small businesses through the operation of the Small Business and Tribal Energy and Environmental Loan Program. The loan program is a cooperative effort with the Montana Department of Commerce that offers low-interest loans to small businesses and tribal entities in need of energy efficiency, pollution prevention, and environmental compliance assistance.

The Planning, Prevention and Assistance Division (PPAD), Resource Protection Planning Bureau, provides technical assistance to communities that are violating ambient air quality standards in order to assist them in the development of strategies to reduce emissions and achieve the standards. Upon request, the bureau also provides information, education, and technical assistance to local communities to assist them in avoiding future violations of the ambient standards. Such assistance includes promoting strategies that have worked in other nonattainment areas as well as growth management techniques.

The PPAD Monitoring and Data Management Bureau provides a substantial amount of outreach and compliance assistance to regulated industries. The Ambient Air Quality Section provides training and audit services to industrial sources that operate air monitoring equipment, either voluntarily or as a requirement of an air quality permit. They also consult on and approve monitoring sites and provide certification services for industry calibration equipment. The section also reviews industry data submittals and does final quality assurance on industry data before it is keyed into the nationwide database.

The Analytical Services Section reviews permit applications to assure compliance with ambient air quality standards and consults on and approves modeling protocols for permit submittals. The section also conducts dispersion modeling studies for small sources to assure their compliance with air quality standards. This section provides dispersion forecasts and consultation services for the open burning program.

The Data Management Section processes industry data and updates the nationwide database. This section also tracks industry data completeness for compliance with permit requirements.

3. Size and description of regulated community and estimated rate of compliance

In terms of inspection and annual emission inventory development, the regulated community is essentially all sources/facilities with air quality permits. This includes approximately 426 total sources consisting of 252 stationary sources and 174 portable sources (see Table 15).

To a lesser extent, all potential sources of air pollution within the state may be regulated and are often the subject of a complaint response and investigation. This relates to such things as the open burning provisions and generic rules on fugitive dust control and fuel burning.

Most facilities with emission related air quality violations are back in compliance immediately or in a very short time after the incident. In those cases, enforcement is undertaken for notification and deterrence purposes. Procedural violations, such as failure to perform a source test, reflect noncompliance until the testing is completed; however, these are generally on a compliance schedule immediately after notification.

Table 15. Number of Air Emission Sources, Inspections and Violations for FY97 and FY98

	FY97	FY98
Stationary Sources	252	252
Portable Sources	174	174
Onsite Inspections	180	194
% of Total Inspected Sources Where No Noncompliance Was Detected*	97%	93%
NOVs Issued	14	28
# of Significant Violations ¹	6	9

*Comparison of NOVs issued to total number of facilities.

4. Description of documented noncompliance and response to violations

Table 16 is a summary of FY97-98 noncompliance issues/actions which were addressed through issuance of an informal Notice of Violation. The table includes a description of the violation and response time frames. Some minor violations and potential violations are addressed with warning letters.

Table 16. List of Air Violations and the Response to those Violations

Source Category	Description of Violation	Significance of Violation (SV = Significant Violator)	Method of Discovery (R = Report Review)	Date of Discovery	Date of Follow-up NOV Issued	Date Compliance Achieved
Stationary	H ₂ S monitor availability	SV	R	6/30/95	11/1/95	6/30/95
Stationary	H ₂ S monitor availability	SV	R	3/31/96	5/30/96	3/31/96
Stationary	Lack of floating roof on tank	SV	R	6/3/96	5/15/97	Withdrawn 12/22/97
Stationary	Failure to demonstrate of compliance with NAAQS	SV	R	7/20/94	6/10/97	Pending
Stationary	Opacity exceedance documented	SV	Inspection	7/18/97	8/26/97	7/18/97

¹ Significant Violators (SV) as defined by EPA.

Source Category	Description of Violation	Significance of Violation (SV = Significant Violator)	Method of Discovery (R = Report Review)	Date of Discovery	Date of Follow-up NOV Issued	Date Compliance Achieved
Stationary	Late submittal of CEM certification test protocol		R	12/3/97	12/5/97	12/3/97
Stationary	Two opacity exceedances		Inspection	11/6/97 11/17/97	12/23/97	11/6/97 11/17/97
Stationary	Exceedances of monthly fluoride emission limits	SV	R	Multiple Days	11/7/95	11/7/95
Stationary	Failure to comply with permit condition to report amount of gas diverted	SV	R	1/7/97	6/11/97	1/7/97
Stationary	Failure to properly report malfunction	SV	R	1/7/97	6/11/97	1/7/97
Stationary	Failure to comply with permit condition (Section III.B) and NSPS Part 60.47a and Subpart Da reporting requirements	SV	R	1/7/97	6/11/97	Pending
Stationary	Violation of ARM 17.8.111 Circumvention	SV	R	1/7/97	6/11/97	1/7/97
Stationary	Excess SO ₂ emission during episodes determined to not be malfunctions	SV	R	1/7/97	6/11/97	1/7/97
Stationary	Opacity exceedance at coke storage facility		Inspection	12/30/97	1/26/98	12/3/97
Stationary	Opacity exceedance at portable crushing operation	SV	Inspection	6/24/96	6/24/96	6/24/96
Stationary	Failure to perform initial demonstration of opacity compliance		R	5/22/97	5/22/97	5/22/97
Stationary	Operating without a permit; Failure to conduct emission and opacity testing		Inspection	4/30/96	9/18/96	Pending
Stationary	Failure to comply with permit condition requiring 80% data recovery on ambient monitors	SV	R	Multiple Dates	12/2/97	12/31/97
Stationary	51 exceedances of the ambient H ₂ S standard	SV	R	11/1/97	2/3/98	11/1/97
Stationary	Opacity exceedances	SV	R	5/19/98	6/12/98	4/24/98
Stationary	Failure to perform source test		R	2/6/98	2/13/98	2/6/98 CS*

Source Category	Description of Violation	Significance of Violation (SV = Significant Violator)	Method of Discovery (R = Report Review)	Date of Discovery	Date of Follow-up NOV Issued	Date Compliance Achieved
Stationary	Failure to pay operating fees		R	12/96	5/28/97	Pending
Stationary	Failure to test two compressor stations		R	3/6/98	3/19/98	3/6/98 CS*
Stationary	Operating an unpermitted crusher		Inspection	4/15/98	5/15/98	8/3/98
Stationary	Incomplete ambient monitoring data reporting		R	Multiple Dates	6/23/98	12/31/97
Stationary	Operating unpermitted equipment		Inspection	6/1/98	6/30/98	Pending
Stationary	Failure to stack test five compressor stations in Hill and Blaine Counties		R	8/4/97	9/4/97	8/4/97 CS*
Stationary	Failure to perform stack test		R	4/29/97	5/29/97	4/29/97 CS*
Stationary	Failed stack test - Heating plant boiler		R	5/5/98	5/28/98	5/5/98
Stationary	Failed source test		R	12/15/97	2/9/98	12/15/97
Stationary	Late notification of equipment start-up		R	12/3/97	2/11/98	12/3/97
Stationary	Exceedance of permitted emission limitation		R	9/9/97	9/12/97	9/9/97
Stationary	Failure to complete initial demonstrations of opacity compliance on two storage bins	SV	R	4/19/95	4/27/95	4/19/95
Stationary	Construction without a permit		R	6/9/97	9/25/97	9/25/97 CS*
Stationary	Opacity exceedance	SV	Inspection	8/8/97	9/15/97	8/8/97
Stationary	Exceedance of permitted emission limitation		R	Multiple Dates	7/14/97	CS*
Stationary	Failure to conduct emission and opacity testing		R	8/2/97	9/2/97	8/2/97
Stationary	Failure to conduct emission and opacity testing		R	8/16/97	9/16/97	CS
Stationary	Lack of floating roof on crude oil storage tank	SV	R	6/3/96	5/19/97	Withdrawn 12/22/97
Stationary	Opacity exceedance and lack of spray bars		Inspection	10/30/97	11/5/97	10/30/97

Source Category	Description of Violation	Significance of Violation (SV = Significant Violator)	Method of Discovery (R = Report Review)	Date of Discovery	Date of Follow-up NOV Issued	Date Compliance Achieved
Stationary	Opacity exceedance		Inspection	10/30/97	11/4/97	10/30/97
Stationary	Opacity exceedance		Inspection	10/30/97	11/5/97	10/30/97
Stationary	Construction without a permit		R	9/18/97	11/14/97	9/18/97
Stationary	Two exceedances of plant-wide SO ₂ daily emission limitation	SV	R	11/10/97	12/8/97	11/10/97
Stationary	Excessive monitor downtime	SV	R	5/27/97	6/25/97	5/27/97

SV = Significant Violator- in most cases refers to a violation at a major facility
CS = Compliance Schedule In Place

Industrial and Energy Materials Bureau

Opencut Mining Act, 37-10-401

1. Program description

Montana's constitution makes it clear that all lands disturbed by the taking of mineral resources must be reclaimed. Both state and federal law provide for permitting, inspection and enforcement, public involvement, and selective denial. The Opencut Mining Act regulates and requires reclamation of land mined for sand, gravel, bentonite, clay, phosphate rock, and scoria, by any party, on any land (except tribal) in Montana.

The Opencut Program goals are the reclamation and conservation of land subject to mining, as well as the following:

- a. Effectively, consistently, and fairly administer the Act by working with industry, landowners and concerned citizens to ensure reclamation while not promoting excessive regulation.
- b. Provide and retain technically competent staff who possess exemplary communication skills to allow a free exchange of ideas and who are able to accept or offer alternatively effective reclamation methods or actions.

2. Activities to promote compliance

Program staff strive to maintain consistent, fair administration, together with a commitment to serve the regulated and non-regulated community; they offer solutions when possible, and enforcement when necessary. The program's primary goal is the reclamation of mined land by utilizing effective communication, cooperation and trust. Legal actions are also a tool, but they

should be the ones used least frequently and usually when environmental harm is affected and/or the violation shows irresponsible negligence.

The Opencut Program's formal inspection and enforcement procedures are documented in their Policy and Procedures Manual, in place since 1987, revised in 1990 and 1998 with the addition of form changes. Other changes in document preparation have taken place periodically. This manual is used by all inspectors so that all contractees will be held to the same standards.

According to program staff, the strongest incentives for compliance with Opencut regulations are agency-generated, because none of the operators "enjoy" receipt of NOVs and civil penalties, even though the penalty amount may seem insignificant. They feel that there are a certain number of operators who would comply and do an excellent job of reclamation without government monitoring. For some however, even though not necessarily correct, they feel compliance costs money and they lose an economic advantage for the bid process and/or profit.

3. Regulated communities

Opencut mining regulations affect those opencut mine operators who remove a cumulative total (at one site or many) of 10,000 cubic yards of material or more. At this level of activity operations become regulated.

Consistent with the activities noted above, the Opencut Program interacts with four primary regulated communities: government (primarily counties, but some cities and federal and state agencies), fixed-base operators, highway contractors, and bentonite miners. Additional information on those regulated through the Opencut Mining Program is provided below.

At least one opencut mining operation exists in each of Montana's 56 counties, from low-elevation alluvial deposits, to high-elevation glacial areas, to the bentonite fields of Eastern Montana. Operations range in scale from 1 acre to over 1,000 acres in size. The total permitted acreage has remained relatively constant over the years, with new operation acreage replacing acreage released from bond.

Approximately 5% of the Opencut contracts are for operations on federal lands, 5% are for operations on state lands, and 90% are on private lands. Approximately 25% of opencut operators are mining their own land; the remainder have received permission from the landowner.

The duration of a mining operation in conjunction with a specific highway project is typically 3-4 years; permanent based operations may last from 5-50 years. Most operators have 2-3 active operations at a time; the largest operator has 15 concurrent operations. A number of large highway contractors have up to 60 operations at some stage of development or reclamation.

4. Violations

Opencut operators may be out of compliance, but if they correct the situation, they are not issued a violation nor penalized. The Opencut Program defines a "violation" upon issuance of a Notice of Violation (NOV). Significant violations are defined as those which cannot be waived.

During FY97 and FY98, the Opencut Program issued 18 NOV's. There were no repeat violators in that time period. The FY97 and FY98 list of opencut violations are shown in Table 17.

Table 17. List of Opencut Violations

Date Issued	NOV No.	Violation	Penalty \$
04/18/97	OC-95-09	Mining without Contract	400.00
03/06/97	OC-96-06A	Mining without Contract	400.00
08/27/96	OC-96-07	Mining without Contract	400.00
11/15/96	OC-97-01	Mining without Contract and Improper soil handling	900.00
04/01/97	OC-97-02	Mining without Contract	400.00
04/28/97	OC-97-03	Mining without Contract	400.00
10/23/97	OC-97-04	Failure to complete reclamation	800.00
12/20/96	OC-97-05	Operating outside of Contract area, no bond, failure to provide erosion and sediment control	950.00
02/13/97	OC-97-06	Mining without Contract	350.00
09/11/97	OC-97-07	Mining outside of Contracted Area	600.00
12/01/97	OC-97-08	Mining outside of contracted area without obtaining an amendment	
12/07/97	OC-97-09	Mining site prior to issuance of contract	700.00
01/23/98	OC-98-01	Failure to reclaim within time and failure to reclaim slopes to 3:1	450.00
01/23/98	OC-98-02	Failure to amend contract for most salvage soils and post additional bond	1,000.00
06/02/98	OC-98-03	Mining outside of Contract Area without amendment	750.00
06/02/98	OC-98-04	Mining outside of Contract area, loss of topsoil, construction of water impoundment without approval	1,000.00

All violations in the Opencut Program are discovered through inspections as shown in Table 18.

Table 18. Method of Discovery of Opencut Violations

Group	Violations Discovered, by method, FY97 and 98				
	Total	Agency Review of Monitoring Reports	Self-Reporting of Violation	Inspection	Citizen Complaint
Opencut Miners	18	0	0	18	0

Source: Burke, Furois 1998.

5. Noncompliances

For each violation listed above, DEQ has issued a warning letter, a notice of violation with proposed penalty, and a findings of fact, conclusion of law and order. The Opencut program uses a "point" system to assess civil penalties. Points are assigned based on history seriousness, negligence and good faith, as described below.

1. Operator's History of Noncompliance (no maximum number of points):
 - A. Four points for each similar violation (e.g., soil salvage, failure to reclaim, etc.) over the last three years.
2. Seriousness of Violation (maximum 18 points; includes actual and/or potential harm):
3. Negligence (maximum 18 points):
 - A. Ordinary Negligence (maximum 4 points),
 - B. Irresponsible Negligence (maximum 8 points), or
 - C. Gross Negligence (maximum 18 points).
4. Good Faith (potential of 8-point maximum credit).

The bureau's manual provides guidance in calculating points. Penalty amounts are \$50 per point, with a minimum of \$100 and a maximum of \$1,000 per day. A "day" is a day the action occurred that resulted in the violation (e.g., failure to submit a report is a one-time occurrence, this is considered one day of violation, even if it takes two weeks to correct). Penalties for subsequent days that the violating activity occurs are assessed at the same rate.

Resolution of Noncompliances. There is no data recorded in this category, but as noted on previous pages, most violations are for operating without a contract, failure to reclaim, or failure to salvage soils. Usually the violator secures a contract, reclaims or has a bond forfeited, begins to salvage soils correctly, and/or corrects other problems.

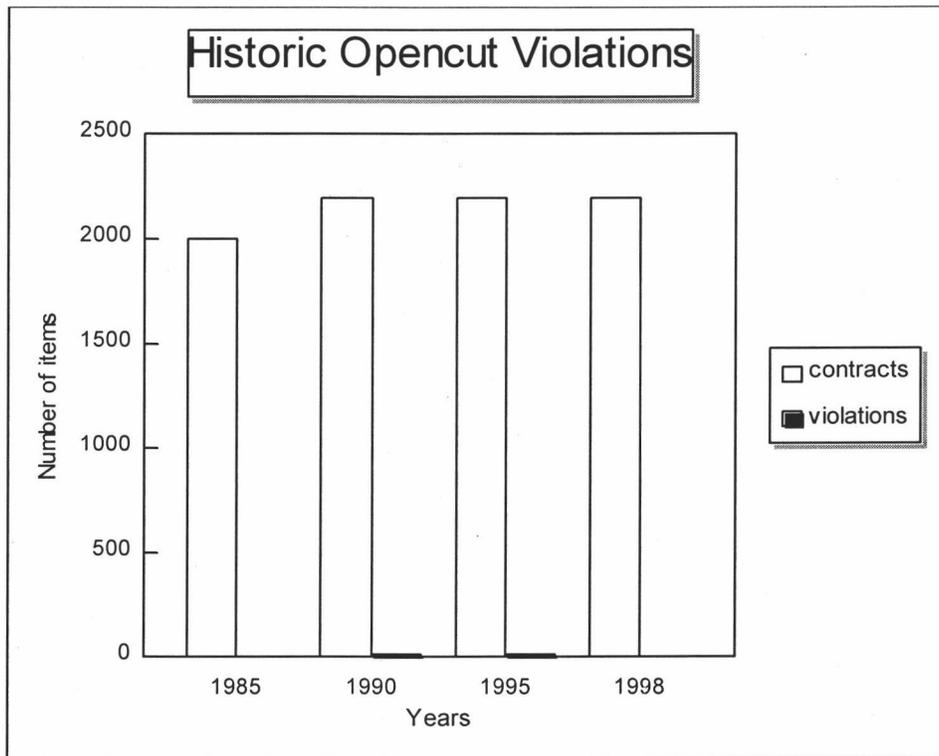
6. Quantitative trend information

Generally, operators comply with opencut regulations, especially those who have been in the business for a number of years and/or operate multiple sites in response to road construction projects. There are, however, a large number of new opencut operators taking part in the increasing commercial, residential, and infrastructure development in many areas of the state. With many of these operators, the process becomes one of education. In some cases, there is adamant objection to any degree of compliance with mining regulations; these are more difficult cases to bring into compliance. Often the only tool that will work is the Notice of Violation and concurrent civil penalties.

The Opencut Program generally issues 12-15 violations annually. To date, the program has forfeited 26 bonds, most due to financial difficulty situations (i.e., bankruptcy).

Trends in compliance with opencut rules and requirements are illustrated in Table 19. As shown, the number of contractees has remained relatively constant, and the number of noncompliances has remained relatively low. As shown in this figure, there were over 2,000 contractees in 1985 and one noncompliance; in 1990 there were over 2,200 contractees and 17 noncompliances; and in 1995, there were about 2,200 contractees and 10 noncompliances. Program staff feel that both numbers and types of violations are stable. They note that it is possible that with the increasing number of operators supplying subdivision and infrastructure development, that some will be reluctant to comply with applicable mining and reclamation statutes.

Table 19. Trends in Compliance with Opencut Rules and Requirements



The Opencut Program is responsible for making mine permitting decisions (approval, denial or modification) on permit applications, for operation monitoring, and for providing reclamation oversight on all mining of sand, gravel, scoria, clay, bentonite and phosphate rock. The Opencut Mining Program is organized around a central office in Helena with satellite offices in Billings and Kalispell. Reclamation Specialists are stationed in the Billings and Kalispell offices, with a Reclamation Program Supervisor stationed in Helena (see Table 20). The Supervisor is responsible for reviewing recommendations from the satellite offices, as well as reviewing applications for the central portion of the state.

Table 20. Summary of Opencut Program Funding, Staffing and the Size of the Regulated Community

Program Activities	FY98 Budget	FY98 FTE ¹	Avg. Years Staff Retention	FY97&98 Issued Projects/Sites Contract/Amend.	Avg. Acres/Site	Avg. No. of new Proj/yr ²
Billings	62,604.00	1	11	87/17	16.30/48.22	60
Helena	154,211.00	2.15	20	73/10	11.78/17.77	50
Kalispell	77,781.00	1	8	72/21	8.05/15.27	60
TOTAL	294,596.00	4.15	13	245/49	12.15/27.62	170

Notes: 1. Includes 0.25 FTE Administrative Support and 0.3 FTE Bureau Chief.
 2. Refers approximately to last 5 years.
 3. 32,476 total acres under contract, divided by 2,135 contracts.

Source: Burke, Furois, 1998.

Montana Strip and Underground Mine Reclamation Act, 82-4-201

1. Program description

Montana's constitution makes it clear that all lands disturbed by the taking of mineral resources must be reclaimed. Both state and federal law provide for permitting, inspection and enforcement, public involvement, and selective denial of development. Coal and uranium mining regulations include provisions for permit revocation for a pattern of violations. This is the most stringent of the regulatory provisions. Furthermore, enforcement is primarily mandatory, with very little discretion of whether or not to initiate enforcement.

The Coal and Uranium Program has identified the following program goals:

- a. Administer and enforce the Montana Strip and Underground Mine Reclamation Act, the Montana Strip and Underground Mine Siting Act, the Montana Environmental Policy Act, and their respective administrative rules, to the extent provided by law, to allow mineral development while protecting the environment.
- b. Administer and enforce a reclamation program which complies with Public Law 95-87, the Surface Mining Control and Reclamation Act of 1977.
- c. Administer the law in a fair and unbiased manner.
- d. Maintain and improve Montana's clean and healthful environment for present and future generations.
- e. Protect environmental life-support systems from degradation.
- f. Provide for the orderly development of coal resources, through strip or underground mining, to assure the wise use of the state's resources and to prevent the loss of coal resources through coal conservation.

- g. Prevent undesirable land by protecting surface and groundwater conditions detrimental to general welfare, health, safety, ecology, and property rights.
- h. Prevent unreasonable degradation of Montana's natural resources.
- i. Restore, enhance and preserve Montana's scenic, historic, archaeologic, scientific, cultural and recreational sites.
- j. Achieve effective reclamation of all lands disturbed by the taking of coal or uranium.
- k. Maintain state administration of the coal mining regulatory program.
- l. Strive to make permitting decisions in a timely manner.
- m. Promote effective, efficient and economic program management.

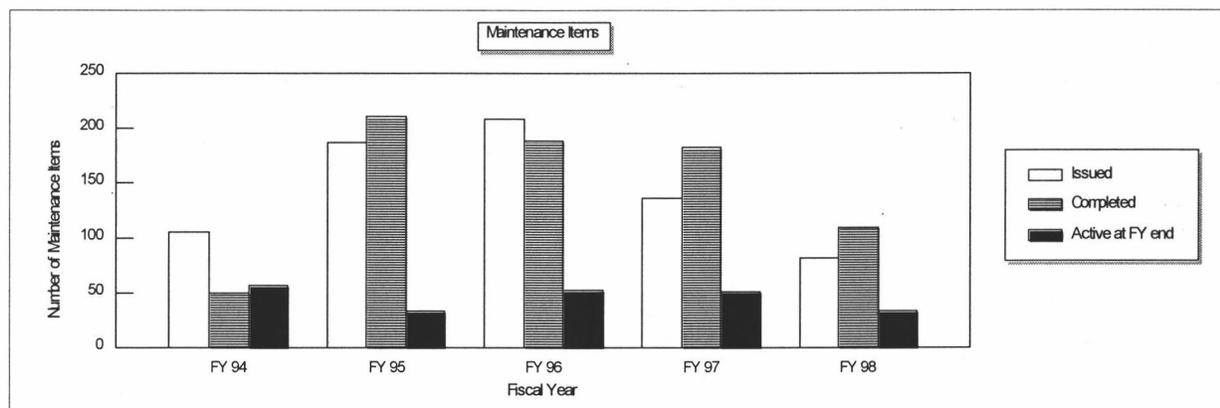
2. Activities to promote compliance

The Coal and Uranium Program inspects mining operations on a schedule mandated by the Administrative Rules. In FY98, for a regulated community of 13 active and 5 inactive (reclamation only) sites, the program performed 96 complete inspections and 100 partial (some discipline-specific) inspections.

Based upon staff interpretation of legislative history, DEQ philosophy is that coal mining in Montana is intended to be regulated, not prohibited. Staff feel that permit conditions and regular inspections are very effective in promoting compliance. Additionally, the blend of individuals knowing both permitting and on-the-ground provisions is highly effective in preventing noncompliance. As staff share information from mine to mine and stay current with the best technology available, many technical assistance opportunities occur. Staff try to head off violations through effective permit conditions, knowledge of potential problems, technical assistance, frequent site inspections, and familiarity with permit conditions. They do not hesitate, however, to issue a violation when one is discovered and cannot be corrected while the inspector is on site.

Compliance Tools Available and Used. The Coal and Uranium Program's formal inspection and enforcement procedures are documented in its Policy and Procedures for Inspection and Enforcement, in place since 1991, and currently (August 1998) under revision. Inspection kits have been used since the beginning of the program. These kits have included field maps, mine-specific conditions lists, discipline-specific inspection procedures, and general processing procedures. Air Quality inspection guidelines were formalized in a manual in 1994, which is available for the inspectors to use. During inspections, maintenance items -- items which could lead to a noncompliance if not rectified -- are noted and the company informed of the items. Some are completed while the inspector is still on site, others are checked on a monthly basis during subsequent inspections. A chart showing the history of maintenance items over the past five fiscal years is shown.

Table 21. History of the Number of Maintenance Items Addressed at Coal Mines from 1994 through 1996



Incentives for Compliance. According to program staff, the greatest incentives for compliance with coal and uranium rules and regulations are violation provisions which define a pattern of violations which may result in permit revocation, an escalating process of violation processes (violations, cessation orders, suspensions, revocations), and enforcement which occurs on the ground. Additionally, due to a nationwide tracking system for violators of coal mining regulations which directly blocks violators from obtaining permits if violations have not been resolved, permittees are likely to resolve violations more readily. Such permit blocks, tracked in a nationwide system, affect major corporate activities such as buying and selling mines, thus making compliance a highest priority, not a choice.

In general terms, staff effort is 70% permitting and 30% inspection and enforcement, but many enforcement actions involve permitting actions as well; budgeting is not directly driven by this percentage. These activities are described in Table 22.

Table 22. Summary of Coal and Uranium Program Funding, Staffing and the Regulated Community

Program Activities	FY98 Budget	FY98 FTEs*	Avg. Years Staff Retntn.**	1997 Ongoing Projects/Sites	Avg. Acres/Site***	Avg. # of proj./yr**
Permitting	\$801,588	13.2	6.25	17 permitting 7 bond release	NA	6
Inspection/ Enforcement	\$219,872	4.45	6.25 16 inspection units	18 violations	NA	15 (violations)

*Includes 1.7 FTE administrative; .5 FTE attorney; .5 FTE Enforcement Specialist and .7 FTE Bureau Chief; 1 FTE Administrator.

**Refers approximately to last 5 years; Also, staff retention is typically driven by market conditions for discipline-specific positions. Managers and supervisors remain in positions approximately 10 years or more; engineers 1-3 years; hydrologists and geologists 2-8 years; biologists 3-5 years, soil scientists as much as 8 years.

***As of August 1998, 55,293 acres of coal mines are permitted in Montana.

Source: Furois, 1998.

3. Regulated communities

Consistent with the activities noted above, the Coal and Uranium Program interacts with one primary regulated community; (prospectors, strip miners, and underground miners are considered all the same). This community is described below.

There are six major coal development companies active in Montana, most of which are located in southeastern Montana. Of these, one company holds six permits (Western Energy), other companies hold one or two permits. Active mines range from 857 acres to over 20,000 acres. Surface-mined coal is typically extracted via dragline or shovel, processed on site, then shipped to other locations via rail. The typical production life of a coal mine averages 20-plus years. There is currently no uranium mining in Montana; restrictions on deposition of radioactive substances in 75-3-303, MCA, limit the mining methods which can be used in Montana.

Prospecting/exploration activities in Montana are generally conducted by mine companies operating in the state and typically address continued mining as an expansion of existing mines. New area prospecting, while it occurs, is limited.

4. Violations

As noted, coal and uranium operators may be out of compliance, but if the problem can be corrected in the field and no resource was lost (such as soil lost to runoff), they will not be issued a violation nor penalized. The Coal and Uranium Program defines a "violation" upon issuance of a Notice of Noncompliance (NON). "Major or Significant" violations would be issued Cessation Orders (COs) and would meet the definition of imminent harm or other criteria described above.

During FY97 and FY98, the Coal and Uranium Program issued 17 NONs and six (6) COs (see Table 23). None were issued to prospector operations, and 17 were issued to mining operators. None of these violations were vacated. There were three repeat violators in that time period, Western Energy Company (2), Big Sky Coal Company (2), and Mountain Inc. (12 NONs and 6 COs). As shown for this time period, violations are typically of the following types: (1) actual on-the-ground violations which require equipment to perform work, (2) monitoring or reporting violations, (3) practice or method violations which require a revision to the permit to implement the practice, and (4) the violations which cannot be abated because a resource was lost or data was not collected.

Of the pending violations listed in Table 24, all those with an identifier of *-06-* are pending in District Court, Roundup, MT as is 87-82244R-01. Those identified with *-09-* have a deceased permittee, and bond has been forfeited on the site. Those identified with *-10-* have also had their bond forfeited. The surety for both companies is defunct and in receivership. The distribution of funds has not yet been made. DEQ is researching methods for clearing the above-referenced violations.

Discovery of Violations. Over the long term, most violations in the Coal and Uranium Program are discovered through on-the-ground inspections. Many others are discovered through review of monitoring reports as shown in Table 23.

Table 23. Method of Discovery of Violations at Coal Mines for FY97 and FY98

Group	Total	Agency Review of Monitoring Reports	Self-Reporting of Violation	Inspection	Citizen Complaint
Mines	18	11	1	6	0
Prospecting	0	0	0	0	0
TOTAL	18	11	1	6	0

Source: Furois, 1998.

Considerations in Calculating Penalties. The Coal and Uranium Program uses a "point" system to assess civil penalties. Points are assigned based upon seriousness, negligence, history and good faith, as described below.

1. Operator's History of Noncompliance (no maximum number of points):
 - One point is assessed for each NON (uncontested violation) or FFCLC (contested violation) in past year; including prospecting and mining, if carried out by same operator. Five points are assessed for each Cessation Order issued in past year.
2. Seriousness of Violation (maximum 30 points):
 - Harm to public health, safety or environment:
 1. Probability of Harm Occurring (maximum 15 points)
 2. Seriousness of Potential or Actual Harm (maximum 15 points)
 - OR
 - Administrative Impairment (maximum 30 points)
3. Negligence (maximum 25 points)
 1. Ordinary Negligence (maximum 12 points), or
 2. Gross Negligence (13-25 points)
4. Good Faith (potential of 10-point maximum credit)

The program's manual provides specific guidance and examples, by category, in calculating points. Penalty amounts corresponding to total points are set in rule, with a daily maximum of \$5,000 per day. A "day" is a day the action occurred that resulted in the violation (e.g., failure to submit a report is a one-time occurrence, thus is considered one day of violation, even if it takes two weeks to correct). Penalties for subsequent days that the violating activity occurs are assessed at the same rate. The program also keeps a database of all issued violations, with point assessments, ARM or MCA citation, and justification for number of points issued. This database is researched by each inspector when the inspector is ready to assess points for a new violation so that consistency may be maintained for each type of violation. Either the Compliance Specialist or Compliance Supervisor will assist the inspectors in excerpting the proper information from the database.

Table 24. Strip and Underground Mine Reclamation Act Violations in FY97 and FY98

DATE ISS.	N.O.N.#	VIOLATION	POINTS	Penalty	Status
Pending in 1997					
April 85	85-06-01	Failure to submit Annual Report	13	8,060	Pending
April 85	85-06-02	Construction of Building without Department review and approval	28	24,800	Pending
Nov. 85	85-06-05	Removal of coal after issuance of Cessation Order	60	3,300	Pending
Apr. 86	86-06-01	Failure to design, construct and maintain sediment control structure	20	12,400	Pending
July 86	86-06-02	Main sediment pond full and overflowing; overflow pipe plugged	15	9,300	Pending
Feb. 87	87-06-01	Failure to maintain sediment traps	40	62,000	Pending
Mar. 87	87-06-02	Failure to submit annual Pond Certification reports	26	18,600	Pending
Mar. 87	87-06-03	Failure to submit quarterly surface water monitoring reports for 1986	26	18,600	Pending
June 87	87-82244R-01	Prospecting without a permit		15,000	Pending
June 88	1	Mining in excess of 250 tons of coal without permit	55 x 30 days	127,500	Pending
July 88	88-06-01	Leaking of oil onto regraded spoil	24	480	Pending
Nov. 88	88-06-02	Late filing of renewal request			Pending
Apr. 90	90-06-01	Failure to file annual report	13	260	Pending
July 90	90-10-01	Failure to reinstate bond, permit, or pursue proper reclamation	55	127,500	Pending
Aug. 90	90-06-02	Failure to maintain appropriate sediment control (small pond)	43	2,300	Pending
Aug. 90	90-06-03	Failure to maintain appropriate sediment control (large pond)	41	2,100	Pending
Sept. 91	91-09-01	Failure to reclaim mine site as approved in permit and under agreement	55	3,500	Pending
July 92	92-09-01	Sediment from disturbed area deposited off permit area	21	420	Pending
Sept. 92	92-10-01	Failure to maintain security of fan house, mine portal and vent adit	55 x 30 days	127,500	Pending
Sept. 92	92-10-02	Failure to secure access as in 92-10-01	55 x 30 days	127,500	Pending
June 94	94-10-01	Imminent danger to public health and safety -- unsecured adit	55 x 30 days	127,500	Pending
July 94	Bond Forf.	Company no longer able to operate in compliance with MSUMRA (Union Reserve)	N/A		Pending
July 94	94-10-02	Failure to abate NON/CO 94-10-01	55 x 30 days	127,500	Pending
Oct. 95	Bond Forf.	Company no longer able to operate in compliance with MSUMRA (Coal Creek)	N/A		Pending

DATE ISS.	N.O.N.#	VIOLATION	POINTS	Penalty	Status
Violations issued in FY97 and 98					
Jul. 96	96-04-01	Failure to submit 1994 and 1995 Pond Certifications as per the approved schedule	29	900	Done
Aug. 96	96-17-01	Ash stockpiled in unapproved areas	37	1,700	Done
Oct. 96	96-17-03	Failure to carry General Public Liability Insurance	54	3,400	Done
Oct. 96	96-17-02	Failure to pay Abandoned Mine Land Reclamation Fees for 2 quarters	33 x 2 days	6,500	Done
Oct. 96	96-17-04	Failure to remove and properly dispose of prep-plant fire-related debris	26	600	Done
July 97	97-03-01	Implementation of unapproved minor revision (Change of PMT)	30	1,000	Active
July 97	97-17-01	Inadequate sediment control and diversion berm not constructed	36	1,600	Active
Aug. 97	97-17-02	Failure to collect semi-annual groundwater samples	38	1,800	Active
Sept. 97	97-17-01CO	Failure to abate NON 97-17-01	47 x 30 days	81,000	Active
Sept. 97	97-03-02	MPDES effluent limitations exceeded at 4 traps	18	360	Done
Oct. 97	97-17-04	Failure to submit information required by 17.24.413(4) following issuance of Cessation Order	47	2,700	Active
Oct. 97	97-17-03	Failure to pay Abandoned Mine Land Reclamation Fees	42	2,200	Active
Nov. 97	97-17-03CO	Failure to abate NON 97-17-03	48	84,000	Active
Nov. 97	97-17-05	Failure to submit Annual Report	48	2,800	Active
Dec. 97	97-17-05CO	Failure to abate NON 97-17-05	52 x 30 days	96,000	Active
Dec. 97	97-17-04CO	Failure to abate NON 97-17-04	57 x 30 days	111,000	Active
Dec. 97	97-04-01	Failure to reclaim and revegetate lands disturbed by the livestock waterline	19	320	Done
Jan. 98	98-17-01	Failure to conduct wildlife monitoring as required in permit	49	2,900	Active
Feb. 98	98-05-01	Failure to blast during period of sunrise to sunset./Blasts were recorded after sunset	7	200	Done
Mar. 98	98-17-02	Failure to submit MPDES reports since June 1997	39	1,900	Active
Mar. 98	98-17-03	Failure to submit 1997 Semi-Annual Hydrology report, failure to submit all information with 1996 Hydrology report	43	2,300	Active
Apr. 98	98-17-02CO	Failure to abate NON 98-17-02	39 x 30 days	57,000	Active
May 98	98-17-03CO	Failure to abate NON 98-17-03	48 x 30 days	84,000	Active

Source: Furois 1998; Unabated Cessation Orders (CO) counted for 30 days for computation of penalties

5. Resolution of noncompliance

As discussed above in discovery of violations, violations may require on-the-ground work, such as filling in rills and gullies, building a sediment control structure, or mending a structure which failed to work. Others may require a permitting action, typically a minor revision, to implement a new way of doing something: a new practice or using a new piece of equipment. Violations which involve monitoring practices may need to be resolved by minor revisions to a monitoring plan, or may be such that data was not collected and cannot be replaced. Some violations specifically address reclamation practices, such as regrading of the surface, soil replacement or seeding. Resolution would involve abatement practices which provide the best scenario for reclamation to succeed. Violations which involve a water effluent problem would address water treatment and sediment control structures being in place and functioning.

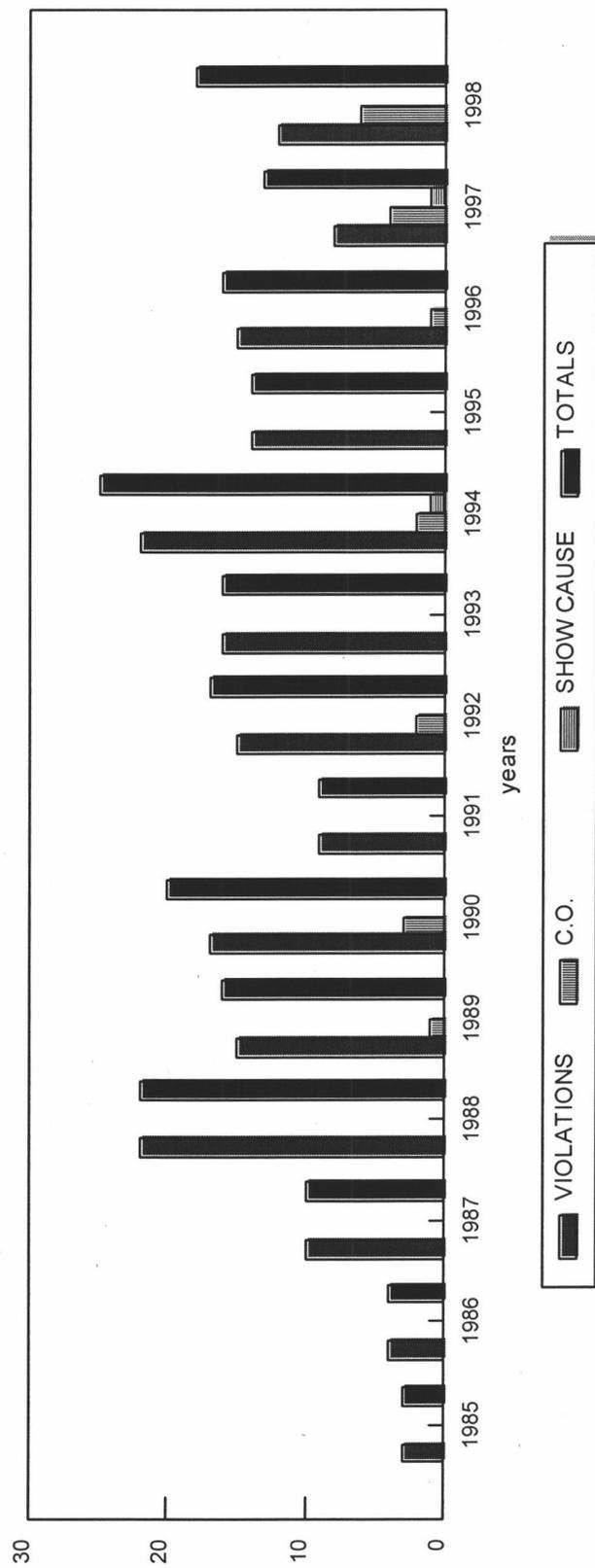
Current Compliance Priorities. Agency staff have identified the following priorities for the Coal and Uranium Program:

- Assuring that offsite damages do not occur
- Assuring that contemporaneous reclamation occurs
- Assuring the health and safety of citizens as associated with the concerns of blasting practices and structural integrity of sediment control features (dams and embankments)
- Assuring that coal conservation practices are implemented (all marketable and minable coal is recovered in the mining operation)
- Assuring that long-term hydrologic impacts are minimized.

6. Trend information

Table 25 shows the trend in compliance for the Coal and Uranium Program. Trends in compliance with Coal and Uranium Program rules and requirements are illustrated below. Over the last 10 years, violations are issued at a typical rate of 10 to 25 violations per year. An unusually high number of Cessation Orders were issued to one company in the past two fiscal years. Cessation Orders are typically issued to operations which are not operating and are not maintaining reclamation bonds. Two show cause orders have been issued by the program; one was issued to Western Energy Company and was resolved, the other was issued to Mountain Inc. and resulted in permit revocation.

Table 25. Trends in Compliance at Coal Mines



Water Protection Bureau

Montana Water Quality Act, 75-5-101

1. Program description and the regulated community

The Water Quality Permit Program typically regulates discharges of pollutants to state waters, both surface and ground water. The Montana Pollutant Discharge Elimination System (MPDES) Program issues permits to public and private facilities. These include cities and towns with wastewater plants that discharge to state waters (which many do) and various industries -- e.g., refineries, mines, oil producers, confined animal feeding operations (CAFOs), power plants, construction activities such as dewatering and hydrostatic testing, meat packers, fish farms, railroad facilities, remediation facilities, air conditioning and heating and cooling discharges, etc. The MPDES permits generally contain numeral limits for certain pollutant parameters in the discharges.

The Storm Water Program issues permits to certain classes of industrial activity (carried out by public or private entities) that have runoff to state surface waters. These permits generally contain "best management practice" requirements.

The Groundwater Pollution Control Program issues pollution control permits to "sources" of pollutants having the potential to contaminate state groundwaters. Typical groundwater sources of pollutants are waste piles, waste holding ponds, wastewater infiltration systems, and land application of waste.

The program reviews dredge and fill projects for Clean Water Act, Section 401, to certify that water quality standards will be maintained, and wetlands will be protected or replaced if destroyed. The program also authorizes short-term changes in water quality in accordance with §75-5-308, MCA.

As of the close of 1997, there were approximately 700 active waste discharge permits (surface, municipal and industrial, storm water and groundwater discharges) on file with the bureau.

2. Promoting compliance

A. Information/Education/Technical Assistance

All of the Water Quality Permit Program staff expend a good deal of effort in technical assistance and promoting compliance. Countless phone calls are fielded wherein the caller has a proposed development project and requires information and assistance on what permits are necessary and the requirements of the permits. Program staff contribute information to the permitting guide booklets distributed by the EQC and DNRC. Program information is also placed on the Internet. Program staff speak to various groups from the regulated community or agencies, advising and providing program information. Some past examples are livestock producers, highway contractors, mining associations, engineering consultants, state and county

highway departments, conservation districts and county sanitarians. Public meetings and hearings are held during the regulation development process for all of the programs. The Storm Water Program provides a quarterly program update newsletter to all permittees.

B. Inspections

Compliance inspections are performed in all of the water quality permit programs. In FY97 and FY98, the bureau performed 170 MPDES, 128 ground water, and 174 storm water inspections. Some of the facilities are targeted at random, but most are selected for inspection due to self-monitoring violations or complaints received. Some facilities request inspections to clarify application of the rules or to obtain advice on staying in or returning to compliance. Most of the inspections result in the opportunity of one-on-one technical assistance and compliance advice. A few result in discovery of violations where enforcement action is initiated.

C. Enforcement Actions

Where, for one reason or another, compliance assistance or attempts to get a facility to voluntarily return to compliance fail, staff request some form of enforcement from the Enforcement Division. Enforcement Request forms are filled out and may result in Administrative Orders being issued or civil or criminal court actions being taken. Most of these actions are accompanied by penalties.

3. Size of the regulated community and estimated portion in compliance

The size of the regulated community is discussed above and numbers of permits are given in Table 26. The estimated portion in compliance depends upon the severity of noncompliance. It is not uncommon for permittees to have occasional effluent violations. There may be a hundred or more of these per year. However, in most cases the permittees make adjustment and quickly return to compliance. Very serious or chronic violators are referred to the Enforcement Division as discussed above. Typically, the programs may have 10-12 formal enforcement requests submitted at any one time.

4. Number, description, method of discovery, and significance of noncompliances

The number of permits with violations and the method of discovery are listed in Table 26. The types of permit violations include violations of effluent limitations, monitoring requirements, reporting requirements, compliance responsibilities, general requirements, and discharge without a permit.

The permit violations detected by self-monitoring are violations of effluent limitations and/or monitoring and reporting requirements. Inspection and complaint reports detect the same types of violations as self-monitoring plus violations of operation and maintenance requirements at wastewater treatment facilities and discharges without permits.

All permitted or unpermitted violations have potential to impact human health or the environment to some degree. When violations are detected, consideration is given to the degree of potential impact to human health and the environment in regards to compliance action. However, determination of an actual threat to human health or the environment is not typically evaluated.

Table 26. Number of MPDES Permits in FY97 and FY98 with Violations and the Method of Discovery

Type and total number of Permits	Method of Discovery			
	Self Monitoring Report	Inspections	Complaint Reports	Other
MPDES - Private-107	22	17	6	2
MPDES - Public-147	71	65	6	1
CAFO-56	N.A.	4	20	0
Storm Water-364	297	16	9	0
Groundwater-23	5	3	2	0
Unpermitted-N.A.	N.A.	8	66	1

5. How the department has addressed the noncompliance listed above including the noncompliances that are pending

In response to permit violations in FY97 and FY98, the bureau has sent compliance letters (violation letters and warning letters) as indicated in Table 27. The goal of the bureau is to send compliance letters in response to self-monitoring data on a quarterly basis. Due to the workload, this goal is not always met, as some delay may occur in sending compliance letters. Compliance letters in response to inspections are sent within 30 days of laboratory data completion. Sending compliance letters in response to complaints is typically accomplished within 30 days of completing the complaint investigation. Completion of the complaint investigation varies greatly from days to months due to the workload and the significance of the alleged violation.

If the bureau determines compliance is not being achieved in a timely manner, the noncomplying permit would be referred for enforcement action as listed in Table 27. All permits with violations not referred for enforcement action are either back in compliance or pending further compliance/enforcement action.

Table 27. Department's Response to MPDES Permits with Violations in FY97 and FY98

Type of Permit	Compliance Letters (VL, WL)	Technical Assistance/ Information (Letter, phone, meeting)	Inspection	Enforcement Action Referred
MPDES - Private	63	66	4	5
MPDES - Public	99	84	0	6
CAFO	24	20	20	1
Storm Water	835	824	114	1
Groundwater	9	38	9	0
Unpermitted	52	32	24	3

Sanitation in Subdivisions Act, 76-4-101

1. Program description

The Subdivision Section in the Water Protection Bureau reviews plans for proposed subdivisions to ensure adequate water supplies, sewage treatment, storm water drainage and solid waste disposal; makes nonsignificance determinations for proposed sewage systems pursuant to the Water Quality Act; and prepares environmental assessments.

2. Activities and efforts to promote compliance and assistance

The section provides technical assistance and training on the requirements of the Sanitation in Subdivisions Act and the nondegradation standards of the Water Quality Act to local health departments, county commissioners, and to developers and their consultants. Most technical assistance is provided by phone or in the office. However, within budget constraints, the section has increased efforts to provide more formal training to county sanitarians and consultants. During FY98, the section began distributing a quarterly newsletter to boards of health and county commissioners. To address a specific noncompliance issue of building prior to subdivision approval, the subdivision application form was revised to clearly notify property owners of that prohibition and a letter was sent to all subdivision consultants and county health departments.

The section reviewed the plans and specifications for 2,930 subdivisions in FY97 and FY98, and made nonsignificance determinations for more than 10,000 sewage systems to ensure compliance with the Sanitation in Subdivisions Act and the Water Quality Act.

3. Size and description of the regulated community

The more than 2,900 applicants during the reporting period represent the actively regulated community. Most subdivision applications were for minor subdivisions of five or fewer lots and from owners of small parcels.

Because every subdivision is approved with conditions related to the type and location of water supply and sewage treatment facilities, each subdivision lot approved by DEQ remains subject to the requirements of the Sanitation in Subdivisions Act. Data are not available for all years since passage of the first law regulating subdivisions in Montana. However, available records indicate that more than 150,000 lots have probably been created since 1961. Although a significant proportion of these lots probably have not been built on, the total number of lots and individuals subject to regulation is undoubtedly very large.

4. Number, description, method of discovery, and significance of noncompliances

METHOD OF DISCOVERY

	INSPECTION	CITIZEN COMPLAINT	COUNTY H.D.
FY97	0	2	3
FY98	0	0	0

DEQ may not use subdivision review fees to conduct inspection or enforcement activities. DEQ discovers noncompliances through citizen complaints or notification by county health departments. (Local boards of health contracted to review minor subdivisions of five or fewer lots may also enforce the Sanitation in Subdivisions Act within those subdivisions.) The Subdivision Section refers all complaints and potential enforcement actions directly to the Enforcement Division.

COMPLIANCE

	WARN LTR	NOV DONE BY ENF.	SENT TO ENF.
FY97	0	7	5
FY98	0	0	0

5. How addressed

When a violation of the Sanitation in Subdivisions Act is discovered, the Enforcement Division usually sends a warning letter (WL) or Notice of Violation (NOV). Seven NOVs were sent out in FY97.

Environmental Management Bureau

Metal Mine Reclamation Act, 82-4-301

1. Program description

The Hard Rock Program (HRP) of the Environmental Management Bureau administers the Montana Metal Mine Reclamation Act (MMRA), the Montana Environmental Policy Act (MEPA), administrative rules on hard rock mining, and reclamation plan evaluation and activity compliance. Functions of the HRP are: (1) regulation of hard rock mining activities; (2) regulation of reclamation activities at hard rock mining sites; (3) reclamation of abandoned mining sites with forfeited reclamation bonds; (4) implementation of environmental analysis provisions of MEPA and the hard rock mining and reclamation statutes; and (5) administration of the Small Miners Exclusion and Exploration programs. Activities which implement the HRP's functional responsibilities include permit evaluation and maintenance; inspection; enforcement; resource management for surface and groundwater, biological, cultural, and other resources; information and data management; and training.

2. Describe the activities and efforts taking place to promote compliance and assistance:

Plan of Study: Identification and analysis of the baseline or affected environment is the first step in preparing an application for an Operating Permit under the Metal Mine Reclamation Act (MMRA). A Plan of Study to produce the baseline report is not required by law but provides an opportunity for the program to work with the mining company to "do it right the first time." The HRP performs a courtesy review of the plan to provide guidance on completeness and scope. Companies will communicate with staff during collection of baseline data to make sure they are complying with the Plan of Study.

Application for an Operating Permit: The MMRA defines a review period for assisting companies in producing an application that: is accurate, understandable, and complete; has sufficient detail for bonding; and that will provide adequate information to support either an environmental assessment or environmental impact statement. During this time staff work with the companies to produce a mine plan that should comply with the mining, air and water laws. This effort includes coordination with other agencies to assist in identifying the diverse resource areas that may be affected.

Montana Environmental Policy Act: Two court decisions have interpreted MEPA as having more substantive authority in mitigating significant impacts in an interdisciplinary manner. The HRP staff work with the applicant to identify appropriate, cost effective mitigation for incorporation into the mining proposal. The control of fugitive road dust is an example. Measures such as sprinkling, dust suppressants, or rock armoring may be committed to or stipulated in the permit.

Compliance assistance continues once a permit is issued. HRP staff perform several inspections of the permit area each season to ensure that the provisions in the permit are adhered to. Lead staff, hydrologists, soil specialists and engineers know the projects and assist the mining companies in recognizing potential violations in the field and correcting them before a noncompliance occurs. An example is trend analysis on water quality. An upward trend in a particular parameter must be detected early so that its source can be identified and eliminated before the applicable standard is reached.

HRP staff review various reporting and monitoring information from permittees including water quality samples and analysis and final facility designs. This information may come in the form of an Annual Report or required monitoring program submittal.

Another example of compliance assistance in the field is monitoring of soil stockpile volumes through the Annual Report. If volumes appear to be falling behind the benchmark identified in the permit, the company can be alerted to a potential shortfall and work toward making up the shortage. If compliance is achieved no violation would occur.

Enforcement Assistance: The Notice of Violation copied to the Enforcement Division assists in coordination between the two divisions. It opens up communication with the mining companies in order to assist in their compliance as in the soil example above.

Education Assistance: In a joint effort with the Forest Service, Bureau of Land Management, Montana Tech, consultants, industry sponsors, Haskell Indian Nations Univ., Salish-Kootenai College, EPA, and MSE, Inc., host the Mine Design, Operations & Closure Conference every year. This conference provides a forum in which industry and regulatory agencies can keep abreast of state-of-the-art reclamation practices. The conference promotes compliance by introducing new technologies and providing the opportunity for interaction with the regulated community and interested groups.

Several other symposia, conferences and workshops are attended by HRP staff including the Northwest Mining Association Convention, the High Altitude Vegetation Work Shop and various geochemistry and geotechnical workshops.

3. Size and Description of the Regulated Community and . . . Compliance/Noncompliance:

Currently the Hard Rock Program has 86 Permits covering 72 mines. Twenty-three are precious metal mines including placer; four are actively mining. There are seven base metal mines; six are actively mining. There are 24 quarry rock (building stone, aggregate, etc.) operations; 13 are actively mining. Seven are limestone operations with three actively mining. There are five talc mines, four are actively mining, and two of three soil excavation operations are active.

Seventy (70) mines are in compliance, leaving approximately 2% out of compliance (see no. 4).

4. Number, description, method of discovery, and significance of noncompliances, including those that are pending:

Database records of recent noncompliances go back to January 1, 1989. Noncompliances before this are in another database but not used in this compilation. The Table shows 57 noncompliances (1989 - June, 1998), 2 of those are active (Table 1). Probably 3 or 4 could be judged to be significant. None of these threatened human health.

Table 1

NON #	COMPANY NAME	STATUS A=Active I=Inactive	PERMIT #	VIOLATION DESCRIPTION	NON COMPLIANCE	ABATEMENT DESCRIPTION
124	CABLE MOUNTAIN MINE	I	134	MINING OUTSIDE PERMIT BOUNDARY	R01/17/89	SUBMIT PLAN OF SURVEY
125	CABLE MOUNTAIN MINE	I	134	UNAUTHORIZED DISCHARGE	R5/30/89	CEASE DISCHARGE
126	RONCOR INC.	I	36-056	MINING IN EXCESS OF 5 ACRES	R8/28/89	
127	BLUE RANGE MINING	I	341	5 DRILL SITES WITH OPEN HOLES & CUTTING PILES	R9/19/89	RECLAIM 5 HOLES
128	GIGUERE INDUSTRIES INC.	I	102	EXCEED DISTURBANCE AREA	S9/28/89	CHANNEL RUNOFF
129	GIGUERE INDUSTRIES INC	I	102	EXCEED DISTURBANCE AREA	S9/28/89	CHANNEL RUNOFF
130	GOLDFIELDS	I	230	EXPLORATION BEFORE APPROVAL	R11/3/90	
131	CHICAGO MINING	I		EXPLORATION WITHOUT A LICENSE	S06/14/91	SUBMIT EXPL. & RECLAMATION PLAN FOR 4 ADITS ETC.
132	IPCO PETROLEUM CORP	I	446		R11/22/89	
133	PLACER RECOVERY INC.	I	412	FAILED TO COMPLETE RECLAMATION WORK	11/17/89	BEGIN RECLAMATION WORK ACCORDING TO PLAN
134	QUINTO MINING CORP	I		NO EXPLORATION LICENSE	S11/15/89	APPLY FOR LICENSE
135	PANGEA MINING	I	132	CN OUTSIDE AREA	R12/4/89	CONTROL CN RUNOFF

NON #	COMPANY NAME	STATUS A=Active I=Inactive	PERMIT #	VIOLATION DESCRIPTION	NON COMPLIANCE	ABATEMENT DESCRIPTION
137	GOLDEN SUNLIGHT MINE	I	65	CONDUCTING EXPLOR. WITHOUT AN APPROVED PLAN	S01/11/91	SATISFY ALL BLM REQUIREMENTS
139	EL DORADO GOLD INC.	I	25-040	SEDIMENT POND OVERFLOWED	S5/9/90	
140	EL DORADO GOLD INC.	I	25-040	SEEP & SPRING WATER DISCHARGED INTO BROWNS GULCH	S5/9/90	
141	PEGASUS GOLD CORP	I	237	DISTURBED ACREAGE NOT STATED ON ORIGINAL PLAN	S7/6/90	PLUG ARTESIAN HOLE
142	EL DORADO GOLD INC.	I	25-040	SEDIMENT POND OVERFLOWED	RECLAMATION NOT DONE	
145	CURATOR GOLD INC	I		FAILURE TO CONTAIN DRILL CUTTINGS & IL DISCHARGE	R06/02/92	PLUG HOLE
146	FMC CORP.	A		FAILURE TO CONTAIN DRILL CUTTINGS & IL.DISCHARGE	R05/21/92	
147	RONCOR INC.	I	36-056	EXPLOR ON 4 SITES W/O LICENSE	R10/9/90	
148	WRIGHT, JOHN	I		ILLEGAL DISCHARGE	R10/12/90	
149	MT MINING & TIMBER	I	311	FAILURE TO RECLAIM	R10/31/90	RECLAMATION PLAN & TIMETABLE
150	BLUE RANGE MINING	I	141	TAILINGS SEEPAGE COLLECTION	R1/14/91	SEEPAGE COLLECTION
151	BLUE RANGE MINING	I	141	PUMPBACK SYSTEM NONOPERABLE	R1/14/91	PUMPBACK SYSTEM IN OPERATION
152	BLUE RANGE MINING	I	141	FLOTATION TAILINGS BEING DEPOSITED IN HEATH MINE	R1/14/91	SUBMIT REPORT
154	BALTRUSH WILLIAM C.	I	43-034	AN EXCESS OF 15 AC DISTURBED UNDER SMES	S/13/91	

NON #	COMPANY NAME	STATUS A=Active I=Inactive	PERMIT #	VIOLATION DESCRIPTION	NON COMPLIANCE	ABATEMENT DESCRIPTION
155	MONTANA MINING & TIMBER	I	133	FAILURE TO RECLAIM DISTURBANCE	S2/1/91	RECLAM PLAN WITH TIME TABLE
156	C.R. KENDALL	I	122	CN RELEASE	R2/9/91	SUBMIT REPORT
157	LIEKAM, EDWARD	I	46-015	CONTAMINATION OF THE STREAM WITH GRAVEL MATERIAL	2/28/91	
158	WILLISON, GENE L.	I		DISTURBANCE IN EXCESS OF 5 ACRES	R04/02/91	
159	GULF-TITANIUM INC.	I	129	FAILURE TO POST BOND ETC.		SUBMIT \$53,650 BOND OP & RECLAMATION PLAN
160	DILLON EXPLORATION	I	125	DUMP MATERIAL IN WASHOE CREEK	06/11/91	PROVIDE PLAN TO REDUCE DUMP SLOPE
161	SEAHAWK INC.	I	145	MINING W/O PERMIT	R6/17/91	
162	NORANDA MINERALS CORP.	I	429			
163	SEAHAWK INC.	I	145	2 EXPLOR TEST PITS EXCAVATED W/O PERMIT	S8/12/91	BACKFILL & REVEGETATE DISTURBED AREAS
164	2900 DEVELOPMENT CORP.	I	25-038	DISTURBED LAND IN EXCESS OF 5 ACRES	S8/15/91	REDUCE DISTURBANCE TO NOT MORE 5 AC & RECLAIM DISTURBED GROUND OUTSIDE OF BONDED 5 ACRES.
165	REYKDAL, MERVYN	I	43-024	DISTURBED & LEFT UNRECLAIMED 3 AREAS UNDER HIS SMES	S9/13/91	
166	NEWMONT MINERALS	I	CN-019	CN SPILL	S9/13/91	PROVIDE/ MAINTAIN PERMANENT CATCHMENT TANK AT THE OUTFLOW OF THE LEAK DETECTION SYSTEM.

NON #	COMPANY NAME	STATUS A=Active I=Inactive	PERMIT #	VIOLATION DESCRIPTION	NON COMPLIANCE	ABATEMENT DESCRIPTION
167	ADAMS, STEVE	I	43-003	MINING W/O POSTING RECLAM BOND	S9/13/91	
168	ADAMS, STEVE	A	43-003	CAUSED POLLUTION OF STREAM	R12/12/91	
170	BIG HORN LIMESTONE	I	8	SOIL MATERIAL WAS WASTED & NOT SALVAGED	R12/12/91	SUBMIT PLAN
171	CLAYTON, BILL	I		MINING W/O PERMIT	S12/3/91	
172	NORANDA MINERALS CORP.	I	429	EXCESS AMOUNTS OF NITRATES TO SURFACE & GROUND H2O	S12/4/91	CEASE THE ADDITION OF NITRATES TO SURFACE & GROUND WATER IN EXCESS LIMITS SET UNDER EXPLOR LICENSE
173	BLUE RANGE MINING	I	141	CN SPILL	R3/20/92	CONTROL CN & MONITOR
174	BEAL MOUNTAIN MINING	I	135	FAILURE TO REPORT CYANIDE LEAK	R05/28/92	PROVIDE CAUSE OF LEAK & MIT. ACTIVITIES
175	GOLDFINGER INVEST	I	5-017	DISTURBANCE IN EXCESS OF 5 ACRES	R07/01/92	RECLAIM TO 5 ACRES
176	GEM RESOURCES	I	5-078	LEFT 27 ACRES UNRECLAIMED	6/4/92	CEASE MINING OPERATIONS & RECLAIM
177	RLTCO	I	131	DISTURBANCE IN EXCESS OF 30 ACRES	R07/21/92	REGRADE & SEED
178	DILLON EXPLORATION	I	124	RUN OFF WATER CAUSING EROSION	R7/31/92	RECLAIM ERODED SLOPE
179	COX, WADE	I	13-004	DISTURBANCE IN EXCESS OF 5 ACRES	R07/15/92	
180	SCARF, BRUCE	I		OPERATING WITHOUT BOND	R07/24/92	
181	SEAHAWK INC.	I	145	NOT PROVIDING WATER SAMPLING FOR MERCURY	S7/22/92	PROVIDE ANALYSIS
182	CLUTIS, WAYNE	A		CUSTOM MILL WITHOUT PERMIT	R08/28/92	

NON #	COMPANY NAME	STATUS A=Active I=Inactive	PERMIT #	VIOLATION DESCRIPTION	NON COMPLIANCE	ABATEMENT DESCRIPTION
183	ADAMS, STEVE	A	43-003	DIVERSION DIKE FAILED	REFUSED	
184	PETERSON, DONALD	I	4-060	DISTURBANCE IN EXCESS OF 5 ACRES	R09/14/92	
185	WASHINGTON GULCH MINING	I	146	UNAUTHORIZED DISTURBANCE	R11/02/92	
186	SKRANAK, HENRY	I	516			
187	BEAL MOUNTAIN	I	135	FAILURE TO COMPLY WITH STIPULATION #2	R10/22/92	SUBMIT MONTHLY CONSTRUCTION REPORTS
188	BOLINGER H.A.	I	51-137	OPERATION EXCEEDED 5 ACRES	9/30/92	
189	BULLOCK	I	42	OPERATOR EXCAVATED EXPLORATION PIT	R10/16/92	BACKFILL
190	DEL RIO CORP.	I		DISTURBANCE IN EXCESS OF 5 ACRES	R10/09/92	RECLAIM TO 5 ACRES
191	SWANSEA GOLD	A		DISTURBANCE IN EXCESS OF 5 ACRES	R10/02/92	RECLAIM TO 5 AC. & SUBMIT O.P.
192	RLTCO	I	131	UNAUTHORIZED MINE ACTIVITY	S10/7/92	RECLAIM (GRASS
193	DELMICAH	A		FAILURE TO RECLAIM EXPLORATION	R04/05/93	SUBMIT NEW RECLAM.PLAN IN '93
194	MONTANA RESOURCES	I	527	NO SUMP USED TO CONTAIN & DISPOSE DRILLING FLUIDS	S10/8/92	REMOVE & BURY DRILLING EFFLUENTS AS STATED IN PERMITTED EXPLORATION PLAN.
195	RLTCO	I	131	UNAUTHORIZED MINING ACTIVITY	R10/16/92	RECLAIM & SUBMIT PLAN
196	HANOVER GOLD	I	531	OPENING NEW ADIT W/O APPROVED PLAN	R10/22/92	PROVIDE DEPT NEW PLAN AND ADDITIONAL BOND TO COVER DISTURBANCE
197	PETERSON, DONALD	I	4-060	POLLUTION OF A STREAM	R92/11/24	

NON #	COMPANY NAME	STATUS A=Active I=Inactive	PERMIT #	VIOLATION DESCRIPTION	NON COMPLIANCE	ABATEMENT DESCRIPTION
198	BRUMIT, LAWRENCE	I		OPERATING WITHOUT PERMIT	R12/12/92	
199	VALENTINE GOLD CORP.	A		FAILURE TO RECLAIM EXPLORATION	S01/05/92	
200	BEAL MOUNTAIN	I	135	UNAPPROVED FERTILIZATION	R04/09/93	REVERT TO APPROVED PLAN OR SUBMIT NEW PLAN
201	MARK V P & M	A	365	FAILURE TO RECLAIM	S02/01/93	
202	BEAL MOUNTAIN MINING	I	135	UNPERMITTED DIVERSION OF SPRINGS	R04/09/93	CEASE DIVERTING & RECLAIM ETC.
203	ELLIS/DAY CREEK RESOURCES	I		DISTURBANCE IN EXCESS OF 5 ACRES	R04/23/93	CEASE
204	WILLIAMS, DAWSON G.	I	494	FAILURE TO RECLAIM	R04/23/93	
205	VORTEX MINING	I		OPERATING WITHOUT LICENSE & BOND	R05/23/93	
206	ZORTMAN MINING	I	96	UNAUTHORIZED ROAD CONSTRUCTION	R6/10/93	RESTORE SURFACE FLAW
207	ZORTMAN MINING	I	96	ACID ROCK DRAINAGE	R06/10/93	SULFIDE IN WASTE DUMP
208	SEAHAWK INC.	A	145	FAILURE TO SALVAGE TOPSOIL	R06/29/93	ADHERE TO WQ SAMPLING
209	HANOVER GOLD	I	531	CONST. OF DETOUR ROAD	S8/6/93	PROVIDE NEW BONDING
210	RLTCO	I	131	EXPLORATION WITHOUT A LICENSE	S08/23/93	RECLAIM AREAS IN QUESTION
211	RLTCO	I	131	SEDIMENT IN CREEK	S08/23/93	CEASE DISCHARGE
212	HOLLAND, TOM	I		SMES PLACER WITHOUT BOND	R09/17/93	
213	ROCKY MOUNTAIN MINING	I	SMES	DISTURBANCE EXCEEDED 5 ACRES (10-12)	S09/30/93	

NON #	COMPANY NAME	STATUS A=Active I=Inactive	PERMIT #	VIOLATION DESCRIPTION	NON COMPLIANCE	ABATEMENT DESCRIPTION
214	JOMAC INC.	I	88	FAILURE TO RECLAIM OPERATING PERMIT	S11/18/93	
215	SEAHAWK INC.	A	145	FAILURE TO COMPLY WITH WQ PROVISIONS	R12/20/93	PROVIDE WQ ANALYSIS
216	LIVINGSTON M&G	I	23	DISTURBANCE OUTSIDE PERMIT AREA	R12/24/93	CEASE MINING & RECLAIM 2 QUARRIES
217	SEAHAWK INC.	A	145	EXPLORATION WITHOUT A LICENSE	R12/20/93	RECLAIM TRENCH
218	SEAHAWK INC.	A	145	FAILURE TO BACKFILL WHILE MINING	R12/20/93	POST \$15,875 ADDITIONAL BOND
219	SEAHAWK INC.	A	145	PERMIT AREA NOT CLEARLY MARKED	R12/20/93	STAKE PROPOSED DIS. AREA
220	SEAHAWK INC.	A	145	FAILURE TO CONTROL SPOTTED Knapweed	R12/20/93	REMOVING Knapweed & SEEDING
221	SEAHAWK INC.	A	145	UNSUCCESSFUL REVEGETATION	R12/20/93	RECLAIM NORTH PIT
222	SEAHAWK INC.	A	145	MERC.CON. WATER INFILTRATING INTO GROUND	R12/20/93	CEASE HG USE & DISPOSE HG WASTE
223	SEAHAWK INC.	A	145	FAILURE TO RECLAIM ORIGINAL TAILINGS PONDS	R12/20/93	RECLAIM OLD TAILS & STOCKPILE
224	ZORTMAN MINING	I	95	CYANIDE LEAK FROM PROCESS AREA	R1/11/94	INSTALL MONITORING WELLS
225	KING OF KINGS MINES INC.	I	419	RECLAMATION OF EXPLORATION WORK NOT DONE	S1/31/94	
226	C.R.KENDALL	I	122	SOIL STOCKPILE VOL NO REPORTED ANNUALLY	R3/22/94	SUBMIT SOIL VOL OR SUBMIT NEW OP FOR REVIEW & APPR.
227	C.R.KENDALL	I	122	SOIL VOLUME IS APPROX 55% OF PERMITTED DEPTH	R3/21/94	REVISE PERMIT-SOIL SHORTAGE & REPLACEMENT

NON #	COMPANY NAME	STATUS A=Active I=Inactive	PERMIT #	VIOLATION DESCRIPTION	NON COMPLIANCE	ABATEMENT DESCRIPTION
228	BASE METALS & ENERGY	I	387	RECLAMATION HAD NOT BEEN COMPLETED	S04/25/94	REVOCATION OF PERMIT
229	LIVINGSTON M&G	I	23	ROAD & RUBBLE OUTSIDE PERMIT AREA	R06/16/94	CEASE OPERATIONS
230	GOLDEN SUNLIGHT MINE	I	65	PIPELINE BREAK ALONG SLURRY LINE ROUTE TO IMPOUNDMENTS	R07/15/94	CLEAN UP SPILL & REVEGETATE
231	WASHINGTON GULCH MINING	I	146	24 UNAUTHORIZED MINE PITS OUTSIDE OF PERMIT AREA	R08/12/94	RECLAIM MINE PITS
232	SPOKANE MINERALS LTD	I		DISTURBED 8 ACRES MINING UNDER SMES	R08/22/94	IMMEDIATE CESSATION OF OPERATIONS- RECLAIM DISTURBED ACRES TO NOT MORE THAN 5 UNCLAIMED ACRES
233	SKALKAHO GRAZING INC.	I	44	MINING ACTIVITIES STARTED PRIOR TO MINING	R10/24/94	CESSATION OF MINING ACTIVITIES UNTIL DISTURBED AREA IS BONDED
234	CHRISTIANSON, ROY	I	CN-019	200CY OF OFFLOADED IN A LOCATION NOT APPROVED OR PERMITTED.	R11/02/94	
235	GOLD EXPRESS CORP.	I	305	DELAYED RECLAMATION		COMPLETE RECLAMATION
236	VORTEX MINING	I	546	EXPLORATION W/OUT PLAN OF OPERATIONS FILED WITH DSL	S11/28/94	SUBMIT TO DSL PLAN OF OPERATIONS
237	GIGUERE INDUSTRIES INC.	I	102	REMAINS UNCLAIMED	R01/17/95	
238	GEM RESOURCES	I	413	VEGETATION HAS NOT BEEN ESTABLISHED	S01/10/95	

NON #	COMPANY NAME	STATUS A=Active I=Inactive	PERMIT #	VIOLATION DESCRIPTION	NON COMPLIANCE	ABATEMENT DESCRIPTION
239	SINDOR	A	451	FAILURE TO RECLAIM	S3/21/95	SUBMIT RECLAM PLAN
240	NUMBER NOT USED					
241	GEM MOUNTAIN SAPPHIRE	A	46-095	DISCHARGE OF TURBID WATER FROM GEM MOUNTAIN'S SEDIMENT POND CAUSING POLLUTION OF THE WEST FORK OF ROCK CREEK.	S5/09/95	ABATE OF THIS NON HAS BEEN COMPLETED
242	MONTANA RESOURCES	I	00030A	ROAD CONSTRUCTION	R05/30/95	NONE ARE NEEDED
243	NEW GOLD INC.	A	51-148	CN LEACH POND OVERFLOWING	S06/08/95	
244	RONCOR INC.	I	36-056	EXCEEDED 5 ACRE LIMITATION	EXCAVATED TEST TRENCHES	
245	NEW GOLD INC.	I	51-148	FAILED TO REPLACE RECLAM BOND	S06/13/95	
246	HEMPHILL BROTHERS	I	54	RECLAMATION WORK NOT DONE	S09/19/95	SEE FILE
247	NEW GOLD INC.	A	51-148	RECLAMATION NOT DONE	S09/25/95	
248	GOLDEN STAR MINING	I	74	FAILURE TO RECLAIM	S10/12/95	
249	US GRANT GOLD MINING CO.	A	414	CONDUCTING EXPLORATION OPERATIONS	S10/13/95	POST BOND
250	AMERICAN GEM CORP.	I	555	DISCHARGING TURBID WATER	S10/16/95	DEWATER POND
251	NEW GOLD INC.	A	51-148	CN ESCAPED LAD LINE & CONTAMINATED GOLCONDA CR.	S10/24/95	
252	TVX MINERAL HILL	I	100	SURFACE DISTURBANCE	R01/23/96	RECLAIM PIT

NON #	COMPANY NAME	STATUS A=Active I=Inactive	PERMIT #	VIOLATION DESCRIPTION	NON COMPLIANCE	ABATEMENT DESCRIPTION
253	PROMETHEUS GOLD INC.	A	129	FAILURE TO RECLAIM ALL MINING DISTURBANCES	S06/17/96	RECLAIM ALL MINING DISTURBANCES
254	STEVE DOBSON	A		DRILLING WITHOUT AN EXPLORATION LICENSE OR APPROVED PLAN OF OPERATION	S07/29/96	PLUGGING DRILL HOLES
255	JAMES COLLINS	A	43-013	FAILURE TO RECLAIM MINE SITE	S08/14/96	RECLAIM MINE SITE
256	SEAHAWK INC.	A	145	FAILURE TO RECLAIM SITE AFTER CLOSURE	S07/23/96	COMPLETE RECLAMATION OF THE SITE
258	PAUL KURTH MINING CO.	I	154	INCREASED WATER USE MAY EXCEED POND CAPACITY	S02/06/97	REFER TO NON FILE (SEE #4)
259	HARRELL MINING CO.	A	421	UNCLAIMED EXPLORATION TRENCH & DRILL PAD	R03/06/97	RECLAIM SITE
260	JOMAC INCORPORATED	A	88	FAILURE TO RECLAIM	R05/25/97	SEE NOTICE OF NONCOMPLIANCE (04/18/97)
261	RLTCO	A	461	FAILURE TO RECLAIM WITHIN THE TWO-YEAR LIMIT	S8/11/97	COMPLETING RECLAMATION OF EXPLORATION DISTURBANCES
262	NOVA GOLD INC.	A	362	FAILURE TO RECLAIM WITHIN THE TWO YEAR LIMIT	S08/11/97	
263	UNITED REEF LIMITED	I	393	EXPIRED LICENSE	FAILURE TO RECLAIM WITHIN THE 2 YEAR LIMIT.	R08/21/97
264	RALPH HUCKABA	A	51-167	EXPLORATION W/O BOND OR MAP SUBMITTED TO DEQ	S10/21/97	POST BOND
265	EARL WOODRING	A	7002	EXCEEDS THE 5 ACRE LIMIT	S10/23/97	RECLAIM DISTURBED ACREAGE

NON #	COMPANY NAME	STATUS A=Active I=Inactive	PERMIT #	VIOLATION DESCRIPTION	NON COMPLIANCE	ABATEMENT DESCRIPTION
266	NEW BUTTE MINING INC.	A	138	WEED SPRAYING NOT DONE	PORTIONS OF THE SOIL ARE ERODED	RELIME, RESOIL & RESEED, REPAIR THE EROSION, FILE ANNUAL REPORT, SPRAY AREA FOR NOXIOUS WEEDS
267	BILL BAHNY CONSTRUCTION	I	147	SOLID WASTE ON SITE	03/06/98	REMOVE DISPOSE OF WASTE/SOILED MATERIAL
268	C.R.KENDALL	A	122	FAILURE TO SUBMIT HYDRO REPORTS/CONDUCT WEEKLY EFFLUENT SAMPLING/COMPLY WITH EFFLUENT QUALITY LIMITS/ANALYZE EFFLUENT SAMPLES	S03/10/98	LATE REPORTS

5. Describe how the department has addressed the noncompliances listed above including the noncompliances that are pending:

Table 1 shows the abatement defined in the noncompliance. The table shows the 2 pending.

Montana Major Facility Siting Act, 75-20-101

1. Program description

The Major Facility Siting Program includes: (1) regulation of the siting, construction, and operation of large energy facilities such as generating plants, hydroelectric dams, electric transmission lines and pipelines; (2) performing as lead state agency on the relicensing of federal facilities; and (3) production and oversight of environmental documentation in support of permitting efforts under the Major Facility Siting Act and MEPA.

2. Describe the activities and efforts taking place to promote compliance and assistance

a. Washington Water Power (WWP) will be applying for a new license(s) from the Federal Energy Regulatory Commission (FERC) to continue to operate their hydropower facilities at Noxon Rapids and Cabinet Gorge dams. For hydroelectric facilities which fall under the Major Facility Siting Act, DEQ is required to file a state recommendation to the commission. The

report must be based on its study of the federal application and other material gained through intervention in the FERC relicensing process.

New FERC rules allow applicants to use a consensus-based process to design environmental baseline studies and formulate appropriate protection, enhancement and mitigation measures. Staffs from the Permitting and Compliance Division and the Planning, Prevention and Assistance Division have been actively involved in WWP's collaborative relicensing process for about two years, along with about 40 other interested landowners and environmental groups, state and federal agencies, and Indian tribes. It is hoped that these discussions will result in a settlement agreement and early implementation of mitigation and enhancement measures. The settlement agreement would become part of the application submitted to FERC by WWP.

b. The Major Facility Siting Act (MFSA) Certificate of Public Need and Environmental Compatibility for Colstrip Units 3 and 4 require that Montana Power Company submit annual monitoring reports regarding leakage from the "closed loop" ash disposal system. Staff members review results of the monitoring reports and MPC's proposed cleanup measures for leaks and spills, and suggest alternative and additional cleanup and prevention measures. Over the years this has involved replacement of an aging pipeline system used to move slurry from the power plants to the ash disposal facility; decommissioning of leaking brine ponds; rehabilitation of failing brine leakage interception systems; and addition of alarm and backup pump and interception systems to collect leakage from ash processing and disposal ponds. We have facilitated electronic submission of monitoring data rather than voluminous paper reports and are now working with MPC to identify application material necessary to apply for an amendment to their certificate to allow marketing of ash and ash byproducts.

c. Express Pipeline was certified by the Board of Environmental Review in 1996. The greater than 300-mile project in Montana was constructed that fall. Final cleanups took place in 1997 with a few problematic areas of inadequate revegetation being readdressed during the spring and fall of 1998. DEQ participated in orientation of contractors prior to the beginning of construction to inform them of the requirements of the certificate. We are now monitoring the project to see that areas disturbed during construction are adequately reclaimed. During construction Express Pipeline employed their own environmental inspectors and construction activities were checked (often jointly) by Express Pipeline inspectors as well as those on a contract to DEQ.

3. Regulated community

The regulated community consists of owners of large facilities covered by MFSA. The following table indicates the facilities operating under certificates, or in the case of federally-owned projects, those which have been found to be in substantive compliance with MFSA.

Table 28. Facilities operating under a MFSA certificate (or authorization for federally-owned facilities)

Project	Owner	operating in compliance with the certificate?
Colstrip units 3 and 4	MPC and others	no
Express Pipeline	Express Pipeline	no
Laurel to Bridger B line	MPC	no
Laurel to Bridger A line	MPC	yes
Central Montana transmission line	MPC	yes
Conrad to Shelby transmission line	WAPA	yes
Great Falls to Shelby transmission line	WAPA	yes
Fort Peck to Wolf Point transmission line	WAPA	yes
Fort Peck to Havre transmission line	WAPA	yes
Colstrip to Broadview A and B transmission lines	MPC	yes
Broadview to Townsend A and B transmission lines	MPC	yes
Townsend to Garrison transmission line	BPA	yes
Garrison to Taft transmission line	BPA	yes
Clyde Park to Dillon transmission projects	MPC	yes
Missoula to Hamilton transmission line	MPC	yes

4. Number, description, method of discovery, and significance of noncompliances, including those that are pending

See number 3 for the number of noncompliances. Noncompliances are found through onsite inspections, review of required monitoring reports, response to spills reported on the spill hotline or through citizen reports.

Description of violation:

Colstrip Units 3 and 4. The certificate requires that the facilities be operated as a closed-loop system so that there would be no leakage from the wet process ash disposal system.

Groundwater monitoring or spills reported to DEQ indicated where the facilities are not operated as a closed-loop system. The environment (groundwater) is being adversely affected by the release of water with elevated Total Dissolved Solids.

Express Pipeline. Express Pipeline may be violating noise standards set by DEQ at the Edgar Pump Station. Express Pipeline is in the process of responding to a notice of violation. Although the level of sound produced by the pumps is not much above the standard set, the pumps are operating below current installed capacity and Express Pipeline has plans to install additional pumps in the future.

Express Pipeline also is not in complete compliance with revegetation standards that require 30% ground cover of perennial non-weedy species within one growing season after completion of construction. In some areas (about 25% of the rangeland and Conservation Reserve Program land crossed) they have attained more than 90% ground cover which is not required until after year five. We are now in year one or two following reseeding which occurred at the end of construction. Express Pipeline is being conscientious in addressing this concern.

Laurel to Bridger transmission line. A relatively small area at the southern end of the line has not attained the required 90% ground cover of perennial species. Cheat grass has taken over the small disturbed areas where crane landings had been built. We requested that the area be reseeded and MPC obliged. However, the landowner is using sheep and goats to heavily graze the pasture in an effort to control a serious existing leafy spurge problem. Between the highly constrained site conditions (clayey soils on a south aspect) and livestock use, the reseeding efforts have been unsuccessful.

Remediation Division

Technical Services Bureau

Underground Storage Tank Act, 75-11-501

Underground Storage Tank Installer, Licensing and Permitting Act, 75-11-201

1. Program description

The Technical Services Bureau (TSB) is responsible for managing the leak prevention program for underground storage of petroleum and other hazardous substances. Underground storage tank (UST) owners and operators are required to obtain permits from DEQ for any work on their UST system. DEQ licenses UST contractors and inspectors. DEQ conducts inspections of UST facilities to determine if the USTs are in compliance with UST management and operation regulations, and as needed to verify that permitted work is conducted according to the regulations to prevent releases of hazardous substances.

The TSB routinely conducts public outreach and educational activities, compliance reviews and permitting of UST work. All USTs in the state must meet certain design criteria by December 22, 1998. Therefore, the program has been extremely busy the last two years assisting owners

with understanding the upgrade requirements, obtaining permits, compliance reviews for eligibility for cleanup funds, and general UST management and operation questions.

Most violations are identified during inspection activities. Routine follow-up to inspections includes a letter to the UST owner explaining the violations and requiring correction within a specified period of time. Failure to respond could jeopardize eligibility for cleanup funds and lead to an enforcement action. DEQ adopted administrative penalties in June 1998 to help speed up enforcement and encourage compliance. The TSB also developed a strategy to encourage compliance with the 1998 UST upgrade requirements.

2. Activities and efforts to promote compliance and assistance

The TSB spends a considerable amount of time promoting compliance and providing assistance to UST owners and operators. In the fall of 1997, owners and operators were sent a self-inspection checklist to evaluate compliance with UST regulations. This checklist promoted compliance and generated numerous assistance calls and educational/inspection requests. Seventeen workshops were conducted throughout the state in FY98 to explain UST regulations and the 1998 upgrade requirements. Each attendee received a comprehensive owner/operator manual prepared by the TSB. The manuals are also being distributed during state inspections and by local inspectors.

The TSB also obtained an EPA grant to survey UST owners on their plans to upgrade to meet the 1998 deadline. This survey led to numerous requests for compliance assistance. TSB responded to these requests and assisted the UST owners with compliance issues.

Additional assistance was provided to UST owners through presentations at numerous conferences and meetings, including Montana Petroleum Marketers Association, Montana Environmental Health Association, Montana Association of Counties, League of Cities and Towns, Williston Basin Corrosion Engineers, Environmental Consultants Day, Realtors, Banking and Funding Associations.

Three UST contractor refresher courses were conducted by DEQ in FY98. DEQ also organized two corrosion courses to provide continuing education for corrosion protection testers.

A newsletter was prepared for circulation to UST owners and operators in the summer of 1998. The TSB is planning public service announcements to begin in early FY99.

3. Regulated community and compliance status

The regulated community for the Underground Storage Tank Leak Prevention Program includes owners and operators of underground storage tank systems. As of January 1, 1998, the number of UST facilities regulated stood at 2,147, 976 of which were gas stations selling gasoline to the general public. As of August 1, 1998, this number had been reduced to 2,093 facilities (961 gas stations), with most closures being attributed to efforts to comply with the EPA and Montana requirements that USTs must be upgraded to meet certain design standards or closed prior to

December 22, 1998. Based on surveys of the regulated community, an additional 500 to 800 facilities (150 to 300 gas stations) will close during 1998 in order to comply with the EPA and Montana requirements.

The MT UST/LUST Performance Measures Report (Appendix A) describes the status of the 4,719 federally regulated UST systems. The state also regulates underground piping systems attached to above ground storage tanks and heating oil tanks (except small residential tanks), neither of which are federally regulated. Therefore, the state-regulated active UST systems actually number 5,347.

The Performance Measures Report indicates that approximately 67% of the UST systems are equipped to meet release detection requirements. The percentage may actually be higher than indicated because these numbers are based on owner and operator notifications. The TSB is in the process of checking each facility record, including all previous inspections, to update this information as necessary.

The report also indicates that approximately 53% of the UST systems are upgraded to meet the 1998 design standards. Approximately 850 permits to install, modify or close UST systems were issued during FY98; an equal number is expected to be issued during FY99. Through completion of these permitted activities, a significant portion of the remaining UST systems will be brought into compliance before the upgrade deadline. The remaining UST systems will be placed into temporary closure, abandoned, or will be kept in operation illegally. Enforcement efforts will be concentrated on those noncompliant systems which continue in operation .

4. Noncompliance table and history

The attached table of UST Compliance Inspections (Appendix A) indicates the number of inspections conducted, the violations identified, and the actions taken to correct the violations. This compliance information was compiled using a new compliance database provided by EPA that was not in use prior to January 1, 1998. Of the 279 actions which took place during the reported period, 101 have been resolved.

The TSB has also sent six warning letters and notices of noncompliance to licensed UST installers that have not conducted UST installations or removals in accordance with the regulations.

A compliance history from September 1997 through July 1998 relating to the 1998 upgrade requirements is included in the MT UST/LUST Performance Measures Report, in a table labeled Montana Performance Measures Over Time (Appendix A). During that period, the number of UST systems equipped to meet the requirements for leak prevention has increased from 2,121 to 3,301, and the number of UST systems equipped to meet the 1998 upgrade requirements has increased from 1,372 to 2,627.

Hazardous Waste Site Cleanup Bureau

Montana Underground Storage Tank Act, 75-11-501

1. Program description

The Petroleum Release Section (PRS) is comprised of the Leaking Underground Storage Tank (LUST) Trust Fund Program and the Petroleum Tank Release Compensation Fund (PTRCF). Technical staff implement corrective action required of the Montana Underground Storage Tank Act and ARM Title 17, Chapter 56, Sub-Chapter 6. It oversees, requires, and sometimes performs the investigation and cleanup of sites contaminated by releases of regulated substances from underground storage tanks.

2. The regulated community

The regulated community for UST Corrective Action includes any person who owns or operates an underground storage tank system, and who has been identified as having a suspected or confirmed release of a petroleum product or hazardous substance. The universe of UST owners and operators consists of federal, state and local governments, schools, hospitals, railroads, service stations, utilities, convenience stores, farms, and other industrial and commercial enterprises. A total of 3,308 releases have been identified since the inception of the program in 1988.

The regulated community can be sorted into various categories based on their compliance and ability to investigate and clean up petroleum releases:

- a. known owners/operators in compliance with requirements;
- b. known owners/operators financially unable to afford to have their release investigated and cleaned up. This group includes entities who cannot even afford the Petroleum Tank Release Cleanup Fund (PTRCF) co-payment or one-half of the first \$35,000 in costs;
- c. known owners/operators unwilling to conduct required investigation and cleanup;
- d. unknown source(s) of releases.

3. Philosophical approach to compliance

By the time a LUST has been identified, some level of pollution/contamination has already occurred. The PRS centers its efforts at obtaining compliance by identifying the environmental harm, and compelling corrective action to mitigate the risks to public health, safety and the environment.

The program utilizes an escalating enforcement strategy designed to use the least resource-intensive enforcement activities first in most instances. Initial efforts focus on informal

enforcement actions, such as warning letters, informal notices of violation, requests for additional information or corrective action plan submittal, staff field visits or follow-up telephone calls in order to achieve voluntary compliance. These efforts are initiated by the PRS case managers. Cases are referred to the Enforcement Division for more resource-intensive actions, such as formal Notices of Violation and Order, judicial actions, etc. only when a lower level of enforcement action fails to achieve the desired response.

The type of enforcement response selected depends on the seriousness of the violation and the potential threat it poses to human health and the environment. Also considered is the current operational status of the source of the release (operational vs non-operational), the owner's cooperation and financial ability to conduct the required release investigation and corrective action.

4. Compliance tools available and used

The program uses a number of informal "enforcement tools" to encourage UST owners and operators to comply with corrective action requirements. These informal enforcement tools include warning letters, personal meetings, informal notices of violations and the option of using the LUST Trust designation in cases of recalcitrance.

Staff first attempt to gain UST owners' voluntary compliance with the corrective action requirements of law. The program works closely with owners of leaking USTs to determine if they can qualify for partial remediation cost reimbursements through the PTRCF. If the tank owner is/was in compliance with the UST program laws and rules when the release was discovered, the Petro Tank Release Compensation Board is authorized to reimburse a portion of the eligible leak investigation, remediation and third-party damage costs up to \$1 million per release. The first \$35,000 in costs are split with the tank owner. In general, the PRS has not needed to take strong enforcement measures to achieve compliance with the corrective action requirements due to the availability of the Petro-Fund and the rules for access to the fund.

Once a release is reported to the program, its status is tracked on the program's database. The Montana UST Administrative Rules specify time periods and required actions for the investigation and corrective action phases of an UST release. If these time periods are exceeded, or if specific investigation or cleanup actions are not taken as required by DEQ, the violation becomes apparent on the database and to the project manager. The UST owner or operator is then contacted directly by the project manager to initiate follow-up action and enforcement action if necessary.

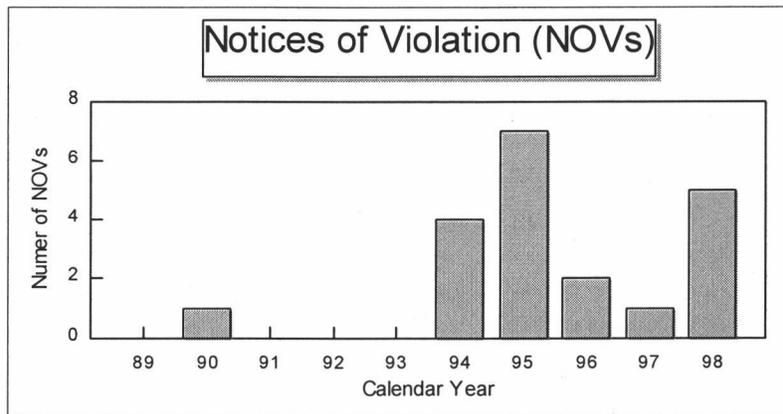
5. LUST Trust

In the event (1) a release that cannot be linked to a specific tank source, (2) an identified UST owner/operator cannot afford cleanup, or (3) an identified UST owner/operator refuses to conduct cleanup, the PRS may take unilateral state investigation and remediation action utilizing LUST Trust funds. These actions are funded 90% by a federal grant which is matched by 10% in state monies. State action is cost recoverable, plus up to twice the actual costs for damages,

against the responsible party(s) in accordance with the provisions of CECRA. The agency utilizes these provisions to encourage responsible parties to conduct their own investigations/remediations in accordance with program requirements. Legal enforcement against insolvent or bankrupted responsible parties is not practical, as the agency may exert considerable legal resources to pursue parties with no ability to pay for cleanup costs.

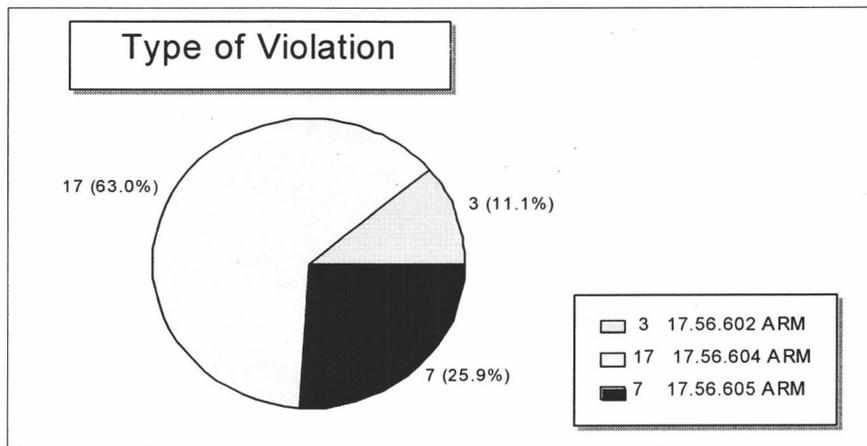
6. History of compliance

DEQ has issued a total of 20 notices of violation (NOVs) for 27 violations of corrective action provisions of the Underground Storage Tank Act since 1989.



These notices are categorized into three major violation types:

- a. failure to conduct initial response and abatement measures, 17.56.602 ARM;
- b. failure to conduct remedial investigation, 17.56.604 ARM; and
- c. failure to conduct remedial actions, 17.56.605 ARM.



As reflected by the above data, compliance has not been necessary at the majority of the 3,308 LUSTs in Montana. Notices of violation issued by the program were necessary at only 0.6% of the known releases. This overall compliance is credited to the availability of PTRCF funding, ability for the state to take unilateral corrective actions through the LUST Trust, and the collaborative approach taken by PRS case managers.

Mine Waste Cleanup Bureau

Comprehensive Environmental Cleanup and Responsibility Act, 75-10-705

1. Program description

Congress created the federal Superfund program in 1980 under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) to address the nation's most contaminated sites. In 1989, the Montana Legislature passed the Comprehensive Environmental Cleanup and Responsibility Act (CECRA) for investigation and cleanup of those sites not being addressed by the federal Superfund law.

The federal and state Superfund laws apply to sites where a release or a threatened release of a hazardous substance exists. In Montana, the majority of these releases have occurred at sites where mining, smelting, wood-treating, railroad fueling and maintenance, petroleum refining, landfilling, and chemical manufacturing/storage activities were conducted. Historic waste disposal activities at these sites caused contamination of the air; had caused or may cause public health impacts, such as contaminated drinking water; and ecological impacts, such as loss of fisheries.

2. Describe the activities and efforts taking place to promote compliance and assistance efforts

The following list includes several of the methods used to promote compliance. These have been divided into two subcategories: (1) Disincentives for Noncompliance, and (2) Incentive for Compliance. Staff believe the disincentives for noncompliance have a stronger effect than the incentives for compliance.

A. Disincentives for Noncompliance:

1. Noncompliance with terms of notice letters or orders can result in the entity being required to reimburse the state for its costs in conducting the required action plus two times the amount of the state's costs.
2. Statutory penalties available to the state include administrative penalties of \$1,000/day and civil penalties of \$10,000 day/violation. Willful violation of a CERCLA order at a federal Superfund site carries a penalty up to \$25,000 per day for each violation. In addition, orders typically have stipulated penalties for noncompliance with particular terms of the order, such as deadlines for documents required by the order.
3. Because the liability scheme under CECRA is explicitly strict, several and joint responsible parties initially focus resources on cleaning up sites rather than litigating over culpability/responsibility.

B. Incentives for Compliance:

1. Superfund technical and legal staff provide meeting opportunities and written comments to assist responsible parties in understanding requirements. Orders require DEQ or EPA approval of key elements of planned cleanup action by responsible parties.
2. A “no further action” letter is available to entities successfully conducting DEQ-approved voluntary remedial actions in compliance with the new Voluntary Cleanup and Redevelopment Act.
3. Both Superfund programs have general guidance on remedial investigations/feasibility studies and risk assessments that assist responsible parties in conducting these activities.
4. Parties that clean up facilities in compliance with terms of Superfund laws and orders have a legal right of contribution against other responsible parties for an equitable share of the costs.
5. Compliance with Superfund laws and orders allows a responsible party contribution protection from other responsible parties that did not settle with the state.
6. Educational Efforts:
 - a. Superfund staff give formal presentations at meetings, conferences, annual meetings, and workshops to explain the requirements of Superfund.
 - b. Public meetings and comment periods are advertised and held frequently throughout the Superfund investigation and cleanup process.
 - c. Testimony is provided at legislative committee hearings.
 - d. News releases and articles for the news media are prepared, released and distributed for public information purposes.
 - e. Fact sheets are provided for large sites undergoing multi-year remedial actions at critical phases in the Superfund process, such as completion of remedial investigation, feasibility study, risk assessment, or proposed plan.
 - f. A database is maintained to provide general information on all facilities.
 - g. Every two years, a Superfund Basics booklet is produced to explain the Superfund process and to summarize progress on specific sites.

3. Size and description of the regulated community and the estimated portion of that community that may be in compliance

Under CECRA and CERCLA, the following entities can be responsible parties at sites where hazardous substances have been released:

- current owners or operators (unless certain defenses apply);
- those who owned or operated the property at the time of disposal of the hazardous substance;
- those who arranged for the disposal of the hazardous substance on the property; or
- those who transported the hazardous substances to the property for disposal.

Therefore the categories of responsible parties under CECRA and CERCLA are based on the relationship of the party to the property which poses the threat.

Of the eight (8) federal Superfund sites, five (5) are mining and three (3) are wood-treating sites. There are approximately 300 state Superfund sites to be addressed by the CECRA Program.

The following is a breakdown of the types of sites that comprise the regulated community: 10% miscellaneous chemical/hazardous waste (plating, battery, spills, etc.), 12% mining/smelting, 11% wood treating, 10% railroad, 10% landfills/dump, 9% old refineries, 7% pesticide sites, 6% miscellaneous petroleum sites, 5% drum/barrel sites, and 15% other (outdoor asbestos, solvent, radioactive wastes).

4. Number, description, method of discovery, and significance of noncompliances, including those that are pending

Traditional violations aren't applicable to the Superfund programs because the problems are usually historic. Sites are "discovered" in a variety of ways including reports from the public and other government agencies. Sometimes they are uncovered by other regulatory programs as they go about their regular inspection functions.

The significance of the individual sites addressed under the federal program is determined by the US EPA. All NPL sites in Montana are currently being addressed. Sites under the state program are grouped as high, medium or low, and are addressed accordingly.

5. Describe how the department has addressed the noncompliances listed above and include the noncompliances that are pending

The Superfund programs don't operate in the traditional regulatory manner in that there are no permits issued or compliance inspections performed that would result in issuance of NOVs, etc. Rather, the responsible parties are usually given orders by DEQ to perform certain things. If the responsible party doesn't comply with the orders, DEQ can go to court to have the orders enforced.

6. Quantitative trend information

The DEQ has historic information up to July 1, 1993. Since that time personnel have not been available to track and compile this type of information. It is anticipated that the Remediation Division will hire a person whose duties will include managing a database that will have enforcement-related information.

Section 3. Enforcement Division

1. Citizen complaints and spill reports

All citizen complaints and spill reports received by DEQ are routed to the Enforcement Division complaints clearinghouse for processing. The clearinghouse was established to ensure that all citizen complaints are recorded and addressed in a timely manner and to eliminate duplicate investigation of citizen complaints.

Complaints are investigated to determine if a statute or rule administered by DEQ has been violated. Enforcement Division staff attempt to resolve and close all minor complaints. If a documented violation is related to a permitted facility or an activity that requires a permit, it is referred to the DEQ Permitting and Compliance Division. If the violation constitutes a major cleanup effort, it is referred to the DEQ Remediation Division. Complaints that are under the jurisdiction of another agency, such as the Department of Fish, Wildlife and Parks or a county health department, are referred to the appropriate agency. Complaints are considered closed if the matter has been resolved, if it was determined that no violation occurred, or if the information provided was not adequate to investigate.

A summary of the type of complaint and spill reports for the FY97-98 reporting period and the current status of these complaints is presented below. During the reporting period, 1,947 complaints and spill reports were received. The majority of the complaints were associated with reports of water quality problems. Complaints about air quality and dust were also numerous during the spring of 1998 due to an inversion which trapped particulates in the air. It currently takes an average of 50 days to close a complaint.

Table 29. Number of Complaint/Spill Reports by Type - FY97 and FY98

Spills	490	Opencut Mining	13
Air Quality	335	Coal/Uranium Mines	2
Asbestos	18	Metal Mines	15
Surface Water (MPDES) Permits	103	Abandoned Mines	1
Non-Point Source Discharges	97	Junk Vehicles	16
Groundwater (MGWPCS) Permits	19	Solid Waste	121
Hazardous Waste	98	Septic Pumpers	3
Waste Oil	7	Subdivisions	29
Pesticides	2	Underground Storage Tanks (UST)	38*
Municipal Waste Water Treatment Systems	14	Superfund	0
Sewage	21	Water Quality	330
Public Water Supply Systems	59	Other (Outside DEQ Authority)	116
			1,947

*Note that these are UST complaints only. The Hazardous Waste Site Cleanup Bureau also recorded UST leak reports during this reporting period.

Table 30. Status of Complaint/Spill Reports - FY97 and FY98

Active under investigation by Enforcement Division (ENFD)	120
Active Referred (to other DEQ programs for investigation and follow up)	163
Active Enforcement Case (complaints that lead to enforcement action)	36
Closed (resolved by ENFD)	645
Closed No Violation (ENFD investigation determined no violation occurred)	244
Closed by Program (resolved by other DEQ programs)	434
Closed Referred (referred to outside agency for resolution)	246
Closed Not Enough Information (not enough information was provided to investigate)	59
1,947	

2. Enforcement cases

DEQ staff provide technical assistance to the regulated community to help maintain compliance. Enforcement actions occur when assistance fails to obtain compliance, when a violator is recalcitrant, or when the violation poses an imminent threat to human health or the environment. Enforcement cases are initiated when an enforcement request form is completed and submitted to the Enforcement Division. The following table summarizes the enforcement case information for the reporting period.

Table 31. Analysis of Enforcement Actions by Action Type - FY97 and FY98

Statute	Case Load	Enforcement Action Type		
		Administrative	Civil	Criminal
Air Quality Act	18	10	8	0
Asbestos Control Act	8	1	7	0
Strip and Underground Mine Reclamation Act	17	17	0	0
Hazardous Waste Act	7	5	2	0
Metal Mine Reclamation Act	11	11	0	0
Motor Vehicle Recycling and Disposal Act	7	1	6	0
Opencut Mining Act	25	25	0	0
Public Water Supply Act	41	37	4	0
Solid Waste Act	3	2	1	0
Underground Storage Tank Act	2	1	1	0
Water Quality Act	27	22	4	1 ¹
Total	166	132	33	1

¹This continuing criminal action was initiated in 1997 by a county attorney upon the request of DEQ.

The majority of enforcement actions issued by DEQ are administrative actions as shown in Table 31. DEQ's approach to enforcement is to take action before a violation becomes severe by issuing administrative penalty orders with small penalties. However, DEQ also assesses large penalties through civil actions against major violators who cause significant violations. The most active administrative enforcement area has been under the Montana Public Water Supply Law with 37 administrative orders or administrative penalty orders issued to public water suppliers. Other active areas include enforcement under the Opencut Mining Act with 25 orders and the Strip and Underground Mine Reclamation Act with 25 orders. Most of these orders also

assessed an administrative penalty. The fact that written administrative penalty regulations are in place for these programs aids in the efficient processing of administrative penalty orders. Enforcement under the Air Quality Act was also active with 10 administrative cases and 8 civil cases. Civil actions were necessary because many of the violators were classified as major facilities and because the proposed penalties exceeded the administrative penalty cap of \$80,000 specified in the Clean Air Act of Montana.

Table 32 shows that 146 new cases were initiated during FY97, 52 cases were settled and closed, and 74 violators are still under enforceable orders with compliance requirements. A summary of penalty information is presented in Table 33. Over 1.1 million dollars in penalties have been assessed by DEQ enforcement actions. However, only \$329,606 has been collected. The reason that not all of the assessed penalties have been collected are that some were assessed in FY98 and are not due until FY99 and are therefore not included in the total for the period covered by this report. Also, some penalty orders are still being negotiated, others have been appealed, and several have been default judgments awarded by the court against violators who are likely unable to pay the penalty. Increased enforcement in the areas of water quality and underground storage tank is expected in the future. Administrative penalty regulations were promulgated in 1998 that will provide DEQ with increased flexibility to issue administrative penalty orders.

Table 32. Status of Enforcement Actions by Statute - FY97 and FY98

Statute	Case Load (FY97 FY98)	Origin of cases		Case Development ¹	In Litigation ²	Under Order ³	Closed ⁴
		Cases continuing from prior years	Actions requested during FY97 & FY98				
Air Quality Act	18	1	17	2	5	4	7
Asbestos Control Act	8	0	8	1	6	0	1
Strip and Underground Mine Reclamation Act	17	0	17	2	1	13	1
Hazardous Waste Act	7	1	6	3	1	1	2
Metal Mine Reclamation Act	11	1	10	0	0	5	6
Motor Vehicle Recycling and Disposal Act	7	1	6	1	2	4	0
Opencut Mining Act	25	1	24	3	0	6	16
Public Water Supply Act	41	11	30	1	1	28	11
Solid Waste Act	3	0	3	0	1	1	1
Underground Storage Tank Act	2	0	2	0	0	2	0
Water Quality Act	27	4	23	9	1	10	7
Total	166	20	146	22	18	74	52

¹**Case Development.** Case is being developed in the Enforcement Division and/or Legal Unit. Some of the activities occurring include (1) preparation and review of files and evidence, (2) preparation of administrative and judicial enforcement documents, and (3) preparation of penalty calculations.

²**In Litigation.** Defendant and DEQ are engaged in pre-complaint settlement negotiations; e.g. a demand letter has been sent to the defendant, the defendant has been requested to stipulate to a draft administrative order, etc.

³**Under Order.** Violator is subject to a legally-enforceable administrative or judicial order.

⁴**Closed enforcement case.** Case is closed. The defendant has satisfied the terms of the settlement agreement or Order.

Table 33. Amount of Penalties Assessed (in dollars) - FY97 and FY98

Statute	Orders with Penalties	Penalties Assessed	Penalties Suspended	Penalties Collected	Bond Forfeitures	Supplemental Environmental Projects
Asbestos Control Act	2	\$20,852				
Air Quality Act	10	\$376,827		\$245,189		\$66,342
Strip and Underground Mine Reclamation Act	13	\$386,280		\$880	\$428,500	
Opencut Mining Act	15	\$8,550		\$8,050		
Public Water Supply Act	22	\$49,351	\$2,970	\$26,537		
Motor Vehicle Recycling and Disposal Act	2	\$205,900				

Statute	Orders with Penalties	Penalties Assessed	Penalties Suspended	Penalties Collected	Bond Forfeitures	Supplemental Environmental Projects
Hazardous Waste Management Act	2	\$19,900				
Metal Mining Reclamation Act	7	\$13,050		\$13,050	\$2,025	
Solid Waste Management Act	1	\$23,250		\$23,250		
Water Quality Act	1	\$25,300		\$12,650		
Total	74	\$1,129,260	\$2,970	\$329,606	\$430,525	\$66,342

Section 4. Response to HJR10 Compliance and Enforcement Study: General Follow-up Questions

A. Enforcement Policies

1. *Does your agency have a written compliance and enforcement policy and procedures manual for each program reviewed today? Please describe (including any specific components related to information, technical assistance, incentives, penalties, etc.).*

The DEQ Director adopted the former Department of Health and Environmental Sciences, Water Quality Division Compliance and Enforcement Manual in October 1995. Although this manual was intended for the water programs, DEQ enforcement activities generally follow the procedures described in this manual. Forms contained in the DHES manual, such as complaint report forms and enforcement request forms, have been consolidated, refined and updated for use in DEQ. Use of the process to numerically rank cases for enforcement that was prescribed in the old manual has been discontinued. Since the hiring of bureau chiefs in January 1997, department management has been working to identify the consistencies and inconsistencies in the variety of enforcement authorities administered by DEQ. Model enforcement procedures with standardized terminology and steps have been developed and DEQ staff were trained on the model procedures in the fall of 1997.

Work on a final DEQ enforcement procedures manual has been delayed pending the negotiation of a consolidated cooperative enforcement agreement with EPA. Instead of five individual enforcement agreements for the delegated programs (air, drinking water, public water, hazardous waste, and underground storage tanks), DEQ drafted one consolidated agreement. The draft agreement was submitted to EPA in August 1998 for review. A final DEQ enforcement manual that incorporates the terminology and procedures in the draft enforcement agreement is nearly ready for internal review and approval. Also, DEQ anticipates development of legislation for the 1999 Legislative Session that will standardize enforcement authorities and procedures for over 15 different environmental laws.

Penalty calculations are conducted using a variety of methods depending upon the statutory authority. Several statutes, with administrative penalty and rule-making authority, have rules in place to describe how penalties are calculated. EPA penalty policies are followed for civil cases under the EPA-delegated programs. Appendix B lists the existing penalty rules and policies used by DEQ.

B. Use and Balance of Enforcement Tools

1. *Please describe how your program balances "compliance assistance" efforts with traditional enforcement activities (if any). Does your funding scheme adequately support this balance? Are you making any efforts to shift this balance (e.g., working to implement BMPs where there were none before, etc.)?*

Regulatory programs in DEQ attempt to work with the regulated community to maintain compliance. This compliance assistance is provided through field investigations, instructional materials and correspondence. If a violation poses a significant threat to human health or the environment or if the violator is recalcitrant, an enforcement action is typically initiated to force the violator to comply. Opportunities to "balance" assistance with enforcement are limited as programs strive to meet the statutory mandates to implement regulatory controls.

Compliance assistance in most programs is generally adequately funded for the current scope. The exception to this is DEQ's request for three additional compliance specialists: one in the Water Protection Bureau and two in the Air and Waste Management Bureau. Compliance assistance would also be improved by supplementing the asbestos control staff with one additional FTE, as this program has grown. These FTEs have been requested in DEQ's budget package to the 1999 Legislature.

Additional BMPs are not being developed in the regulatory programs because the types of requirements that might be identified as BMPs are already either developed and adopted or incorporated into existing regulatory requirements.

2. *Does your program have written assistance and outreach goals? How do you integrate participation of the regulated community in program and rule development?*

The Permitting and Compliance Division does not have written outreach goals beyond what is required under the statutes being implemented and what is defined in our performance goals under federal grants. These activities typically include training and seminar opportunities, and regularly scheduled meetings with advisory councils and local government representatives.

C. Record-Keeping/Measuring Success/Legislative Oversight

1. *If you have not already done so, please describe and/or demonstrate how your programs keep records of compliance and enforcement activities. Do you provide annual summaries of these records? How are these records made available to the public?*

Each regulatory program is required to track violations and the individual response to those violations. EPA-delegated programs use national databases to track permit compliance information. Information on citizen complaints, spills, and enforcement activities are recorded in DEQ's Enforcement Compliance Information System (ECIS). This enforcement information is summarized and reported to the public via press releases and the DEQ home page every six months. Information on the DEQ response to noncompliances is reported to the public and the legislature via the biennial report required in §75-1-314, MCA. DEQ file information is always open for public review.

2. *In your opinion, what information (i.e., "indicators") might be best to judge the effectiveness or success of each of your compliance/enforcement programs, in relation to the relevant statutory goals? How might such information be collected, maintained, and reported? Is such information currently being collected? If not, what would it take to collect it?*

Although it is difficult to quantify the effectiveness of compliance/enforcement programs, assistance efforts that are specifically directed toward a regulatory requirement can be evaluated. For example, DEQ is reaching out to buried fuel tank owners through letters and informational meetings to inform them of the December 1998 upgrade deadline. If the majority of tanks are brought into compliance within the prescribed time frame, this assistance effort will have been a success. Similar assistance efforts are targeted toward dry cleaners and auto body shops that may generate small quantities of hazardous waste.

Other than tracking information on noncompliance and enforcement statistics, other specific indicator information is not collected or recorded. An organized, funded effort would be required to collect and manage data on indicators. DEQ is currently evaluating its fundamental information technology capabilities and needs. Development of a centralized DEQ database, which includes basic permittee data, may be an outcome of this evaluation. It is likely that compliance indicator information could be included in the database. Possible compliance indicators might include looking at the number of inspections vs the number of violations or the number of violations per number of facilities. Changes in the number of significant noncompliances that occur would be an indicator of the level of compliance. The number of enforcement actions and penalty amounts could also be an indicator.

D. Seriousness (Risk) of Violation

1. *Is there an emphasis in your programs and policies on preventing and correcting violations that pose the greatest risk to human health and the environment? If so, please describe how this is emphasized.*

One of DEQ's guiding principles states that "We recognize that most environmental regulations and standards are intended to protect the public health by preventing serious injury or illness." Whenever an existing or potential violation is discovered, DEQ staff automatically judge the risks to public health and safety. Violations that pose a threat to public health have a higher priority and are addressed more immediately than threats to the environment. Several programs use technical review criteria or enforcement response criteria to classify the significance of the

violation. A violation that poses a greater risk to human health or the environment usually constitutes a more significant violation. For example, in the MPDES permit program the threshold for significance for exceeding a permit effluent limit is lower for toxic parameters than for a conventional parameter. Also, under several statutes DEQ has the authority to immediately issue an order or assess a penalty if there is an imminent threat to human health or the environment.

E. Staffing/Resources/Contracting

1 When issuing contracts, does your agency retain in-house all regulatory decision-making and quality control functions? Do contract stipulations protect against conflict of interest?

DEQ contracts do not delegate regulatory decision-making and quality control.

2 Please comment as to whether you feel funding is sufficient to carry out your programs' statutory obligations.

Additional funding is needed in the areas of staffing for present level workloads in various air and water programs including subdivisions, as reflected in DEQ's budget requests. Secondly, funding increases are needed to provide for effective maintenance and upgrading of program databases that support the effective implementation of statutes. These, too, have been included in DEQ's budget requests.

3 Do any of your programs suffer from inability to retain staff? How has or will these problems be addressed?

Staff retention is always of concern. However, if all DEQ staff stayed with the agency an average of six years, there would still be an average of one turnover a week. Ability to retain staff is dependent on many factors, including rate of program change, salaries, longevity, and stress levels related to workload and the nature of regulatory work. Most of these factors hinge on legislative actions through time and there is little DEQ can do to address these problems. Department experience is that smaller programs are periodically subject to high rates of change when one or more of these factors impact a program concurrently. These programs then experience a period of stability before such a change again occurs.

Actions DEQ can and does take include regular review of position classification to ensure compensation is appropriate for duties that may change or accrue with a position over time, submission of budget requests for additional resources, and development of clear and consistent rule guidance. In addition, we are in the process of trying to ensure each program has adequate operating guidelines to ensure consistent application of program standards so that disruption is minimized as turnover occurs.

F. Primacy

(This topic is being addressed in separate EQC efforts.)

G. Further Recommendations

1. *How is your agency improving coordination with local jurisdictions regarding delegated or overlapping regulatory functions?*

DEQ coordinates with multiple federal, state, and local agencies in its response to citizen complaints. The new DEQ complaint clearinghouse has centralized and streamlined communication between these entities. In addition, complaint management staff communicate directly with outside agency personnel to better coordinate investigations of alleged violations. Implementation of the DEQ complaint clearinghouse has minimized duplication by establishing one central DEQ point of contact for response to reported violations.

To maintain and improve coordination with local government, DEQ publishes newsletters such as the Subdivisions Newsletter. Advisory councils, work groups, and task forces further facilitate the process of coordination as these groups work to develop solutions to common problems.

2. *How quickly does your agency respond to citizen complaints regarding how those complaints have been resolved?*

All citizen complaints and spill reports are immediately entered into the Enforcement Compliance Information System. ENFD staff investigate the allegations and often conduct field investigations to determine if a violation of a law or rule administered by DEQ has occurred. If no violation has occurred or if adequate information cannot be obtained, the complaint is closed. If the alleged violation is under the jurisdiction of an outside agency, the violation is formally referred to that agency. If a violation of a law or rule administered by DEQ is validated, the violation is referred to the appropriate DEQ bureau for follow up. Follow up usually includes requiring the violator to obtain a permit or to conduct cleanup. ENFD will close the complaint when it has received verification from the regulatory bureau or the outside agency that the compliant has been resolved. Currently, it takes an average of 50 days to close a complaint.

3. *Is all statutory-required rule-making complete for the programs included in this review?*

Not all required rule-making is complete and rule-making is an ongoing process. DEQ developed a flow chart to organize and guide the rule development process and prioritize the agency's rule-making needs. The priorities were established on the basis of factors which include but are not limited to impact and scope, public comment, and significance of the problem being resolved by the new rule-making. Rules mandated by statute which have not been promulgated are not complete because the total number of required changes dictate that DEQ prioritize its rule writing. In addition, DEQ has made an effort to streamline the rule writing effort by incorporating non-statutorily driven changes to the extent practical.

Rule-making is not complete for megalandfills. This is a very low priority given the current lack of interest in any party to permit a megalandfill. Infectious waste rules are also not complete. However, they are in the process of going through a final legal review prior to publishing.

4. *What does your agency have to recognize environmental protection efforts, including public/private cooperative efforts?*

The DEQ's Pollution Prevention Bureau participates in three partnerships that recognize the environmental achievements of businesses. Bureau staff meet with representatives from the U.S. Small Business Administration (SBA) and the Montana State University Pollution Prevention (MSU P2) Program each year to nominate candidates for and select a winner of the Excellence in Environmental Achievement Award for Small Business, which is awarded by the Governor at the SBA's annual Small Business Dinner.

The MSU P2 Program recognizes environmental achievements by small businesses through its EcoStar Program. The EcoStar Program evaluates the environmental achievements of small businesses and recognizes those that meet a set of criteria with a press release, certification and window displays. DEQ's Pollution Prevention Bureau participates in nominating candidates for this program and in selecting its recipients.

The Pollution Prevention Bureau is currently developing a Helena Area Smart Business Directory with a group of citizens and business people. The directory will feature businesses that practice pollution prevention, energy efficiency and conservation, and will be distributed throughout the community as information for consumers.

5. *Has DEQ developed Ombudsman-like programs for pollution prevention media other than air quality?*

Yes and no. The Small Business Ombudsman and Small Business Assistance Program (SBAP) functions were placed in the DEQ's Pollution Prevention Bureau during DEQ's reorganization. This has helped the SBAP provide information about waste management and water quality issues to small businesses by linking them with the appropriate personnel in the Pollution Prevention Bureau and the rest of DEQ. However, the bureau has not yet secured the resources necessary to offer Ombudsman-like services for media other than air quality. However, this is a priority that the SBAP and the bureau intend to pursue.

Appendix A

MT UST/LUST Performance Measures

Friday, July 31, 1998

Federally Regulated Systems:

Number of Active & Temporarily Closed Petroleum UST Systems:	4,719
Number of Permanently Closed Petroleum UST Systems*:	10,860
Total Number of Petroleum UST Systems*:	15,579
Total Number of Hazardous Substance UST Systems (active & closed)*:	88

Release Detection:

Total Number of UST Systems "Currently in Use" or "Temporarily Out of Use":	4,926
<small>(NOTE: Total includes tanks with unspecified contents, as well as petroleum and hazardous substances.)</small>	
Number of UST Systems Equipped to Meet Leak Detection Requirements*:	3,301 (67.0%)

Breakout of LD Used		
	Tanks	Pipereg
Manual Tank Gauging:	250 (5.1%)	
Tank Tightness Testing:	1,437 (29.2%)	
Inventory Control:	1,557 (31.6%)	
Automatic Tank Gauging:	1,663 (33.8%)	
Vapor Monitoring:	380 (7.7%)	108 (2.9%)
Groundwater Monitoring:	79 (1.6%)	7 (0.2%)
SIR:	118 (2.4%)	105 (2.9%)
Interstit. Dbl-Wall Monitor:	493 (10.0%)	751 (21.5%)
Interstit. Sec. Con. Monitor:	16 (0.3%)	21 (0.6%)
Automatic Line Leak Detector:		1,793 (54.3%)
Line Tightness Testing:		1,523 (46.1%)
Other Methods:	56 (1.1%)	478 (14.5%)
Deferred:	0 (0.0%)	0 (0.0%)
Not Listed:	1,426 (28.9%)	1,724 (52.0%)

(NOTE: Sum of totals may exceed number of tank systems due to multiple methods in use for a single system. Above figures refer to all USTs listed as Federally regulated except those that have been permanently closed.)

* Federal reporting measures. Other information is calculated for the benefit of the implementing agency and need not be provided to EPA's Office of Underground Storage Tanks unless so desired.

MT UST/LUST Performance Measures

Friday, July 31, 1998

1998 Upgrade Requirements:

Number of UST Systems Equipped to Meet 1998 Requirements*: **2,627** (53.3%)

Breakout of 1998 Requirements		
Meet Overfill Requirements:	2,837	(57.6%)
Meet Spill Requirements:	2,878	(58.4%)
Meet Corrosion Protection Requirements:	2,912	(59.1%)
Meet All 1998 Requirements:	2,627	(53.3%)

Number of UST Systems Meeting LD & 1998 Requirements: **2,326** (47.2%)

(NOTE: Above figures refer to all USTs listed as Federally regulated except those that have been permanently closed.)

LUST Performance Measures:

Total Number of LUST Sites (active & closed): **3,317**

Release Information		
	Totals	Equipment Not Used
Number of Confirmed Releases*:	3,316	
Number of Cleanups Initiated*:	2,565 (77.4%)	14 (0.4%)
Number of Cleanups Completed*:	1,977 (59.8%)	0 (0.0%)
Emergency Responses*:	0	

Notes:

"Confirmed Releases" refers to the total number of known RPs involved at the various LUST sites plus any additional sites for which an RP has not been determined. This number will usually equal or exceed the total number of sites.

"Cleanups Initiated" is the number of Confirmed Releases for which cleanup has begun.

"Cleanups Completed" is the number of Cleanups Initiated for which site cleanup has been completed.

"Emergency Responses" is the total number of emergency actions taken at all LUST sites. Inasmuch as more than one emergency response is possible at a given site, this number may exceed the total number of LUST sites.

* Federal reporting measures. Other information is calculated for the benefit of the implementing agency and need not be provided to EPA's Office of Underground Storage Tanks unless so desired.

MT UST/LUST Performance Measures

Friday, July 31, 1998

Summary for July 1998

	Measure	Definition	Totals
UST	UST-1*	Total Number of Petroleum UST Systems Regulated under Subtitle I (active and closed)	15,579
	UST-2*	Number of Permanently Closed Petroleum UST Systems Regulated under Subtitle I	10,860
	UST-3*	Total Number of Hazardous Substance UST Systems (active and closed)	88
	UST-4*	Number of UST Systems Equipped to Meet the Requirements for Leak Detection	3,301
	UST-5*	Number of UST Systems Equipped to Meet the 1998 Requirements for Upgrading (do not include closed UST systems)	2,627
LUST	LUST-1*	Number of Confirmed Releases	3,316
	LUST-2a*	Number of Cleanups Initiated (RP lead and/or State lead with State money)	2,565
	LUST-2b*	Number of Cleanups Initiated (State lead with TF money)	14
	LUST-3a*	Number of Cleanups Completed (RP lead and/or State lead with State money)	1,977
	LUST-3b*	Number of Cleanups Completed (State lead with TF money)	0
	LUST-4*	Number of Emergency Responses	0

* Federal reporting measures. Other information is calculated for the benefit of the implementing agency and need not be provided to EPA's Office of Underground Storage Tanks unless so desired.

Montana Performance Measures Over Time

Friday, July 31, 1998

Date	UST-1	UST-2	UST-3	UST-4	UST-5	LUST-1	LUST-2a	LUST-2b	LUST-3a	LUST-3b	LUST-4
Sep 1997	15,441	10,242	78	2,121	1,372	3,038	2,344	14	1,801	0	0
Oct 1997	15,377	10,237	82	2,148	1,417	3,089	2,398	13	1,810	0	1
Nov 1997	15,376	10,357	82	2,170	1,471	3,111	2,419	13	1,827	0	1
Dec 1997	15,392	10,429	82	2,199	1,541	3,128	2,433	13	1,840	0	0
Jan 1998	15,409	10,525	82	2,414	1,834	3,161	2,456	13	1,864	0	0
Feb 1998	15,433	10,586	85	2,698	2,345	3,189	2,482	13	1,887	0	0
Mar 1998	15,442	10,526	82	3,030	2,403	3,208	2,489	13	1,917	0	0
Apr 1998	15,483	10,629	82	3,114	2,431	3,234	2,517	13	1,940	0	0
May 1998	15,521	10,644	83	3,186	2,476	3,259	2,536	13	1,949	0	0
Jun 1998	15,540	10,773	83	3,273	2,547	3,272	2,553	13	1,959	0	0
Jul 1998	15,579	10,860	88	3,301	2,627	3,316	2,565	14	1,977	0	0

Date	UST-1	UST-2	UST-3	UST-4	UST-5	LUST-1	LUST-2a	LUST-2b	LUST-3a	LUST-3b	LUST-4
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Key to Abbreviations

Measure	Definition
UST	
UST-1	Total Number of Petroleum UST Systems Regulated under Subtitle 1 (active and closed)
UST-2	Number of Permanently Closed Petroleum UST Systems Regulated under Subtitle 1
UST-3	Total Number of Hazardous Substance UST Systems (active and closed)
UST-4	Number of UST Systems Equipped to Meet the Requirements for Leak Detection
UST-5	Number of UST Systems Equipped to Meet the 1998 Requirements for Upgrading (do not include closed UST systems)

Measure	Definition
LUST	
LUST-1	Number of Confirmed Releases
LUST-2a	Number of Cleanups Initiated (RP lead and/or State lead with State money)
LUST-2b	Number of Cleanups Initiated (State lead with TF money)
LUST-3a	Number of Cleanups Completed (RP lead and/or State lead with State money)
LUST-3b	Number of Cleanups Completed (State lead with TF money)
LUST-4	Number of Emergency Responses

Year	Month	FacilityID	Facility Name	Detail	Action
1998	1	805930	Chouteau County Detention Facility	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	2	1507199	Ferndale Market	No Violations.	None
1998	2	5608710	Town Pump Inc (Laurel)	No Violations.	None
1998	2	706786	Terminal Standby Building	No Violations.	None
1998	2	710676	Great Falls International Airport Fuel Farm 1	No Violations.	None
1998	2	1507199	Ferndale Market	No Violations.	None
1998	2	1401228	Central Montana Medical Center	No Violations.	None
1998	2	700077	Bison Motor Company	No Violations.	None
1998	2	4313620	Tribal Express	No Violations.	None
1998	2	4302100	TJ's Quick Stop	No Violations.	None
1998	2	702111	A & C Motel	No Violations.	None
1998	2	4302102	Peavey Company	Violations--Minor or corrected at time of inspection (No follow	None
1998	2	2404144	Woodsbay Marina	Violations--Minor or corrected at time of inspection (No follow	None
1998	2	5604497	Town & Country Supply Association	Violations--Minor or corrected at time of inspection (No follow	Information Requested
1998	2	1401969	Country Corner	Violations--Minor of corrected at time of inspection (No follow	Notice of Non-Compliance.
1998	2	2303795	Geyser School	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	2	1413090	Farmers State Bank	Violations--Owner confirmation of correction needed.	Information Requested
1998	2	708108	Holman Aviation	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	2	1413011	Century Construction Co, Inc	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	2	1401756	City Complex	Violations--Owner confirmation of correction needed.	Follow-up inspection.
1998	2	4510228	Melnick's Local Store	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	2	1401939	Library/Community Center/Town Hall	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	2	5607986	Laurel Conoco Bulk	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	2	5608192	Top Hand Airsprayers	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	2	706785	Equipment Service Building	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	2	1405108	Rindal Oil Company	Violations--Owner confirmation of correction needed.	Information Requested
1998	2	1405108	Rindal Oil Company	Violations--Owner confirmation of correction needed.	Information Requested
1998	2	1408121	Torgerson Hangar	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	2	4512786	Hungerford's	Violations--Follow-up inspection needed.	Follow-up inspection.
1998	2	1407119	Darigold Of Lewistown	Violations--Follow-up inspection needed.	Follow-up inspection.
1998	2	1409853	On Your Way	DEQ inspection, compliance status unknown.	Information Requested
1998	2	5605083	Kwik Way #15	DEQ inspection, compliance status unknown.	Information Requested
1998	2	5606965	Conomart Superstore #3	DEQ inspection, compliance status unknown.	Information Requested
1998	2	5608161	Cenex Convenience Store	DEQ inspection, compliance status unknown.	Information Requested
1998	2	5613474	Northern Skies Aviation	DEQ inspection, compliance status unknown.	Information Requested
1998	2	5606966	Cono-Mart Superstore #2	DEQ inspection, compliance status unknown.	Information Requested
1998	2	1409408	GS Oil Inc	DEQ inspection, compliance status unknown.	Information Requested
1998	2	5601069	Laurel Servicer	DEQ inspection, compliance status unknown.	Information Requested
1998	2	5601069	Laurel Servicer	DEQ inspection, compliance status unknown.	Information Requested
1998	2	1401360	Central Montana Coop	DEQ inspection, compliance status unknown.	Information Requested
1998	2	5606968	Duanes Conoco	DEQ inspection, compliance status unknown.	Information Requested
1998	2	1406219	Linker Oil Company	DEQ inspection, compliance status unknown.	Information Requested
1998	3	5606325	Tiger Town	No Violations.	None

Year	Month	FacilityID	Facility Name	Detail	Action
1998	3	5605997	Interstate Brands Incorporated	No Violations.	None
1998	3	5605086	Kwik Way #12	No Violations.	None
1998	3	5602326	Farmers Union Oil Company	No Violations.	None
1998	3	2505774	Noon's #12	No Violations.	None
1998	3	2509772	Noon's #22	No Violations.	None
1998	3	5600062	5 Corners	No Violations.	None
1998	3	2304133	Michels Garage	No Violations.	None
1998	3	5604467	Ryder Student Transportation	No Violations.	None
1998	3	2503919	Noon's #439	No Violations.	None
1998	3	2503918	Noon's #438	Violations--Minor or corrected at time of inspection (no follow	None
1998	3	5606594	Blue Basket #3	Violations--Minor or corrected at time of inspection (no follow	None
1998	3	2303301	Kibbey Korner Truck Stop & Kafe	Violations--Minor or corrected at time of inspection (no follow	Follow-up inspection.
1998	3	5606949	Kautz Stop and Shop	Violations--Minor or corrected at time of inspection (no follow	None
1998	3	5604839	Stockton Oil Company	Violations--Owner confirmation of correction needed.	Follow-up inspection.
1998	3	5604839	Stockton Oil Company	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	5609746	Public Utilities Dept	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	5609746	Public Utilities Dept	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	2100040	Hill County Courthouse (Lawn)	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	3	1408711	Town Pump Inc (Lewistown)	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	5604955	Kwik Way #18	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	5608284	Energy 1 Stop	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	2305904	Hobson Public School	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	5606958	Conomart Superstore #6	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	2304071	MT Dept Transportation (Stanford Site)	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	2304071	MT Dept Transportation (Stanford Site)	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	1403118	Reese Tire & Fuel Center	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	2309838	Utica Trading Post	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	1404062	MT Dept Transportation (Lewistown)	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	1404062	MT Dept Transportation (Lewistown)	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	1404561	Newton Aviation	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	1407409	Dean Newton Olds-Cad-GMC	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	2312808	Benchmark Farmers Coop Assoc	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	2309341	Donald Stout	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	2302913	Glasco Lumber Co	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	5604839	Stockton Oil Company	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	5603095	Greyhound Bus Lines	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	1403335	Storfes Service (Partnership)	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	2303303	Stanford Key Stop	Violations--Owner confirmation of correction needed.	Information Requested
1998	3	5603732	The Longbranch Truckstop	Violations--Follow-up inspection needed.	Follow-up inspection.
1998	3	5606956	Don's Car Wash	Violations--Follow-up inspection needed.	Information Requested
1998	3	5604326	School Dist #24	Violations--Follow-up inspection needed.	Follow-up inspection.
1998	3	5606595	Blue Basket #1	LGU inspection, compliance status unknown.	None
1998	3	5600627	Express Way	LGU inspection, compliance status unknown.	None

Year	Month	FacilityID	Facility Name	Detail	Action
1998	3	5608208	Lockwood Cenex Truck Stop	LGU inspection, compliance status unknown.	None
1998	3	5800767	Town Pump Inc (Billings Holdings LLC)	LGU inspection, compliance status unknown.	Follow-up inspection.
1998	3	5808287	Shepherd Country Market	LGU inspection, compliance status unknown.	Follow-up inspection.
1998	3	5613669	Doline A Stanaway	DEQ inspection, compliance status unknown.	Information Requested
1998	4	4104455	Hamilton Aviation Inc	No Violations.	None
1998	4	4102402	Corvallis Food Town	No Violations.	None
1998	4	2404824	East of Ronan Middle School	No Violations.	None
1998	4	2404615	Coulter Automotive Inc	No Violations.	Follow-up inspection.
1998	4	2404615	Coulter Automotive Inc	No Violations.	None
1998	4	2404016	Yellow Bay Store	No Violations.	None
1998	4	4104848	Davison's Service Station	No Violations.	None
1998	4	2402867	Cherry Valley School	No Violations.	None
1998	4	4113686	Oles #15	No Violations.	None
1998	4	2404823	Pablo Elementary School	No Violations.	None
1998	4	2400507	U Of M Flathead Lake Biological Station	No Violations.	None
1998	4	5404934	Fastway Conoco Convenience Store	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	500205	Joe Yates Auto Sales	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	502954	Blacks Service Station	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	3304068	MT Dept Transportation (Roundup Site)	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	5609740	#2 Fire Station	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	5606969	Tom's Conoco	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	501854	County Shop	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	507985	Redlodge Travel Center	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	511974	Municipal Airport	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	5613809	Best Inn Motel	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	3306612	Express Center	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	3306151	Musselshell County Sheriff's Dept	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	3304855	Musselshell Valley Equipment Company	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	3312663	Bob's Alt & Starter	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	3304068	MT Dept Transportation (Roundup Site)	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	504228	T & D Pump	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	3304366	City Of Roundup	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	3301840	Wier Furniture	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	3305030	Conoco Convenience Center	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	1907975	Ryegate Public Schools	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	1913735	Super D Store	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	504842	Red Lodge Flying Club	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	500714	Bus Storage RL	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	3301083	Main Street Texaco	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	505656	City-County	Violations--Owner confirmation of correction needed.	Information Requested
1998	4	4111941	Stevensville Airport	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	4	4601122	Medicine Lake Public Schools	Violations--Owner confirmation of correction needed.	Follow-up inspection.
1998	4	3305026	Cow Patty's Cafe	Violations--Owner confirmation of correction needed.	Information Requested

Year	Month	FacilityID	Facility Name	Detail	Action
1998	4	2406332	Moiese Mercantile	LGU inspection, compliance status unknown.	None
1998	4	4504109	Spring St Exxon	LGU inspection, compliance status unknown.	Information Requested
1998	4	5069611	Pony Express	DEQ inspection, compliance status unknown.	Information Requested
1998	4	5609739	Fire Station #1	DEQ inspection, compliance status unknown.	Information Requested
1998	4	5609743	#6 Fire Station	DEQ inspection, compliance status unknown.	Information Requested
1998	5	2407437	John's Fuel Farm	No Violations.	None
1998	5	4602103	J & M Service	No Violations.	None
1998	5	4600762	Prairie States Co-op	No Violations.	None
1998	5	1600472	College Chevron of Bozeman	No Violations.	None
1998	5	2405517	Arnie's Gas And Tire Center Inc	No Violations.	None
1998	5	4612667	Mnc Inc. / Can Am Stores	No Violations.	None
1998	5	2405957	Pier 93	No Violations.	None
1998	5	4808691	Town Pump Inc (Columbus #5100)	No Violations.	None
1998	5	5056555	Ray Judd Ford	Violations--Minor or corrected at time of inspection (no follow	Follow-up inspection.
1998	5	1603432	Me & Jan's I	Violations--Minor or corrected at time of inspection (no follow	Follow-up inspection.
1998	5	1610184	Schutter Seed Farm Inc	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	509748	Rock Creek C Store	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	506599	Y-Stop	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	1611358	Day Ranches	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	1601537	Carl Vander Molen	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	1611406	Dan Kimm	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	1610563	Kimm Seed Potatoes	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	1610563	Kimm Seed Potatoes	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	4803599	Fishtail General Store	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	4812369	T & D Pump	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	1610184	Schutter Seed Farm Inc	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	4805095	7 Day Mart/Art is Everywhere	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	4809373	Krulers Korner	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	4812369	T & D Pump	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	5	1607197	Headleys Inc	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	509926	Carbon County Memorial Hospital	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	4803599	Fishtail General Store	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	511346	Red Lodge Mountain Ski Resort	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	1611406	Dan Kimm	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	1600787	Glacier Mountain Cheese Co.	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	5	1613523	General Services Administration	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	1601801	Mulligan's Garage & Service	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	4805944	American Enterprises Incorporated	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	1603519	Castle Rock Inn	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	1603430	Bozeman Ford	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	1604440	Sunbird Aviation	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	4803409	Farmers Union Trading Company	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	1600644	Scrubby's Car Wash - West Main	Violations--Owner confirmation of correction needed.	Information Requested

Year	Month	FacilityID	Facility Name	Detail	Action
1998	5	4601524	Auto Tech Services	Violations--Owner confirmation of correction needed.	Follow-up inspection.
1998	5	4809647	Nve Trading Post	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	4800713	Absarokee Garage	Violations--Owner confirmation of correction needed.	Information Requested
1998	5	2413438	Mission Valley Concrete	Violations--Follow-up inspection needed.	Information Requested
1998	5	2403906	Elmo Cash Store	LGU inspection, compliance status unknown.	None
1998	5	1605778	Mini Mart #728	DEQ inspection, compliance status unknown.	Information Requested
1998	5	1600883	Arlins Aircraft Service	DEQ inspection, compliance status unknown.	Information Requested
1998	5	2408741	MT Dept Transportation (Elmo Maintenance)	EPA inspection, compliance status unknown.	None
1998	6	5101377	Sweetgrass Speedy Mart	No Violations.	None
1998	6	5102311	Fraser Oil Incorporated	No Violations.	None
1998	6	5105573	Grant A Flage	No Violations.	None
1998	6	5105208	Oatrem Farm	No Violations.	None
1998	6	4512871	The Wye	No Violations.	None
1998	6	710198	Lift Station #23	No Violations.	None
1998	6	701781	NW Interceptor Pump Station	No Violations.	None
1998	6	800855	Robertson Oil Co	No Violations.	None
1998	6	4501547	Rocky Mountain Bank	No Violations.	Follow-up inspection.
1998	6	4508742	MT Dept Transportation (Hot Springs Site)	No Violations.	None
1998	6	4508720	Town Pump Inc (Thompson Falls)	No Violations.	None
1998	6	4508742	MT Dept Transportation (Hot Springs Site)	No Violations.	None
1998	6	710197	Lift Station #10 And #11	No Violations.	None
1998	6	1600210	Gallatin Flying Service Inc	Violations--Minor or corrected at time of inspection (no follow	Information Requested
1998	6	802203	Bley Farm	Violations--Minor or corrected at time of inspection (no follow	None
1998	6	4712956	Bertoglio Distributing	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	6	1604445	Two Top Rental	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	1612923	Lionshead Resort	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	1610793	Kirkwood Ranch Motel/Trailer Park	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	812588	Scooter's Sinclair	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	1603729	B & B Associates	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	1604502	Bulk Plant Operation & Auto Shop	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	1603254	Jenkins Garage	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	1601592	Fisherman's Village	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	808003	Glen A Kulbeck	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	1609852	Travelers Service Center	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	800006	fka Power Motors Parking Area	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	801445	Kwik Stop	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	802488	Lohse Flying Service Inc	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	2606158	Joplin Farm Store	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	6	1600688	Three Forks Sinclair Station	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	2608510	Big Sky Husky	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	702719	Outback Country Store	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	6	1608867	West Yellowstone Garage	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	1612887	Town Shop	Violations--Owner confirmation of correction needed.	Information Requested

Year	Month	FacilityID	Facility Name	Detail	Action
1998	6	1612886	#1 Lift Station	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	1611823	Einos Tavern Inc	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	1609936	Weary Rest	Violations--Owner confirmation of correction needed.	Information Requested
1998	6	5111194	Oilpatch Junction	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	6	1612952	Gallatin Field Cardlock	DEQ inspection, compliance status unknown.	Information Requested
1998	6	804783	Fisher Metal Products	DEQ inspection, compliance status unknown.	Information Requested
1998	6	802888	Larson & Larson	DEQ inspection, compliance status unknown.	Information Requested
1998	7	4112511	Wilderness Motel	No Violations.	None
1998	7	4700542	Walsh Engineering Co	Violations--Minor or corrected at time of inspection (no follow	None
1998	7	2501314	Friendly's East	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	7	5604774	Bob Smith Lincoln Mercury	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	5602486	Strong Crane Service	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	5603656	West End Logan International Airport	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	5606097	Supervalu Inc	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	5608286	Market Basket	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	5603921	Holy Cross Cemetery	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	4702933	Broadway Garage	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	7	3301481	Jake's Garage	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	3500536	Rabern Oil Company	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	3504066	MT Dept Transportation (Winnett Site)	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	912372	T & D Pump	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	2505639	O'Connell's Store	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	5613897	B & D Service	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	501853	Carbon County Shop	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	505576	Halls Conoco	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	4110286	Casey's Store	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	3302079	Norwest Bank	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	5601340	USF Reddaway	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	5613845	Triple A Transmission	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	2510981	Thrifty Gas and Grocery	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	4110313	West Fork Lodge	Violations--Owner confirmation of correction needed.	Notice of Non-Compliance.
1998	7	5613896	Raburns Warehouse & Bulk Fuel Storage	Violations--Owner confirmation of correction needed.	Information Requested
1998	7	5206316	Friendly Corner	DEQ inspection, compliance status unknown.	Information Requested
1998	7	5609753	Holiday Stationstore #285	DEQ inspection, compliance status unknown.	Information Requested
1998	7	5209499	MT Dept Transportation (Hysham Site)	DEQ inspection, compliance status unknown.	Information Requested
1998	7	5609754	Holiday Stationstore #286	DEQ inspection, compliance status unknown.	Information Requested
1998	7	5609752	Holiday Stationstore #284	DEQ inspection, compliance status unknown.	Information Requested
1998	7	5201905	Farmers Union Oil Company	DEQ inspection, compliance status unknown.	Information Requested
1998	8	3102302	Mineral County Courthouse	Violations--Owner confirmation of correction needed.	Information Requested
1998	8	3106052	Alberton Post Office	Violations--Owner confirmation of correction needed.	Information Requested
1998	8	3112011	Hegel's Resort	Violations--Owner confirmation of correction needed.	Information Requested
1998	8	3103056	Timbers Edge	Violations--Owner confirmation of correction needed.	Information Requested
1998	8	3107690	Saint Regis Travel Center	Violations--Owner confirmation of correction needed.	Information Requested
1998	8			DEQ inspection, compliance status unknown.	Information Requested

Appendix B

Listing of Statutes, Rules and Policies Addressing DEQ's Setting of Appropriate Penalty Amounts in Civil Judicial or Administrative Enforcement Actions.

State Law	Statutory Cite	Rule Cite	EPA Policy	State Policy
Clean Air Act	75-2-413 (Civil)	----	Clean Air Act Stationary Source Civil Penalty Policy, 10/91	----
	75-2-401 (Administrative)	----		----
Asbestos Control Act	75-2-514 (Civil)	----	Enforcement Response Policy for the Asbestos Hazard Emergency Response Act (Interim Final), 01/89	Montana Asbestos Control Act & Air Quality (NESHAPS) Penalty Calculation Methodology
	75-5-631 (Civil)	----		
Water Quality Act	75-5-611 (Administrative)	17.30.2001-2006	Interim Clean Water Act Settlement Penalty Policy, 03/95	----
	75-6-114 (Civil)	17.20.803		----
Public Water Supply Act	75-6-103 (Administrative)	17.20.801-805	New Public Water System Supervision Program Settlement Penalty Policy, 05/94	----
	75-10-228 (Civil)	----		N/A
Hazardous Waste Act	75-10-417 (Civil)	----	RCRA Civil Penalty Policy, 10/90	Montana Department Of Environmental Quality Penalty Policy For The Hazardous Waste Program, 1995
	75-10-424 (Administrative)	17.54.155		
Motor Vehicle Recycling Act	75-10-541 & 542 (Civil)	----	N/A	----

State Law	Statutory Cite	Rule Cite	EPA Policy	State Policy
CECRA	75-10-714 (Administrative)	----	Superfund Enforcement Response Policy, EPA Region VIII, 10/94	----
	75-10-711 (Civil)	----		
Megalandfill Siting Act	75-10-943 (Civil)	----	N/A	----
Underground Storage Tank Act	75-11-223 & 516 (Civil)	----	US EPA Penalty Guidance for Violations of UST Regulations, 11/90 Guidance for Federal Field Citation Enforcement, 10/92	----
	75-11-512 (Administrative)	[Proposed]		
Coal & Uranium Mine Reclamation Act	82-4-254 (Administrative; Civil)	17.24.1211-1212; 17.24.1217-1220	N/A	----
Metal Mine Reclamation Act	82-4-361 (Administrative; Civil)	17.24.132 & 134	N/A	----
Open Cut Mine Reclamation Act	82-4-441 (Administrative; Civil)	17.24.215	N/A	----