

1 SENATE BILL NO. 2  
2 INTRODUCED BY BLAYLOCK

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
5 CLARIFY THE LAWS RELATING TO ENVIRONMENTAL PROTECTION;  
6 AMENDING SECTIONS 26-1514, 26-1517, 32-4728, 69-3911,  
7 69-3912, 69-3914, 69-3915, 69-3916, 69-3917, 69-4820.1,  
8 69-4824, 69-5003, 69-5602, 69-5603, 69-5607, 69-5803,  
9 69-5806, 69-6807, AND 69-6811, R.C.M. 1947; AND REPEALING  
10 SECTION 26-339, R.C.M. 1947."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
13 Section 1. Section 26-1514, R.C.M. 1947, is amended to  
14 read as follows:

15 "26-1514. Procedure for considering projects — team.  
16 (1) The supervisors shall receive all notices of proposed  
17 projects within their district. They shall, within ~~five~~(5)  
18 days of receipt of a notice, examine and investigate the  
19 notice and determine whether the proposal is for a project.  
20 ~~They within the 5 days, they shall, within such period,~~ send  
21 a copy of their determination to the department and the  
22 applicant. If the supervisors determine that the proposal  
23 is not a project, the applicant may, upon receipt of written  
24 notice, proceed with the proposed activity.

25 (2) If the supervisors determine that the proposal is

1 for a project, the department shall, within ~~five~~(5) days of  
2 receipt of ~~such~~ the determination, notify the supervisors  
3 whether the department requests an on-site inspection by a  
4 team.

5 (3) The supervisors shall call a team together within  
6 ~~twenty~~(20) days of receipt of the request of the department  
7 for an on-site inspection. ~~Any~~ A member of the team shall  
8 notify the supervisors in writing, within ~~five~~(5) days  
9 after notice of the call for an inspection, of his waiver of  
10 participation in the inspection. If the department does not  
11 request an on-site inspection within the time specified  
12 above, the supervisors may deny or approve the project or  
13 may make recommendations for alternative plans.

14 (4) Each member of the team shall recommend, in  
15 writing, within ~~fifty~~(50) days of the date of application,  
16 denial, approval, or modification of the project to the  
17 supervisors. The applicant may waive participation in this  
18 recommendation.

19 (5) The supervisors shall review the proposed project  
20 and affirm, overrule, or modify the individual team  
21 recommendations, and notify the applicant and team members,  
22 within ~~sixty~~(60) days of the date of application, of their  
23 decision.

24 (6) When a member of the team disagrees with the  
25 supervisors' action, he may ask, within ~~five~~(5) days of

1 receipt of the supervisors' decision, that an arbitration  
2 panel, as provided in ~~section~~ 26-1515, be appointed to hear  
3 the dispute and make a final written decision thereon.

4 (7) Upon written notice, with ~~any~~ a recommendation or  
5 alternative plan, by the supervisors to the applicant, the  
6 applicant, within ~~fifteen~~ (15) days, shall notify the  
7 supervisors in writing if he wishes to proceed with the  
8 project in accordance with the recommendations or  
9 alternative plans. No work may be commenced on a project  
10 ~~prior to before~~ the ~~expiration end~~ of this ~~fifteen~~ (15) day  
11 period unless written permission is given by all team  
12 members. If the written decision of the supervisors approves  
13 the proposed project without recommendation or alternative  
14 plan, the applicant may proceed with the project upon the  
15 expiration of ~~ten~~ (10) days after receipt of the decision.

16 (8) The supervisors may extend, upon the request of  
17 ~~any~~ a team member, the time limits provided in ~~section~~  
18 ~~26-1514~~ subsections (4) and (5) where, in their  
19 determination, the time provided is not sufficient to carry  
20 out the purposes of this act. The time extension may not,  
21 in total, exceed ~~one~~ (1) year from date of application. The  
22 applicant shall be notified, within ~~sixty~~ (60) days of date  
23 of application, of the initial time extension and shall be  
24 notified immediately of any subsequent time extensions.

25 (9) No work on a project under this act may take place

1 without the written consent of the supervisors."

2 Section 2. Section 26-1517, R.C.M. 1947, is amended to  
3 read as follows:

4 "26-1517. Emergencies — procedure. (1) The provisions  
5 of this act shall do not apply to those actions which are  
6 necessary to safeguard life or property, including growing  
7 crops, during periods of emergency. The person responsible  
8 for ~~any~~ a project under this section shall notify the  
9 supervisors in writing within ~~fifteen~~ (15) days of the  
10 action taken as a result of an emergency.

11 (2) The supervisors shall send one ~~four~~ copy of the  
12 notice, within ~~five~~ (5) days of its receipt, to the  
13 department.

14 (3) A team, called together as described in ~~section~~  
15 26-1514 (3), shall make an on-site inspection and individual  
16 written reports to the supervisors within ~~thirty~~ (30) days  
17 giving their observations and opinions on the emergency  
18 project.

19 (4) If the same or a similar emergency occurs to the  
20 same applicant more than once within ~~any~~ a ~~five~~ (5) year  
21 period, the supervisors shall request the team members to  
22 include in their reports a determination of the validity of  
23 the emergency action and to ascertain the feasibility of a  
24 more permanent solution to ~~that~~ the emergency action.

25 (5) The supervisors shall determine the feasibility of

1 a more permanent solution and shall recommend, within  
 2 ~~thirty~~(30) days, that the person put the solution into  
 3 effect within a reasonable period of time, as determined by  
 4 the supervisors. Failure of the person to put that solution  
 5 into effect is not a violation of this act unless a  
 6 subsequent emergency action results from this failure.

7 (6) When a member of the team or the applicant  
 8 disagrees with the supervisors' recommendation, he may ask  
 9 that an arbitration panel, as provided in ~~section~~ 26-1515,  
 10 be appointed to hear the dispute and make a final written  
 11 decision thereon."

12 Section 3. Section 32-4728, R.C.M. 1947, is amended to  
 13 read as follows:

14 "32-4728. Nonconforming advertising as nuisance. All  
 15 outdoor advertising which does not conform to the  
 16 requirements of this act ~~are~~ is a public ~~nuisances~~  
 17 nuisance."

18 Section 4. Section 69-3911, R.C.M. 1947, is amended to  
 19 read as follows:

20 "69-3911. Permits. (1) The board ~~may,~~ by rule ~~or~~  
 21 ~~regulations,~~ prohibit the construction, installation,  
 22 alteration, or use of ~~any~~ a machine, equipment, device, or  
 23 facility which it finds may directly or indirectly cause or  
 24 contribute to air pollution or which is intended primarily  
 25 to prevent or control the emission of air pollutants, unless

1 a permit therefor has been obtained ~~from it.~~

2 (2) Not later than ~~one hundred eighty~~(180) days prior  
 3 ~~to the time that~~ before construction begins and not later  
 4 than ~~one hundred twenty~~(120) days prior ~~to the time that~~  
 5 before installation, alteration, or use ~~commences~~ begins,  
 6 the owner or operator shall file with the department the  
 7 appropriate permit application on forms available from the  
 8 department.

9 (3) ~~Notwithstanding anything contained in subsection~~  
 10 ~~(2),~~ The department may, for good cause shown, waive the  
 11 provisions of subsection (2) or shorten the time required  
 12 for filing the appropriate applications.

13 (4) The department shall require that applications for  
 14 permits be accompanied by any plans, specifications, and  
 15 other information it ~~deems~~ considers necessary.

16 (5) An application is not considered filed until the  
 17 applicant has submitted all information and completed all  
 18 application forms required by subsections (2), (3), and (4).  
 19 However, if the department fails to notify the applicant in  
 20 writing, within ~~thirty~~(30) days after the purported filing  
 21 of an application, that the application is incomplete and  
 22 fails to list the reasons why the application is considered  
 23 incomplete, the application is considered filed as of the  
 24 date of the purported filing.

25 (6) The department shall provide for the issuance,

1 suspension, revocation, and renewal of ~~any permits~~ a permit  
2 issued under this section.

3 (7) Where an application for a permit requires the  
4 compilation of an environmental impact statement under the  
5 Montana Environmental Policy Act, the department shall  
6 notify the applicant in writing, within ~~one hundred eighty~~  
7 ~~(180)~~ days of the receipt of a filed application as defined  
8 in subsection (5), ~~in writing~~, of the approval or denial of  
9 the application. However, where an application does not  
10 require the compilation of an environmental impact  
11 statement, the department shall notify the applicant in  
12 writing, within ~~sixty~~ ~~(60)~~ days of the receipt of a filed  
13 application, as defined in subsection (5), ~~in writing~~, of  
14 the approval or denial of the application.

15 (8) When the department approves or denies the  
16 application for a permit under this section, ~~any~~ a person ~~or~~  
17 ~~persons~~ who is jointly or severally adversely affected by  
18 the department's decision may request, within ~~fifteen~~ ~~(15)~~  
19 days after the department renders its decision, upon  
20 affidavit, setting forth the grounds therefor, a hearing  
21 before the board. A hearing shall be held under the  
22 provisions of the Montana Administrative Procedure Act. The  
23 department's decision on the application is not final unless  
24 ~~fifteen~~ ~~(15)~~ days have elapsed and there is no request for a  
25 hearing under this section. The filing of a request for a

1 hearing postpones the effective date of the department's  
2 decision until the conclusion of the hearing and issuance of  
3 a final decision by the board."

4 Section 5. Section 69-3912, R.C.M. 1947, is amended to  
5 read as follows:

6 "69-3912. Inspections. (1) The department may enter  
7 and inspect, at any reasonable time, any property, premises,  
8 or place, except a private residence, on or at which an air  
9 contaminant source is located or is being constructed or  
10 installed for the purpose of ascertaining the state of  
11 compliance with this act and rules in force under it.

12 (2) A person may not refuse entry or access to an  
13 authorized representative of the department who presents  
14 appropriate credentials when ~~it~~ the department requests  
15 entry for purposes of inspection, ~~and who presents~~  
16 ~~appropriate credentials~~. A person may not obstruct, hamper,  
17 or interfere with an inspection.

18 (3) At his request, the owner or operator of the  
19 premises shall receive a report ~~setting forth~~ stating all  
20 facts found which relate to compliance status."

21 Section 6. Section 69-3914, R.C.M. 1947, is amended to  
22 read as follows:

23 "69-3914. Enforcement. (1) When the department ~~has~~  
24 ~~reason to believe~~ believes that a violation of this act or a  
25 rule made under it has occurred, it may cause written notice

1 to be served on the alleged violator. The notice shall  
 2 specify the provision of this act or rule alleged to be  
 3 violated, and the facts alleged to constitute a violation,  
 4 and may include an order to take necessary corrective action  
 5 within a reasonable period of time stated in the order. The  
 6 order becomes final unless, within no later than thirty (30)  
 7 days after ~~the date~~ the notice is received, the person named  
 8 requests in writing a hearing before the board. On receipt  
 9 of the request, the board shall hold a hearing.

10 (2) If, after a hearing held under subsection (1) of  
 11 this section, the board finds that violations have occurred,  
 12 it shall either affirm or modify an order previously issued,  
 13 or issue an appropriate order for the prevention, abatement,  
 14 or control of the emissions involved or for the taking of  
 15 other corrective action it considers appropriate. If, after  
 16 hearing on an order contained in a notice, the board finds  
 17 that no violation is occurring, it shall rescind the order.  
 18 An order issued as part of a notice or after a hearing may  
 19 prescribe the date by which the violation shall cease and  
 20 may prescribe time limits for particular action in  
 21 preventing, abating, or controlling the emissions.

22 (3) Instead of issuing the order provided for in  
 23 subsection (1) ~~of this section~~, the department may either:

24 (a) ~~Require~~ require that the alleged violators appear  
 25 before the board for a hearing at a time and place specified

1 in the notice, and answer the charges complained of; or

2 (b) ~~initiate~~ initiate action under ~~section~~ 69-3921 or  
 3 69-3921.1.

4 (4) This chapter does not prevent the board or  
 5 department from making efforts to obtain voluntary  
 6 compliance through warning, conference, or any other  
 7 appropriate means.

8 (5) In connection with a hearing held under this  
 9 section, the board may, and on application by a party shall,  
 10 compel the attendance of witnesses and the production of  
 11 evidence on behalf of the parties."

12 Section 7. Section 69-3915, R.C.M. 1987, is amended to  
 13 read as follows:

14 "69-3915. Emergency procedure. (1) Any other law to  
 15 the contrary notwithstanding, if the department finds that a  
 16 generalized condition of air pollution exists and that it  
 17 creates an emergency requiring immediate action to protect  
 18 human health or safety, the department shall order persons  
 19 causing or contributing to the air pollution to immediately  
 20 reduce or discontinue ~~immediately~~ the emission of air  
 21 contaminants. Upon issuance of this order, the department  
 22 shall fix a place and time within ~~no later than~~  
 23 ~~twenty-four (24) hours thereafter~~, for a hearing to be held  
 24 before the board. ~~Not more than twenty-four~~ Within (24)  
 25 hours after the commencement of the hearing, and without

1 adjournment, the board shall affirm, modify, or set aside  
2 the order of the department.

3 (2) In the absence of a generalized condition such as  
4 that referred to in subsection (1) ~~of this section~~, if the  
5 department finds that emissions from the operation of one  
6 ~~(4)~~ or more air contaminant sources ~~is~~ are causing imminent  
7 danger to human health or safety, it may order the person ~~or~~  
8 ~~persons~~ responsible for the operation ~~or operations~~ in  
9 question to reduce or discontinue emissions immediately,  
10 without regard for ~~section~~ 69-3914. In this event, the  
11 requirements for hearing, and affirmance, modification, or  
12 setting aside of orders ~~set forth as provided~~ in subsection  
13 (1) ~~of this section~~ apply.

14 (3) This section does not limit any power which the  
15 governor or any other officer may have to declare an  
16 emergency and act on the basis of this declaration, whether  
17 the power is conferred by statute, or constitutional  
18 provisions, or inheres in the office."

19 Section 8. Section 69-3916, R.C.M. 1947, is amended to  
20 read as follows:

21 "69-3916. Variances — filing fees. (1) ~~Any~~ A person  
22 who owns or is in control of ~~any~~ a plant, building,  
23 structure, process, or equipment may apply to the board for  
24 an exemption or partial exemption from rules ~~or regulations~~  
25 governing the quality, nature, duration, or extent of

1 emissions of air pollutants. The application shall be  
2 accompanied by such information and data as the board may  
3 require. The board may grant ~~such an~~ exemption or partial  
4 exemption if it finds that:

5 (a) ~~the~~ the emissions occurring or proposed to occur  
6 do not constitute a danger to public health or safety; and

7 (b) ~~Compliance~~ compliance with the rules ~~or~~  
8 ~~regulations~~ from which exemption is sought would produce  
9 hardship without equal or greater benefits to the public.

10 (2) No exemption or partial exemption ~~shall~~ may be  
11 granted pursuant to this section except after public hearing  
12 on due notice and until the board has considered the  
13 relative interests of the applicant, other owners or  
14 property likely to be affected by the emissions, and the  
15 general public.

16 (3) No exemption or partial exemption pursuant to this  
17 section ~~shall~~ may be granted for a period to exceed ~~one~~ ~~(1)~~  
18 year, but ~~any such~~ the exemption or partial exemption may be  
19 renewed for like periods if no complaint is made to the  
20 board ~~on account thereof~~ because of it or if, ~~such~~ after the  
21 complaint ~~having~~ has been made and duly considered at a  
22 public hearing held by the board on due notice, the board  
23 finds that renewal is justified. No renewal ~~shall~~ may be  
24 granted except on application therefor. ~~Any such~~ An  
25 application shall be made at least ~~sixty~~ ~~(60)~~ days ~~prior~~ to

1 before the expiration of the exemption or partial exemption.  
 2 Immediately ~~prior to~~ before application for renewal the  
 3 applicant shall give public notice of ~~each~~ his application  
 4 in accordance with rules ~~and regulations~~ of the board. ~~Any A~~  
 5 renewal pursuant to this subsection shall be on the same  
 6 grounds and subject to the same limitations and requirements  
 7 as provided in subsection ~~(1) (a) of this section.~~

8 (4) An exemption, partial exemption, or renewal  
 9 thereof ~~shall~~ is not be a right of the applicant or holder  
 10 thereof but shall be granted in the discretion of the board.  
 11 However, ~~any a~~ person adversely affected by an exemption,  
 12 partial exemption, or renewal granted by the board may  
 13 obtain judicial review thereof as provided by ~~section~~  
 14 69-3917 ~~of this act.~~

15 (5) Nothing in this section and no exemption, partial  
 16 exemption, or renewal granted pursuant ~~hereto shall to this~~  
 17 section may be construed to prevent or limit the application  
 18 of the emergency provisions and procedures of ~~section~~  
 19 69-3915 ~~of this act to any a~~ person or his property.

20 (6) ~~Any A~~ person who owns or is in control of ~~any a~~  
 21 plant, building, structure, process, or equipment  
 22 (hereinafter called a facility) who applies to the board for  
 23 an exemption or partial exemption or a renewal of an  
 24 exemption or partial exemption from ~~any a~~ rule governing the  
 25 quality, nature, duration, or extent of emissions of air

1 pollutants shall submit with the application for variance a  
 2 sum of not less than ~~five hundred dollars (\$500)~~ or ~~two~~  
 3 ~~percent (2%)~~ of the cost of the equipment to bring the  
 4 facility into compliance with the rule(s) for which a  
 5 variance is sought, whichever is greater, but not to exceed  
 6 ~~eighty thousand dollars (\$80,000)~~. The department shall  
 7 prepare a statement of actual costs, and ~~any funds in excess~~  
 8 of this shall be returned to the applicant. ~~The value of any~~  
 9 ~~fee in excess of five hundred dollars (\$500) shall be~~  
 10 ~~calculated by determining the cost of the equipment required~~  
 11 ~~to bring the facility into compliance with the rule(s) for~~  
 12 ~~which the variance is being sought.~~ The person requesting  
 13 the variance shall describe the facility in sufficient  
 14 detail, with accompanying estimates of cost and verifying  
 15 materials, to permit the department to determine, with  
 16 reasonable accuracy, the sum of the fee ~~which accompanied~~  
 17 ~~the request for variance.~~ For a renewal of an exemption or  
 18 partial exemption, if no public hearing, environmental  
 19 impact statement, or appreciable investigation by the  
 20 department is necessary, or no environmental impact  
 21 statement is deemed necessary, or if no appreciable  
 22 investigation of the renewal application is necessary by the  
 23 department, the minimum filing fee shall apply or the fee  
 24 may be waived by the department. The filing fee shall be  
 25 deposited in the earmarked revenue fund provided for in

1 ~~section~~ 79-410. It is the intent of the legislature that  
2 the revenues derived from the filing fees shall be used by  
3 the department;

4 (a) to compile the information required for rendering a  
5 decision on the request;

6 (b) to compile the information necessary for any  
7 environmental impact statements;

8 (c) to offset the costs of a public hearing, printing,  
9 or mailing; and

10 (d) to carry out its other responsibilities under this  
11 chapter."

12 Section 9. Section 69-3917, R.C.M. 1987, is amended to  
13 read as follows:

14 "69-3917. Hearings and judicial review. (1) No rule  
15 and no amendment or repeal thereof shall may take effect  
16 except after public hearing on due notice, and after the  
17 advisory council has been ~~afforded not less than~~ given at  
18 least thirty (30) days prior to before publication of the  
19 proposed text to comment thereon. ~~Such~~ The notice shall be  
20 given by public advertisement not less than ~~twenty (20)~~ or  
21 more than ~~thirty (30)~~ days ~~prior to before~~ the date set for  
22 ~~such the public hearing.~~

23 (2) Nothing in this section shall may be construed to  
24 require a hearing ~~prior to before~~ the issuance of an  
25 emergency order pursuant to ~~section 12 [69-3915] of this~~

1 ~~act.~~

2 (3) ~~Any~~ A person aggrieved by ~~any an~~ order of the  
3 board or local control authority may apply for rehearing  
4 upon one or more of the following grounds, and upon no other  
5 grounds:

6 (a) ~~The the~~ board or local control authority acted  
7 without or in excess of its powers;

8 (b) ~~The the~~ order was procured by fraud;

9 (c) ~~The the~~ order is contrary to the evidence;

10 (d) ~~The the~~ applicant has discovered new evidence,  
11 material to him, which he could not, with reasonable  
12 diligence, have discovered and produced at the hearing; or

13 (e) ~~Competent competent~~ evidence was excluded to the  
14 prejudice of the applicant. The petition must be in such  
15 form and filed in such time as the board shall prescribe.

16 (4) (a) Within ~~thirty (30)~~ days after the application  
17 for rehearing is denied, or, if the application is granted,  
18 within ~~thirty (30)~~ days after the decision on the rehearing,  
19 ~~any a~~ party aggrieved thereby may appeal to the district  
20 court of ~~any the~~ judicial district of the state which is the  
21 situs of property affected by the order.

22 (b) The appeal shall be taken by serving a written  
23 notice of appeal upon the ~~executive officer~~ chairman of the  
24 board, which service shall be made by the delivery of a copy  
25 of the notice to ~~such officer,~~ the chairman and by filing



1 the original with the clerk of the court to which the appeal  
 2 is taken. Immediately ~~upon~~ after service upon the board,  
 3 the board shall certify to the district court the entire  
 4 record and proceedings, including all testimony and evidence  
 5 taken by the board. Immediately upon receiving the certified  
 6 record, the district court shall fix a day for filing of  
 7 briefs and hearing arguments on the cause, and shall cause a  
 8 notice of the same to be served upon the board and the  
 9 appellant.

10 (c) The court shall hear and decide the cause upon the  
 11 record of the board. The court shall determine whether or  
 12 not the board regularly pursued its authority, whether or  
 13 not the findings of the board were supported by substantial  
 14 competent evidence, and whether or not the board made errors  
 15 of law prejudicial to the appellant.

16 (5) Either the board ~~for~~ the person aggrieved may  
 17 appeal from the decision of the district court to the  
 18 supreme court. The proceedings before the supreme court  
 19 shall be limited to a review of the record of the hearing  
 20 before the board and of the district court's review of that  
 21 record."

22 Section 10. Section 69-4820.1, R.C.M. 1947, is amended  
 23 to read as follows:

24 "69-4820.1. Additional ~~enforcement remedies~~ sanctions  
 25 authorized. (1) In addition to all other remedies created by

1 this act, the department is authorized to take appropriate  
 2 enforcement action on its own initiative to:

3 (a) prevent, abate, and control the pollution of state  
 4 waters;

5 (b) prevent, abate, and control any violation of a  
 6 condition or limitation imposed by a permit issued under  
 7 ~~section 69-4806, R.C.M. 1947~~ 69-4809.1 (1) (a);

8 (c) prevent, abate, and control any ~~violations~~  
 9 violation of ~~regulations~~ rules relating to pretreatment  
 10 standards.

11 (2) In furtherance of subsection (1) ~~of this section,~~  
 12 ~~any~~ a person violating ~~any~~ a condition, limitation,  
 13 standard, or other requirement established pursuant to this  
 14 chapter may be served with a compliance order issued by the  
 15 department. ~~Such~~ The order must specify the condition,  
 16 limitation, standard, or other requirement violated and must  
 17 set a time for compliance. However, in establishing a time  
 18 for compliance, the department shall take into account the  
 19 seriousness of the violation and any good faith efforts that  
 20 have been made to comply with the condition, limitation,  
 21 standard, or other requirement that has been violated. The  
 22 compliance order issued under this section shall be  
 23 personally served by an authorized representative of the  
 24 department.

25 (3) The department is authorized to commence a civil

1 action seeking appropriate relief, including a permanent or  
 2 temporary injunction, for ~~any~~ a violation which would be  
 3 subject to a compliance order under subsection (2) ~~of this~~  
 4 ~~section.~~ Any An action under this subsection may be  
 5 commenced in the district court of ~~any~~ the county in which  
 6 the defendant is located or resides or is doing business,  
 7 and the court shall have jurisdiction to restrain ~~such~~ the  
 8 violation and to require compliance.

9 (4) ~~Any~~ A person found to be in violation of a  
 10 condition, limitation, standard, or other requirement  
 11 established pursuant to this section shall be subject to the  
 12 penalty provisions of ~~section 69-4823, R.C.M. 1947.~~

13 (5) For the purpose of this subsection, the term  
 14 "person" shall mean, in addition to the definition contained  
 15 in ~~section 69-4802, R.C.M. 1947,~~ any responsible corporate  
 16 officer."

17 Section 11. Section 69-4824, R.C.M. 1947, is amended  
 18 to read as follows:

19 "69-4824. Emergencies. Notwithstanding any other  
 20 provisions of this chapter, if the department finds that a  
 21 person is committing or is about to commit an act in  
 22 violation of this chapter or an order or rule issued under  
 23 it which, if it occurs or continues, will cause substantial  
 24 pollution the harmful effects of which will not be remedied  
 25 immediately after the commission or cessation of the act,

1 the department shall order ~~such~~ the person to stop, avoid,  
 2 or moderate the act so that the substantial injury will not  
 3 occur. The order shall be effective immediately upon receipt  
 4 by the person to whom it is directed, unless the department  
 5 provides otherwise. Notice of the order shall conform to  
 6 the requirements of ~~section 13 (4) [69-4820 (4)] of this act~~  
 7 69-4820 (1) so far as practicable; the notice shall indicate  
 8 that the order is an emergency order. Upon issuing such an  
 9 order, the department shall fix a place and time for a  
 10 hearing before the board, not later than ~~five~~ (5) days  
 11 thereafter, unless the person to whom the order is directed  
 12 shall request a later time. The department may deny a  
 13 request for a later time if it finds that the person to whom  
 14 the order is directed is not complying with the order. The  
 15 hearing shall be conducted in the manner specified in  
 16 ~~section 13, subsections (4), (5), and (6) [69-4820 (4), (5),~~  
 17 ~~(6)] of this act~~ 69-4820. As soon as practicable after the  
 18 hearing, the board shall affirm, modify, or set aside the  
 19 order of the department. The order of the board shall be  
 20 accompanied by the statement specified in ~~section 13 (6)~~  
 21 ~~[69-4820 (6)] of this act~~ 69-4820 (5). An action for review  
 22 of the order of the board may be initiated in the manner  
 23 specified in ~~section 15 [69-4821] of this act~~ 69-4821. The  
 24 initiation of such an action or taking of an appeal ~~shall~~  
 25 may not stay the effectiveness of the order, unless the

1 court ~~shall find~~ finds that the board did not have  
2 reasonable cause to issue an order under this section."

3 Section 12. Section 69-5003, R.C.S. 1947, is amended  
4 to read as follows:

5 "69-5003. Approval of plans for facilities in  
6 subdivisions. (1) A person may not file a subdivision plat  
7 with a county clerk and recorder, make disposition of ~~any~~ a  
8 lot within a subdivision, erect ~~any~~ a building or shelter in  
9 a subdivision which requires facilities for the supply of  
10 water or disposal of sewage or solid waste, or occupy ~~any~~ a  
11 permanent building in a subdivision until the department has  
12 indicated that the subdivision is subject to no sanitary  
13 restriction.

14 (2) A county clerk and recorder may not accept a  
15 subdivision plat for filing until:

16 (a) the person wishing to file the plat has obtained  
17 approval of the local health officer having jurisdiction and  
18 has filed the approval with the department; and

19 (b) the department has indicated by stamp or  
20 certificate, that it has approved the plat and plans and  
21 specifications and that the subdivision is subject to no  
22 sanitary restriction.

23 (3) When a subdivision as defined in this chapter is  
24 excluded from the provisions of ~~Title 11, Chapter 38,~~  
25 ~~section 11-3862, R.C.S. 1947,~~ except ~~section~~ 11-3862 (8),

1 ~~R.C.S. 1947,~~ and the subdivision is otherwise subject to the  
2 provisions of this chapter, plans and specifications of the  
3 ~~subdivisions~~ subdivision shall be submitted to the  
4 department, and the department shall indicate by certificate  
5 that it has approved the plans and specifications and that  
6 the subdivision is not subject to a sanitary restriction.  
7 The plan review by the department shall be as follows:

8 (a) The developer shall present to the department a  
9 preliminary plan of the proposed development and whatever  
10 information the developer feels necessary for its subsequent  
11 review. Within ~~sixty~~ (60) days of receipt of this  
12 submission, ~~based upon its receipt~~ by the department, the  
13 department shall notify the developer if the material  
14 submitted is satisfactory to determine if sanitary  
15 restrictions are necessary and, if not, what additional  
16 information is required for subsequent action by the  
17 department.

18 (b) If additional information is necessary to  
19 determine if sanitary restrictions are necessary, no further  
20 processing will be made on the request until the ~~missing~~  
21 missing information is made available to the department by  
22 the developer.

23 (c) The department must notify the developer within  
24 ~~thirty~~ (30) days if his submission of additional requested  
25 material is satisfactory. If the material is not

1 satisfactory, the provision of subsection (b) shall apply.

2 (d) After the department has notified the developer  
3 that ~~they have it has~~ all the necessary information required  
4 for review, the department must give final action of the  
5 proposed plan within ~~sixty~~ (60) days, unless an  
6 environmental impact statement is required, at which time  
7 this deadline may be increased to ~~one hundred twenty~~ (120)  
8 days.

9 (4) A person may not construct or use ~~any facilities a~~  
10 facility which deviate ~~deviates~~ from the plans and  
11 specifications filed with the department until the  
12 department has approved the deviation."

13 Section 13. Section 69-5602, R.C.M. 1947, is amended  
14 to read as follows:

15 "69-5602. ~~Rules adoption by department of health and~~  
16 ~~environmental sciences~~ Department authorized to adopt rules.  
17 The department shall adopt rules for ~~construction~~  
18 constructing and operating tourist campgrounds and trailer  
19 courts to insure sanitation and protect public health."

20 Section 14. Section 69-5603, R.C.M. 1947, is amended  
21 to read as follows:

22 "69-5603. License ~~from department~~ required —  
23 inspections. A person operating a tourist campground or  
24 trailer court shall:

25 (1) obtain a license from the department;

1 (2) permit inspections by state, or local health  
2 officers, sanitarians, or other authorized persons at all  
3 reasonable times."

4 Section 15. Section 69-5607, R.C.M. 1947, is amended  
5 to read as follows:

6 "69-5607. Violations ~~and penalty~~ penalties —  
7 disposition of fines. ~~Any~~ A person violating ~~any~~ a provision  
8 of this chapter or ~~regulation~~ a rule made under it shall be  
9 guilty of a misdemeanor, and, upon conviction, shall be  
10 fined not less than ~~fifty dollars~~ (\$50) ~~nor or~~ more than ~~one~~  
11 ~~hundred dollars~~ (\$100) for the first offense, and not less  
12 than ~~seventy five dollars~~ (\$75) ~~nor or~~ more than ~~two hundred~~  
13 ~~dollars~~ (\$200) for the second offense; and for the third and  
14 subsequent offenses, he shall be punished by a fine of not  
15 less than ~~two hundred dollars~~ (\$200) and imprisonment in the  
16 county jail not to exceed ~~ninety~~ (90) days. Fines shall be  
17 paid to the county treasurer of the county in which the  
18 tourist campground or trailer court is located. The county  
19 treasurer shall send all fines collected to the state  
20 treasurer for deposit in the state general fund."

21 Section 16. Section 69-5803, R.C.M. 1947, is amended  
22 to read as follows:

23 "69-5803. Definitions. (1) "By-product material" means  
24 ~~any~~ a radioactive material (except special nuclear material)  
25 yielded in or made radioactive by exposure to the radiation

1 incident to the process of producing or utilizing special  
2 nuclear material.

3 (2) "Ionizing radiation" means gamma rays and ~~rays~~ X  
4 rays, alpha and beta particles, high-speed electrons,  
5 neutrons, protons, and other nuclear particles but not sound  
6 or radio waves or visible, infrared, or ~~ultra-violet~~  
7 ultraviolet light.

8 (3) "General license" means a license effective  
9 pursuant to ~~regulations~~ rules promulgated by the department  
10 ~~of health and environmental sciences~~ without the filing of  
11 an application to transfer, acquire, own, possess, or use  
12 quantities of or devices or equipment utilizing quantities  
13 of by-product, source, special nuclear materials, or other  
14 radioactive material occurring naturally or produced  
15 artificially. General licenses are effective without the  
16 filing of applications with the department ~~of health and~~  
17 ~~environmental sciences~~ or the issuing of licensing documents  
18 to the user.

19 (4) "Specific license" means a license, issued after  
20 application, to use, manufacture, produce, transfer,  
21 receive, acquire, own, or possess quantities of, or devices  
22 or equipment utilizing quantities of by-product, special  
23 nuclear materials, or other radioactive material occurring  
24 naturally or produced artificially.

25 (5) "Person" means ~~any~~ an individual, corporation,

1 partnership, firm, association, trust, estate, public or  
2 private institution, group, agency, political subdivision or  
3 agency thereof, and any legal successor, representative,  
4 agent, or agency of the foregoing, other than the United  
5 States atomic energy commission, any successor thereto, or  
6 federal agencies licensed by the atomic energy commission.

7 (6) "Source material" means uranium, thorium, or any  
8 other material which the department ~~of health and~~  
9 ~~environmental sciences~~ or the United States atomic energy  
10 commission declares by order to be source material or ores  
11 containing one ~~(1)~~ or more of the foregoing materials, in  
12 such concentration as the department ~~of health and~~  
13 ~~environmental sciences~~ or the atomic energy commission  
14 declares by order to be source material after the atomic  
15 energy commission has determined the material in such  
16 concentration to be source material.

17 (7) "Special nuclear material" means plutonium,  
18 uranium enriched in the isotope 233 or in the isotope 235,  
19 and any other material which the department ~~of health and~~  
20 ~~environmental sciences~~ or the United States atomic energy  
21 commission, or any successor thereto, declares by order to  
22 be special nuclear material or any material artificially  
23 enriched by any of the foregoing, but does not include  
24 source material.

25 (8) "Registration" means the registering by the legal

1 owner, user, or authorized representative with the  
 2 department of ~~health and environmental sciences in the~~  
 3 ~~manner prescribed by rule or regulation~~ of sources of  
 4 ionizing radiation in the manner prescribed by rule.

5 (9) "Department" means the department of health and  
 6 environmental sciences."

7 Section 17. Section 69-5806, R.C.M. 1947, is amended  
 8 to read as follows:

9 "69-5806. Licensing and registration ~~of persons~~  
 10 ~~handling radioactive materials or equipment using such~~  
 11 ~~materials.~~ (1) The department shall provide by rule ~~or~~  
 12 ~~regulation~~ for general or specific licensing of persons to  
 13 receive, possess, or transfer radioactive materials and  
 14 devices or equipment utilizing such materials. ~~Such~~ The  
 15 ~~rules or regulations~~ shall provide for amendment,  
 16 suspension, or revocation of licenses pursuant to ~~section 11~~  
 17 ~~[69-5811] of this act,~~ 69-5812.

18 (2) Each application for a specific license shall be  
 19 in writing and shall state such information as the  
 20 department by rule ~~or regulation~~ may determine to be  
 21 necessary to decide the technical, insurance, and financial  
 22 qualifications or any other qualification of the applicant  
 23 as the department ~~may deem~~ considers reasonable and  
 24 necessary to protect the occupational and public health and  
 25 safety. The department may, at any time after the filing of

1 the application and before the expiration of the license,  
 2 require further written statements and may make such  
 3 inspections as the department ~~may deem~~ considers necessary  
 4 in order to determine whether the license should be granted,  
 5 ~~or denied, or whether the license should be~~ modified,  
 6 suspended, or revoked. All applications and statements shall  
 7 be signed by the applicant or licensee. The department may  
 8 require ~~any applications~~ an application or ~~statements~~  
 9 statement to be made under oath or affirmation.

10 (3) Each license shall be in such form and contain  
 11 such terms and conditions as the department may by rule ~~or~~  
 12 ~~regulation~~ prescribe.

13 (4) No license issued pursuant to the provisions of  
 14 this act and no right to possess or utilize sources of  
 15 ionizing radiation granted by any license ~~shall~~ may be  
 16 assigned or in any manner disposed of.

17 (5) The terms and conditions of all licenses shall be  
 18 subject to amendment, revision, or modification by rules,  
 19 ~~regulations~~ or orders issued in accordance with the  
 20 provisions of this act.

21 (6) The department may require registration and  
 22 inspection of persons dealing with sources of ionizing  
 23 radiation which do not require a specific license and may  
 24 require compliance with specific safety standards to be  
 25 promulgated by the department.

1 (7) The department is authorized to exempt certain  
2 users from the licensing or registration requirements set  
3 forth in this section when the department makes a finding  
4 that the exemption of ~~each~~ the users will not constitute a  
5 significant risk to the health and safety of the public. 1

6 (8) ~~Any~~ A report of investigation or inspection, or  
7 ~~any~~ information concerning trade secrets or secret  
8 industrial processes obtained under this act shall not be  
9 disclosed or opened to public inspection except as may be  
10 necessary for the performance of the functions of the  
11 department. 1

12 (9) Rules ~~and regulations~~ promulgated pursuant to this  
13 act may provide for recognition of such other state or  
14 federal licenses as the department ~~may deem~~ considers  
15 desirable, subject to such registration requirements as the  
16 department ~~may prescribe~~ prescribes."

17 Section 18. Section 69-6807, R.C.M. 1947, is amended  
18 to read as follows:

19 "69-6807. Deposit of fees — special junk vehicle  
20 assessment fee. (1) All motor vehicle wrecking facility  
21 license fees and fees collected as motor vehicle disposal  
22 fees shall be deposited with the state treasurer to be  
23 utilized for ~~(a)~~ control, collection, and disposal of junk  
24 vehicles, ~~and~~

25 ~~(b) to conduct a feasibility study to determine the~~

1 ~~suitability of resource recovery from our solid waste, the~~  
2 ~~cost of which may not exceed two hundred thousand dollars~~  
3 ~~(\$200,000), and the results of which will be made available~~  
4 ~~to the public and legislature by 1977.~~

5 (2) ~~There is assessed a~~ A special junk vehicle  
6 disposal fee ~~commencing on July 1, 1973,~~ shall be assessed  
7 on each new application for a motor vehicle title and on  
8 each transfer of motor vehicle title in the amount of ~~two~~  
9 ~~dollars (\$2),~~ on passenger cars and trucks under 8001 pounds  
10 ~~GVW, which shall be collected by the county treasurer, and~~  
11 ~~commencing with the year 1976, there shall be assessed an~~ An  
12 additional special junk vehicle disposal fee shall be  
13 assessed in the amount of ~~fifty .50 cents (\$ .50)~~ on each  
14 passenger car and truck under 8001 pounds GVW registered for  
15 licensing. The ~~fifty cents (\$ .50) fee~~ fees shall be  
16 collected by the county treasurer. However, the following  
17 are exempt from payment of the fees:

18 (a) vehicles leased or owned by the state or by a  
19 county or municipality;

20 (b) vehicles used for transportation by nonresident,  
21 migratory workers temporarily employed in agricultural work  
22 in this state;

23 (c) vehicles displaying dealers' license plates, as  
24 provided in ~~section~~ 53-122, while owned by a dealer; and

25 (d) house trailers or equipment which are not

1 self-propelled or which require towing upon a highway of  
2 this state.

3 (3) The department shall report to each legislature  
4 the amount collected under this act and the cost of  
5 administration of the act to date so that any necessary  
6 adjustment of the amount of the fee may be made to assure  
7 that no more than the actual cost of operation of the  
8 program is collected.

9 (4) The department shall pay to a county the amount of  
10 the approved junk vehicle collection and graveyard budget of  
11 the county. The yearly payment may not exceed ~~one dollar~~  
12 ~~(\$1)~~ for each motor vehicle under 8001 pounds GVW that is  
13 licensed in that county. However, for those counties that  
14 have fewer than ~~five thousand~~ (5,000) such motor vehicles,  
15 the department may pay up to ~~five thousand dollars~~ (\$5,000),  
16 providing the county can justify this payment."

17 Section 19. Section 69-6811, R.C.M. 1947, is amended  
18 to read as follows:

19 "69-6811. Prohibition. It is unlawful to place junked  
20 motor vehicles, or the body portion of junked motor  
21 vehicles, between ~~high-water~~ high-water channel banks of  
22 any stream or to reinforce banks of a stream with such  
23 junked motor vehicle or the body portion of such junked  
24 motor vehicles."

25 Section 20. Repealer. Section 26-339, R.C.M. 1947 is

1 repealed.

-End-



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LC0013

1977 Legislature  
Code Commissioner Bill - Summary

\_\_\_\_\_ Bill No. \_\_\_\_\_

REVISION AND CLARIFICATION OF LAWS RELATING TO ENVIRONMENTAL PROTECTION.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 26-1514. Added "upon" to clarify subsection (8) which said that the supervisors could extend the request rather than the time limit upon the request.

Section 2. 26-1517. In (2) added "of its receipt" in order to specify the beginning of the 5-day time limit. Also deleted "actions" in (4) because the solution is for an emergency, not an emergency action.

Section 3. 32-4728. Grammar changes to make the predicate agree with the singular subject.

Section 4. 69-3911. Deleted "from it" because permits are obtained from the department, not the board.

Section 5. 69-3912. Replaced "it" with "the department" in order to make it clear that it is not "the representative" who requests entry.

Section 6. 69-3914. Added reference to 69-3921.1 because it establishes the civil penalty whereas 69-3921 only authorizes criminal prosecution. When 69-3921.1 was added in 1975, this section should have been amended.

Section 7. 69-3915. Grammatical changes only.

Section 8. 69-3916. In (3) changed "subsection (a)" to "subsection (1)". In (6) deleted repetitive language and deleted "which accompanied the request for variance" because the department must determine the sum of the fee before the fee accompanies the request. As written, the sentence didn't make sense.

Section 9. 69-3917. In (4)(b), replaced "executive officer" (of board of health) with "chairman", as the person served with notice of appeal because there is no executive officer of the board.

Section 10. 69-4820.1. Replaced "69-4806" with "69-4809.1" because 69-4809.1 is the section under which permits are issued. 69-4806 merely lists the activities which may not be performed without permits.

Section 11. 69-4824. Section 69-4820(6) does not specify the statement to accompany the order; it only gives an alternative to issuing an order. Section "69-4820(6)" is changed to "69-4820(5)" which describes the order.

Section 12. 69-5003. "Mission" changed to "missing" in subsection (3)(b) because the sentence made no sense.

Section 13. 69-5602. Changed "construction" to "constructing" to make the section grammatically correct.

Section 14. 69-5603. Added "or" because "state" modifies "health officers". It should read "state or local health officers".

Section 15. 69-5607. Added "he shall be punished" in order to complete the sentence.

Section 16. 69-5803. Added a definition for department because department is used in later sections without specifying which department. Deleted the other references to "of health and environmental science" because the department is now defined.

Section 17. 69-5806. Reference to 69-5811 erroneous. 69-5812 gives the license procedure.

Section 18. 69-6807. Added "junk vehicle collection and graveyard" to explain which county budget is to be paid by the department. Deleted (1)(b) as temporary.

Section 19. 69-6811. Added a phrase to clarify what kind of stream bank reinforcement is prohibited. As it was, the section prohibited all reinforcement of stream banks.

Section 20. 26-339 repealed. Section 26-339 had outdated and incomplete provisions for punishing water pollution violators. The violations are dealt with more stringently in other sections.

Approved by Committee  
on Natural Resources

SENATE BILL NO. 2

INTRODUCED BY BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO ENVIRONMENTAL PROTECTION; AMENDING SECTIONS 26-1514, 26-1517, 32-4728, 69-3911, 69-3912, 69-3914, 69-3915, 69-3916, 69-3917, 69-4820.1, 69-4824, 69-5003, 69-5602, 69-5603, 69-5607, 69-5803, 69-5806, 69-6807, AND 69-6811, R.C.M. 1947; AND REPEALING SECTION 26-339, R.C.M. 1947."

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

Section 1. Section 26-1514, R.C.M. 1947, is amended to read as follows:

"26-1514. Procedure for considering projects -- team.

(1) The supervisors shall receive all notices of proposed projects within their district. They shall, within five-~~(5)~~ days of receipt of a notice, examine and investigate the notice and determine whether the proposal is for a project. ~~They within the 5 days, they shall, within such period,~~ send a copy of their determination to the department and the applicant. If the supervisors determine that the proposal is not a project, the applicant may, upon receipt of written notice, proceed with the proposed activity.

(2) If the supervisors determine that the proposal is

for a project, the department shall, within five-~~(5)~~ days of receipt of such ~~the~~ determination, notify the supervisors whether the department requests an on-site inspection by a team.

(3) The supervisors shall call a team together within twenty-~~(20)~~ days of receipt of the request of the department for an on-site inspection. ~~Any~~ A member of the team shall notify the supervisors in writing, within five-~~(5)~~ days after notice of the call for an inspection, of his waiver of participation in the inspection. If the department does not request an on-site inspection within the time specified above, the supervisors may deny or approve the project or may make recommendations for alternative plans.

(4) Each member of the team shall recommend, in writing, within fifty-~~(50)~~ days of the date of application, denial, approval, or modification of the project to the supervisors. The applicant may waive participation in this recommendation.

(5) The supervisors shall review the proposed project and affirm, overrule, or modify the individual team recommendations, and notify the applicant and team members, within sixty-~~(60)~~ days of the date of application, of their decision.

(6) When a member of the team disagrees with the supervisors' action, he may ask, within five-~~(5)~~ days of

1 receipt of the supervisors' decision, that an arbitration  
2 panel, as provided in section 26-1515, be appointed to hear  
3 the dispute and make a final written decision thereon.

4 (7) Upon written notice, with any a recommendation or  
5 alternative plan, by the supervisors to the applicant, the  
6 applicant, within fifteen--(15) days, shall notify the  
7 supervisors in writing if he wishes to proceed with the  
8 project in accordance with the recommendations or  
9 alternative plans. No work may be commenced on a project  
10 prior to before the expiration and of this fifteen--(15) day  
11 period unless written permission is given by all team  
12 members. If the written decision of the supervisors approves  
13 the proposed project without recommendation or alternative  
14 plan, the applicant may proceed with the project upon the  
15 expiration of ten--(10) days after receipt of the decision.

16 (8) The supervisors may extend, upon the request of  
17 any a team member, the time limits provided in section  
18 26-1514 subsections (4) and (5) where, in their  
19 determination, the time provided is not sufficient to carry  
20 out the purposes of this act. The time extension may not,  
21 in total, exceed one--(1) year from date of application. The  
22 applicant shall be notified, within sixty--(60) days of date  
23 of application, of the initial time extension and shall be  
24 notified immediately of any subsequent time extensions.

25 (9) No work on a project under this act may take place

1 without the written consent of the supervisors.\*

2 Section 2. Section 26-1517, R.C.M. 1947, is amended to  
3 read as follows:

4 "26-1517. Emergencies -- procedure. (1) The provisions  
5 of this act shall do not apply to those actions which are  
6 necessary to safeguard life or property, including growing  
7 crops, during periods of emergency. The person responsible  
8 for any a project under this section shall notify the  
9 supervisors in writing within fifteen--(15) days of the  
10 action taken as a result of an emergency.

11 (2) The supervisors shall send one (1) copy of the  
12 notice, within five--(5) days of its receipt, to the  
13 department.

14 (3) A team, called together as described in section  
15 26-1514 (3), shall make an on-site inspection and individual  
16 written reports to the supervisors within thirty--(30) days  
17 giving their observations and opinions on the emergency  
18 project.

19 (4) If the same or a similar emergency occurs to the  
20 same applicant more than once within any a five--(5) year  
21 period, the supervisors shall request the team members to  
22 include in their reports a determination of the validity of  
23 the emergency action and to ascertain the feasibility of a  
24 more permanent solution to that the emergency action.

25 (5) The supervisors shall determine the feasibility of

1 a more permanent solution and shall recommend, within  
 2 ~~thirty--{30}~~ days, that the person put the solution into  
 3 effect within a reasonable period of time, as determined by  
 4 the supervisors. Failure of the person to put that solution  
 5 into effect is not a violation of this act unless a  
 6 subsequent emergency action results from this failure.

7 (6) When a member of the team or the applicant  
 8 disagrees with the supervisors' recommendation, he may ask  
 9 that an arbitration panel, as provided in ~~section 26-1515,~~  
 10 be appointed to hear the dispute and make a final written  
 11 decision thereon."

12 Section 3. Section 32-4728, R.C.M. 1947, is amended to  
 13 read as follows:

14 "32-4728. Nonconforming advertising as nuisance. All  
 15 outdoor advertising which does not conform to the  
 16 requirements of this act ~~are is~~ a public ~~nuisances~~  
 17 nuisance."

18 Section 4. Section 69-3911, R.C.M. 1947, is amended to  
 19 read as follows:

20 "69-3911. Permits. (1) The board may, by rule or  
 21 ~~regulations,~~ prohibit the construction, installation,  
 22 alteration, or use of ~~any a~~ machine, equipment, device, or  
 23 facility which it finds may directly or indirectly cause or  
 24 contribute to air pollution or which is intended primarily  
 25 to prevent or control the emission of air pollutants, unless

1 a permit therefor has been obtained from it.

2 (2) Not later than ~~one-hundred-eighty--{180}~~ days prior  
 3 ~~to--the--time--that~~ before construction begins and not later  
 4 than ~~one-hundred-twenty--{120}~~ days prior ~~to--the--time--that~~  
 5 before installation, alteration, or use commences begins,  
 6 the owner or operator shall file with the department the  
 7 appropriate permit application on forms available from the  
 8 department.

9 (3) ~~Notwithstanding anything contained in subsection~~  
 10 ~~{2}, the~~ the department may, for good cause shown, waive the  
 11 provisions of subsection (2) or shorten the time required  
 12 for filing the appropriate applications.

13 (4) The department shall require that applications for  
 14 permits be accompanied by any plans, specifications, and  
 15 other information it ~~deems~~ considers necessary.

16 (5) An application is not considered filed until the  
 17 applicant has submitted all information and completed all  
 18 application forms required by subsections (2), (3), and (4).  
 19 However, if the department fails to notify the applicant in  
 20 writing, within ~~thirty--{30}~~ days after the purported filing  
 21 of an application, that the application is incomplete and  
 22 fails to list the reasons why the application is considered  
 23 incomplete, the application is considered filed as of the  
 24 date of the purported filing.

25 (6) The department shall provide for the issuance,

1 suspension, revocation, and renewal of ~~any permits~~ a permit  
2 issued under this section.

3 (7) Where an application for a permit requires the  
4 compilation of an environmental impact statement under the  
5 Montana Environmental Policy Act, the department shall  
6 notify the applicant in writing, within ~~one hundred eighty~~  
7 ~~(180)~~ days of the receipt of a filed application as defined  
8 in subsection (5), ~~in writing~~, of the approval or denial of  
9 the application. However, where an application does not  
10 require the compilation of an environmental impact  
11 statement, the department shall notify the applicant in  
12 writing within ~~sixty (60)~~ days of the receipt of a filed  
13 application, as defined in subsection (5), ~~in writing~~, of  
14 the approval or denial of the application.

15 (8) When the department approves or denies the  
16 application for a permit under this section, ~~any a person or~~  
17 ~~persons~~ who is jointly or severally adversely affected by  
18 the department's decision ~~may request~~, within ~~fifteen (15)~~  
19 days after the department renders its decision, upon  
20 affidavit setting forth the grounds therefor, a hearing  
21 before the board. A hearing shall be held under the  
22 provisions of the Montana Administrative Procedure Act. The  
23 department's decision on the application is not final unless  
24 ~~fifteen (15)~~ days have elapsed and there is no request for a  
25 hearing under this section. The filing of a request for a

1 hearing postpones the effective date of the department's  
2 decision until the conclusion of the hearing and issuance of  
3 a final decision by the board."

4 Section 5. Section 69-3912, R.C.M. 1947, is amended to  
5 read as follows:

6 "69-3912. Inspections. (1) The department may enter  
7 and inspect, at any reasonable time, any property, premises,  
8 or place, except a private residence, on or at which an air  
9 contaminant source is located or is being constructed or  
10 installed for the purpose of ascertaining the state of  
11 compliance with this act and rules in force under it.

12 (2) A person may not refuse entry or access to an  
13 authorized representative of the department who presents  
14 appropriate credentials when ~~it the department~~ requests  
15 entry for purposes of inspection, ~~and who presents~~  
16 ~~appropriate credentials~~. A person may not obstruct, hamper,  
17 or interfere with an inspection.

18 (3) At his request, the owner or operator of the  
19 premises shall receive a report ~~setting forth~~ stating all  
20 facts found which relate to compliance status."

21 Section 6. Section 69-3914, R.C.M. 1947, is amended to  
22 read as follows:

23 "69-3914. Enforcement. (1) When the department ~~has~~  
24 ~~reason-to-believe~~ believes that a violation of this act or a  
25 rule made under it has occurred, it may cause written notice

1 to be served on the alleged violator. The notice shall  
 2 specify the provision of this act or rule alleged to be  
 3 violated, and the facts alleged to constitute a violation,  
 4 and may include an order to take necessary corrective action  
 5 within a reasonable period of time stated in the order. The  
 6 order becomes final unless, within no-later-than-thirty-(30)  
 7 days after ~~the-date~~ the notice is received, the person named  
 8 requests in writing a hearing before the board. On receipt  
 9 of the request, the board shall hold a hearing.

10 (2) If, after a hearing held under subsection (1) of  
 11 this section, the board finds that violations have occurred,  
 12 it shall either affirm or modify an order previously issued,  
 13 or issue an appropriate order for the prevention, abatement,  
 14 or control of the emissions involved or for the taking of  
 15 other corrective action it considers appropriate. If, after  
 16 hearing on an order contained in a notice, the board finds  
 17 that no violation is occurring, it shall rescind the order.  
 18 An order issued as part of a notice or after a hearing may  
 19 prescribe the date by which the violation shall cease and  
 20 may prescribe time limits for particular action in  
 21 preventing, abating, or controlling the emissions.

22 (3) Instead of issuing the order provided for in  
 23 subsection (1) ~~of this section~~, the department may either:

24 (a) ~~Require~~ require that the alleged violators appear  
 25 before the board for a hearing at a time and place specified

1 in the notice, and answer the charges complained of; or

2 (b) ~~Initiate~~ initiate action under section 69-3921 ~~or~~  
 3 69-3921.1.

4 (4) This chapter does not prevent the board or  
 5 department from making efforts to obtain voluntary  
 6 compliance through warning, conference, or any other  
 7 appropriate means.

8 (5) In connection with a hearing held under this  
 9 section, the board may, and on application by a party shall,  
 10 compel the attendance of witnesses and the production of  
 11 evidence on behalf of the parties."

12 Section 7. Section 69-3915, R.C.M. 1947, is amended to  
 13 read as follows:

14 "69-3915. Emergency procedure. (1) Any other law to  
 15 the contrary notwithstanding, if the department finds that a  
 16 generalized condition of air pollution exists and that it  
 17 creates an emergency requiring immediate action to protect  
 18 human health or safety, the department shall order persons  
 19 causing or contributing to the air pollution to immediately  
 20 reduce or discontinue immediately the emission of air  
 21 contaminants. Upon issuance of this order, the department  
 22 shall fix a place and time within ~~not-later-than~~  
 23 ~~twenty-four-(24) hours thereafter~~ for a hearing to be held  
 24 before the board. ~~Not-more-than-twenty-four~~ Within (24)  
 25 hours after the commencement of the hearing, and without

1 adjournment, the board shall affirm, modify, or set aside  
2 the order of the department.

3 (2) In the absence of a generalized condition such as  
4 that referred to in subsection (1) ~~of this section~~, if the  
5 department finds that emissions from the operation of one  
6 ~~or more~~ air contaminant sources ~~is~~ are causing imminent  
7 danger to human health or safety, it may order the person or  
8 persons responsible for the operation or--operations in  
9 question to reduce or discontinue emissions immediately,  
10 without regard for section 69-3914. In this event, the  
11 requirements for hearing, and affirmance, modification, or  
12 setting aside of orders ~~set forth as provided~~ in subsection  
13 (1) ~~of this section~~ apply.

14 (3) This section does not limit any power which the  
15 governor or any other officer may have to declare an  
16 emergency and act on the basis of this declaration, whether  
17 the power is conferred by statute, or constitutional  
18 provisions, or inheres in the office."

19 Section 8. Section 69-3916, R.C.M. 1947, is amended to  
20 read as follows:

21 "69-3916. Variances -- filing fees. (1) ~~Any~~ A person  
22 who owns or is in control of ~~any~~ a plant, building,  
23 structure, process, or equipment may apply to the board for  
24 an exemption or partial exemption from rules or--regulations  
25 governing the quality, nature, duration, or extent of

1 emissions of air pollutants. The application shall be  
2 accompanied by such information and data as the board may  
3 require. The board may grant ~~such an~~ exemption or partial  
4 exemption if it finds that:

5 (a) ~~The~~ the emissions occurring or proposed to occur  
6 do not constitute a danger to public health or safety; and

7 (b) ~~Compliance~~ compliance with the rules or  
8 regulations from which exemption is sought would produce  
9 hardship without equal or greater benefits to the public.

10 (2) No exemption or partial exemption ~~shall~~ may be  
11 granted pursuant to this section except after public hearing  
12 on due notice and until the board has considered the  
13 relative interests of the applicant, other owners or  
14 property likely to be affected by the emissions, and the  
15 general public.

16 (3) No exemption or partial exemption pursuant to this  
17 section ~~shall~~ may be granted for a period to exceed ~~one~~ one  
18 year, but ~~any such~~ the exemption or partial exemption may be  
19 renewed for like periods if no complaint is made to the  
20 board ~~on account thereof because of it~~ or if, ~~such~~ after the  
21 complaint ~~having~~ has been made and duly considered at a  
22 public hearing held by the board on due notice, the board  
23 finds that renewal is justified. No renewal ~~shall~~ may be  
24 granted except on application therefor. ~~Any such~~ an  
25 application shall be made at least ~~sixty~~ sixty days ~~prior~~ to



1 ~~before~~ the expiration of the exemption or partial exemption.  
 2 Immediately ~~prior--to before~~ application for renewal the  
 3 applicant shall give public notice of such his application  
 4 in accordance with rules ~~and regulations~~ of the board. Any A  
 5 renewal pursuant to this subsection shall be on the same  
 6 grounds and subject to the same limitations and requirements  
 7 as provided in subsection ~~(1) (a)-of-this-section.~~

8 (4) An exemption, partial exemption<sub>2</sub> or renewal  
 9 thereof ~~shall~~ is not be a right of the applicant or holder  
 10 thereof but shall be granted in AI the discretion of the  
 11 board. However, ~~only a~~ person adversely affected by an  
 12 exemption, partial exemption<sub>2</sub> or renewal granted by the  
 13 board may obtain judicial review thereof as provided by  
 14 ~~section 69-3917 of this act.~~

15 (5) Nothing in this section and no exemption, partial  
 16 exemption<sub>2</sub> or renewal granted pursuant ~~hereto-shall~~ to this  
 17 section may be construed to prevent or limit the application  
 18 of the emergency provisions and procedures of ~~section~~  
 19 ~~69-3915 of this act to any a~~ person or his property.

20 (6) Any A person who owns or is in control of any a  
 21 plant, building, structure, process<sub>2</sub> or equipment  
 22 (hereinafter called a facility) who applies to the board for  
 23 an exemption or partial exemption or a renewal of an  
 24 exemption or partial exemption from ~~any a~~ rule governing the  
 25 quality, nature, duration<sub>2</sub> or extent of emissions of air

1 pollutants shall submit with the application for variance a  
 2 sum of not less than ~~five--hundred--dollars--(\$500)~~ or two  
 3 percent--~~(2%)~~ of the cost of the equipment to bring the  
 4 facility into compliance with the rule~~s~~ for which a  
 5 variance is sought, whichever is greater, but not to exceed  
 6 ~~eighty-thousand--dollars--(\$80,000).~~ The department shall  
 7 prepare a statement of actual costs, and ~~any~~ funds in excess  
 8 of this shall be returned to the applicant. ~~the value of any~~  
 9 ~~fee--in--excess--of--five--hundred--dollars--(\$500)--shall--be~~  
 10 ~~calculated--by--determining--the--cost--of--the--equipment--required~~  
 11 ~~to--bring--the--facility--into--compliance--with--the--rule(s)--for~~  
 12 ~~which--the--variance--is--being--sought.~~ The person requesting  
 13 the variance shall describe the facility in sufficient  
 14 detail, with accompanying estimates of cost and verifying  
 15 materials, to permit the department to determine, with  
 16 reasonable accuracy, the sum of the fee ~~which accompanied~~  
 17 ~~the request for variance.~~ For a renewal of an exemption or  
 18 partial exemption, if no public hearing, environmental  
 19 impact statement, or appreciable investigation by the  
 20 department is necessary, ~~---or---no---environmental---impact~~  
 21 ~~statement---is---deemed---necessary---or---if---no---appreciable~~  
 22 ~~investigation--of--the--renewal--application--is--necessary--by--the~~  
 23 department, the minimum filing fee shall apply or the fee  
 24 may be waived by the department. The filing fee shall be  
 25 deposited in the earmarked revenue fund provided for in

1 section 79-410. It is the intent of the legislature that  
2 the revenues derived from the filing fees shall be used by  
3 the department;

4 (a) to compile the information required for rendering a  
5 decision on the request;

6 (b) to compile the information necessary for any  
7 environmental impact statements;

8 (c) to offset the costs of a public hearing, printing,  
9 or mailing; and

10 (d) to carry out its other responsibilities under this  
11 chapter."

12 Section 9. Section 69-3917, R.C.M. 1947, is amended to  
13 read as follows:

14 "69-3917. Hearings and judicial review. (1) No rule  
15 and no amendment or repeal thereof shall ~~may~~ take effect  
16 except after public hearing on due notice, and after the  
17 advisory council has been afforded not less than ~~given at~~  
18 ~~least thirty--(30)~~ days prior to ~~before~~ publication of the  
19 proposed text to comment thereon. ~~Such~~ ~~the~~ notice shall be  
20 given by public advertisement not less than ~~twenty--(20)~~ or  
21 more than ~~thirty--(30)~~ days prior to ~~before~~ the date set for  
22 such ~~the public~~ hearing.

23 (2) Nothing in this section shall ~~may~~ be construed to  
24 require a hearing prior--to ~~before~~ the issuance of an  
25 emergency order pursuant to ~~section 12--(69-3915<)-of this~~

1 act.

2 (3) ~~Any A~~ person aggrieved by ~~any an~~ order of the  
3 board or local control authority may apply for rehearing  
4 upon one or more of the following grounds, and upon no other  
5 grounds:

6 (a) ~~The the~~ board or local control authority acted  
7 without or in excess of its powers;

8 (b) ~~The the~~ order was procured by fraud;

9 (c) ~~The the~~ order is contrary to the evidence;

10 (d) ~~The the~~ applicant has discovered new evidence,  
11 material to him, which he could not, with reasonable  
12 diligence, have discovered and produced at the hearing; ~~or~~

13 (e) ~~Competent competent~~ evidence was excluded to the  
14 prejudice of the applicant. The petition must be in such  
15 form and filed in such time as the board shall prescribe.

16 (4) (a) Within ~~thirty--(30)~~ days after the application  
17 for rehearing is denied, or, if the application is granted,  
18 within ~~thirty--(30)~~ days after the decision on the rehearing,  
19 any a party aggrieved thereby may appeal to the district  
20 court of ~~any the~~ judicial district of the state which is the  
21 situs of property affected by the order.

22 (b) The appeal shall be taken by serving a written  
23 notice of appeal upon the ~~executive-officer~~ ~~chairman~~ of the  
24 board, which service shall be made by the delivery of a copy  
25 of the notice to ~~such-officer, the chairman~~ and by filing

1 the original with the clerk of the court to which the appeal  
 2 is taken. Immediately upon ~~after~~ service upon the board,  
 3 the board shall certify to the district court the entire  
 4 record and proceedings, including all testimony and evidence  
 5 taken by the board. Immediately upon receiving the certified  
 6 record, the district court shall fix a day for filing of  
 7 briefs and hearing arguments on the cause, and shall cause a  
 8 notice of the same to be served upon the board and the  
 9 appellant.

10 (c) The court shall hear and decide the cause upon the  
 11 record of the board. The court shall determine whether or  
 12 not the board regularly pursued its authority, whether or  
 13 not the findings of the board were supported by substantial  
 14 competent evidence, and whether or not the board made errors  
 15 of law prejudicial to the appellant.

16 (5) Either the board ~~for~~ the person aggrieved may  
 17 appeal from the decision of the district court to the  
 18 supreme court. The proceedings before the supreme court  
 19 shall be limited to a review of the record of the hearing  
 20 before the board and of the district court's review of that  
 21 record."

22 Section 10. Section 69-4820.1, R.C.M. 1947, is amended  
 23 to read as follows:

24 "69-4820.1. Additional ~~enforcement-remedies sanctions~~  
 25 ~~authorized.~~ (1) In addition to all other remedies created by

1 this act, the department is authorized to take appropriate  
 2 enforcement action on its own initiative to:

3 (a) prevent, abate, and control the pollution of state  
 4 waters;

5 (b) prevent, abate, and control any violation of a  
 6 condition or limitation imposed by a permit issued under  
 7 ~~section 69-4886, R.C.M. 1947~~ 69-4819.1 (1)(a);

8 (c) prevent, abate, and control any ~~violations~~  
 9 ~~violation~~ of ~~regulations~~ ~~rules~~ relating to pretreatment  
 10 standards.

11 (2) In furtherance of subsection (1) ~~of this section,~~  
 12 ~~any a~~ person violating ~~any a~~ condition, limitation,  
 13 standard, or other requirement established pursuant to this  
 14 chapter may be served with a compliance order issued by the  
 15 department. ~~Such~~ ~~The~~ order must specify the condition,  
 16 limitation, standard, or other requirement violated and must  
 17 set a time for compliance. However, in establishing a time  
 18 for compliance, the department shall take into account the  
 19 seriousness of the violation and any good faith efforts that  
 20 have been made to comply with the condition, limitation,  
 21 standard, or other requirement that has been violated. The  
 22 compliance order issued under this section shall be  
 23 personally served by an authorized representative of the  
 24 department.

25 (3) The department is authorized to commence a civil

1 action seeking appropriate relief, including a permanent or  
 2 temporary injunction, for any a violation which would be  
 3 subject to a compliance order under subsection (2) of this  
 4 section. Any An action under this subsection may be  
 5 commenced in the district court of any the county in which  
 6 the defendant is located or resides or is doing business,  
 7 and the court shall have jurisdiction to restrain such the  
 8 violation and to require compliance.

9 (4) Any A person found to be in violation of a  
 10 condition, limitation, standard, or other requirement  
 11 established pursuant to this section shall be subject to the  
 12 penalty provisions of section 69-4823-R.C.M.-1947.

13 (5) For the purpose of this subsection, the term  
 14 "person" shall mean, in addition to the definition contained  
 15 in section 69-4802-R.C.M.-1947, any responsible corporate  
 16 officer."

17 Section 11. Section 69-4824, R.C.M. 1947, is amended  
 18 to read as follows:

19 "69-4824. Emergencies. Notwithstanding any other  
 20 provisions of this chapter, if the department finds that a  
 21 person is committing or is about to commit an act in  
 22 violation of this chapter or an order or rule issued under  
 23 it which, if it occurs or continues, will cause substantial  
 24 pollution the harmful effects of which will not be remedied  
 25 immediately after the commission or cessation of the act,

1 the department shall order such the person to stop, avoid,  
 2 or moderate the act so that the substantial injury will not  
 3 occur. The order shall be effective immediately upon receipt  
 4 by the person to whom it is directed, unless the department  
 5 provides otherwise. Notice of the order shall conform to  
 6 the requirements of section ~~13 (1) (69-4820 (1))~~ of this  
 7 act 69-4820 (1) so far as practicable; the notice shall  
 8 indicate that the order is an emergency order. Upon issuing  
 9 such an order, the department shall fix a place and time for  
 10 a hearing before the board, not later than ~~five (5)~~ days  
 11 thereafter, unless the person to whom the order is directed  
 12 shall request a later time. The department may deny a  
 13 request for a later time if it finds that the person to whom  
 14 the order is directed is not complying with the order. The  
 15 hearing shall be conducted in the manner specified in  
 16 section ~~13~~ subsections ~~(4) (5) and (6)~~ ~~(69-4820 (4) (5) (6))~~ of this act 69-4820. As soon as practicable after  
 17 the hearing, the board shall affirm, modify, or set aside  
 18 the order of the department. The order of the board shall be  
 19 accompanied by the statement specified in section ~~13 (6)~~  
 20 ~~(69-4820 (6))~~ of this act 69-4820 (5). An action for  
 21 review of the order of the board may be initiated in the  
 22 manner specified in section ~~15 (69-4821)~~ of this act  
 23 69-4821. The initiation of such an action or taking of an  
 24 appeal shall may not stay the effectiveness of the order,  
 25

1 unless the court ~~shall find~~ finds that the board did not  
2 have reasonable cause to issue an order under this section."

3 Section 12. Section 69-5003, R.C.M. 1947, is amended  
4 to read as follows:

5 "69-5003. Approval of plans for facilities in  
6 subdivisions. (1) A person may not file a subdivision plat  
7 with a county clerk and recorder, make disposition of any a  
8 lot within a subdivision, erect any a building or shelter in  
9 a subdivision which requires facilities for the supply of  
10 water or disposal of sewage or solid waste, or occupy any a  
11 permanent building in a subdivision until the department has  
12 indicated that the subdivision is subject to no sanitary  
13 restriction.

14 (2) A county clerk and recorder may not accept a  
15 subdivision plat for filing until:

16 (a) the person wishing to file the plat has obtained  
17 approval of the local health officer having jurisdiction and  
18 has filed the approval with the department; and

19 (b) the department has indicated by stamp or  
20 certificate, that it has approved the plat and plans and  
21 specifications and that the subdivision is subject to no  
22 sanitary restriction.

23 (3) When a subdivision as defined in this chapter is  
24 excluded from the provisions of ~~title--11--chapter--30~~  
25 ~~section 11-3862, R.C.M.--1947~~, except section 11-3862 (8),

1 ~~R.C.M.--1947~~ and the subdivision is otherwise subject to the  
2 provisions of this chapter, plans and specifications of the  
3 ~~subdivisions~~ subdivision shall be submitted to the  
4 department, and the department shall indicate by certificate  
5 that it has approved the plans and specifications and that  
6 the subdivision is not subject to a sanitary restriction.  
7 The plan review by the department shall be as follows:

8 (a) The developer shall present to the department a  
9 preliminary plan of the proposed development and whatever  
10 information the developer feels necessary for its subsequent  
11 review. Within ~~sixty--(60)~~ days of receipt of this  
12 submission, ~~based upon its receipt~~ by the department, the  
13 department shall notify the developer if the material  
14 submitted is satisfactory to determine if sanitary  
15 restrictions are necessary and, if not, what additional  
16 information is required for subsequent action by the  
17 department.

18 (b) If additional information is necessary to  
19 determine if sanitary restrictions are necessary, no further  
20 processing will be made on the request until the ~~mission~~  
21 missing information is made available to the department by  
22 the developer.

23 (c) The department must notify the developer within  
24 ~~thirty--(30)~~ days if his submission of additional requested  
25 material is satisfactory. If the material is not

1 satisfactory, the provision of subsection (b) shall apply.

2 (d) After the department has notified the developer  
3 that ~~they have~~ it has all the necessary information required  
4 for review, the department must give final action of the  
5 proposed plan within ~~sixty--(60)~~ days, unless an  
6 environmental impact statement is required, at which time  
7 this deadline may be increased to ~~one-hundred--twenty--(120)~~  
8 days.

9 (4) A person may not construct or use ~~any facilities a~~  
10 facility which ~~deviate~~ deviates from the plans and  
11 specifications filed with the department until the  
12 department has approved the deviation.\*

13 Section 13. Section 69-5602, R.C.M. 1947, is amended  
14 to read as follows:

15 "69-5602. ~~Rules--adoption-by-department-of-health-and~~  
16 ~~environmental-sciences Department authorized to adopt rules.~~  
17 The department shall adopt rules for construction  
18 constructing and operating tourist campgrounds and trailer  
19 courts to insure sanitation and protect public health."

20 Section 14. Section 69-5603, R.C.M. 1947, is amended  
21 to read as follows:

22 "69-5603. License ~~from--department~~ required --  
23 inspections. A person operating a tourist campground or  
24 trailer court shall:

25 (1) obtain a license from the department;

1 (2) permit inspections by state or local health  
2 officers, sanitarians, or other authorized persons at all  
3 reasonable times."

4 Section 15. Section 69-5607, R.C.M. 1947, is amended  
5 to read as follows:

6 "69-5607. Violations ~~and--penalty --~~ penalties --  
7 disposition of fines. ~~Any A~~ A person violating ~~any a~~ a provision  
8 of this chapter or ~~regulation a rule~~ a rule made under it shall be  
9 guilty of a misdemeanor, and, upon conviction, shall be  
10 fined not less than ~~fifty-dollars--(\$50)~~ or more than ~~one~~  
11 ~~hundred-dollars--(\$100)~~ for the first offense, and not less  
12 than ~~seventy-five-dollars--(\$75)~~ or more than ~~two-hundred~~  
13 ~~dollars--(\$200)~~ for the second offense; and for the third and  
14 subsequent offenses, he shall be punished by a fine of not  
15 less than ~~two-hundred-dollars--(\$200)~~ and imprisonment in the  
16 county jail not to exceed ~~ninety--(90)~~ days. Fines shall be  
17 paid to the county treasurer of the county in which the  
18 tourist campground or trailer court is located. The county  
19 treasurer shall send all fines collected to the state  
20 treasurer for deposit in the state general fund."

21 Section 16. Section 69-5803, R.C.M. 1947, is amended  
22 to read as follows:

23 "69-5803. Definitions. (1) "By-product material" means  
24 any a radioactive material (except special nuclear material)  
25 yielded in or made radioactive by exposure to the radiation

1 incident to the process of producing or utilizing special  
2 nuclear material.

3 (2) "Ionizing radiation" means gamma rays and x-rays  ~~&~~  
4 rays, alpha and beta particles, high-speed electrons,  
5 neutrons, protons, and other nuclear particles but not sound  
6 or radio waves or visible, infrared, or  ~~ultra-violet~~  
7 ultraviolet light.

8 (3) "General license" means a license effective  
9 pursuant to  ~~regulations rules~~ promulgated by the department  
10  ~~of--health--and--environmental--sciences~~ without the filing of  
11 an application to transfer, acquire, own, possess, or use  
12 quantities of or devices or equipment utilizing quantities  
13 of by-product, source, special nuclear materials, or other  
14 radioactive material occurring naturally or produced  
15 artificially. General licenses are effective without the  
16 filing of applications with the department  ~~of--health--and~~  
17  ~~environmental--sciences~~ or the issuing of licensing documents  
18 to the user.

19 (4) "Specific license" means a license issued after  
20 application to use, manufacture, produce, transfer,  
21 receive, acquire, own, or possess quantities of or devices  
22 or equipment utilizing quantities of by-product, special  
23 nuclear materials, or other radioactive material occurring  
24 naturally or produced artificially.

25 (5) "Person" means any an individual, corporation,

1 partnership, firm, association, trust, estate, public or  
2 private institution, group, agency, political subdivision or  
3 agency thereof, and any legal successor, representative,  
4 agent, or agency of the foregoing, other than the United  
5 States atomic energy commission, any successor thereto, or  
6 federal agencies licensed by the atomic energy commission.

7 (6) "Source material" means uranium, thorium, or any  
8 other material which the department  ~~of--health--and~~  
9  ~~environmental--sciences~~ or the United States atomic energy  
10 commission declares by order to be source material or ores  
11 containing one  ~~(1)~~ or more of the foregoing materials, in  
12 such concentration as the department  ~~of--health--and~~  
13  ~~environmental--sciences~~ or the atomic energy commission  
14 declares by order to be source material after the atomic  
15 energy commission has determined the material in such  
16 concentration to be source material.

17 (7) "Special nuclear material" means plutonium,  
18 uranium enriched in the isotope 233 or in the isotope 235,  
19 and any other material which the department  ~~of--health--and~~  
20  ~~environmental--sciences~~ or the United States atomic energy  
21 commission, or any successor thereto, declares by order to  
22 be special nuclear material or any material artificially  
23 enriched by any of the foregoing, but does not include  
24 source material.

25 (8) "Registration" means the registering by the legal

1 owner, user, or authorized representative with the  
 2 department of ~~health and environmental sciences~~ in the  
 3 ~~manner prescribed by rule or regulation~~ of sources of  
 4 ionizing radiation in the manner prescribed by rule.

5 (9) "Department" means the department of health and  
 6 environmental sciences."

7 Section 17. Section 69-5806, R.C.M. 1947, is amended  
 8 to read as follows:

9 "69-5806. Licensing and registration of ~~persons~~  
 10 ~~handling radioactive materials or equipment using such~~  
 11 ~~materials.~~ (1) The department shall provide by rule or  
 12 ~~regulation~~ for general or specific licensing of persons to  
 13 receive, possess, or transfer radioactive materials and  
 14 devices or equipment utilizing such materials. ~~Such~~ the  
 15 ~~rules or regulations~~ shall provide for amendment,  
 16 suspension, or revocation of licenses pursuant to ~~section 17~~  
 17 ~~<(69-5811)> of this act; 69-5812.~~

18 (2) Each application for a specific license shall be  
 19 in writing and shall state such information as the  
 20 department by rule or ~~regulation~~ may determine to be  
 21 necessary to decide the technical, insurance, and financial  
 22 qualifications or any other qualification of the applicant  
 23 as the department ~~may deem~~ considers reasonable and  
 24 necessary to protect the occupational and public health and  
 25 safety. The department may, at any time after the filing of

1 the application and before the expiration of the license,  
 2 require further written statements and may make such  
 3 inspections as the department ~~may deem~~ considers necessary  
 4 in order to determine whether the license should be granted,  
 5 or denied, or ~~whether the license should be~~ modified,  
 6 suspended, or revoked. All applications and statements shall  
 7 be signed by the applicant or licensee. The department may  
 8 require ~~any applications~~ an application or ~~statements~~  
 9 statement to be made under oath or affirmation.

10 (3) Each license shall be in such form and contain  
 11 such terms and conditions as the department may by rule or  
 12 ~~regulation~~ prescribe.

13 (4) No license issued pursuant to the provisions of  
 14 this act and no right to possess or utilize sources of  
 15 ionizing radiation granted by any license ~~shall~~ may be  
 16 assigned or in any manner disposed of.

17 (5) The terms and conditions of all licenses shall be  
 18 subject to amendment, revision, or modification by rules  
 19 ~~regulations~~ or orders issued in accordance with the  
 20 provisions of this act.

21 (6) The department may require registration and  
 22 inspection of persons dealing with sources of ionizing  
 23 radiation which do not require a specific license and may  
 24 require compliance with specific safety standards to be  
 25 promulgated by the department.



1 (7) The department is authorized to exempt certain  
2 users from the licensing or registration requirements set  
3 forth in this section when the department makes a finding  
4 that the exemption of such ~~the~~ users will not constitute a  
5 significant risk to the health and safety of the public; and

6 (8) Any A report of investigation or inspection or  
7 any information concerning trade secrets or secret  
8 industrial processes obtained under this act shall not be  
9 disclosed or opened to public inspection except as may be  
10 necessary for the performance of the functions of the  
11 department; and

12 (9) Rules ~~and regulations~~ promulgated pursuant to this  
13 act may provide for recognition of such other state or  
14 federal licenses as the department ~~may deem~~ considers  
15 desirable, subject to such registration requirements as the  
16 department ~~may prescribe~~ prescribes."

17 Section 18. Section 69-6807, R.C.M. 1947, is amended  
18 to read as follows:

19 "69-6807. Deposit of fees -- special junk vehicle  
20 assessment fee. (1) All motor vehicle wrecking facility  
21 license fees and fees collected as motor vehicle disposal  
22 fees shall be deposited with the state treasurer to be  
23 utilized for ~~the~~ control, collection, and disposal of junk  
24 vehicles; ~~and~~

25 ~~(b) to conduct a feasibility study to determine the~~

1 suitability of resource recovery from our solid waste; the  
2 cost of which may not exceed two hundred thousand dollars  
3 (\$200,000); and the results of which will be made available  
4 to the public and legislature by 1977.

5 (2) ~~There is assessed a~~ A special junk vehicle  
6 disposal fee ~~commencing on July 1, 1973, shall be assessed~~  
7 on each new application for a motor vehicle title and on  
8 each transfer of motor vehicle title in the amount of two  
9 dollars ~~(\$2)~~ on passenger cars and trucks under 8001 pounds  
10 GVW, ~~which shall be collected by the county treasurer and~~  
11 ~~commencing with the year 1974, there shall be assessed an~~ An  
12 additional special junk vehicle disposal fee shall be  
13 assessed in the amount of fifty 50 cents ~~(\$50)~~ on each  
14 passenger car and truck under 8001 pounds GVW registered for  
15 licensing. The ~~fifty cents (\$50) fee~~ fees shall be  
16 collected by the county treasurer. However, the following  
17 are exempt from payment of the fees:

18 (a) vehicles leased or owned by the state or by a  
19 county or municipality;

20 (b) vehicles used for transportation by nonresident,  
21 migratory workers temporarily employed in agricultural work  
22 in this state;

23 (c) vehicles displaying dealers' license plates, as  
24 provided in section 53-122, while owned by a dealer; and

25 (d) house trailers or equipment which are not

1 self-propelled or which require towing upon a highway of  
2 this state.

3 (3) The department shall report to each legislature  
4 the amount collected under this act and the cost of  
5 administration of the act to date so that any necessary  
6 adjustment of the amount of the fee may be made to assure  
7 that no more than the actual cost of operation of the  
8 program is collected.

9 (4) The department shall pay to a county the amount of  
10 the approved junk vehicle collection and graveyard budget of  
11 the county. The yearly payment may not exceed ~~one-dollar~~  
12 ~~(\$1)~~ for each motor vehicle under 8001 pounds GVW that is  
13 licensed in that county. However, for those counties that  
14 have fewer than ~~five-thousand~~ ~~(5,000)~~ such motor vehicles,  
15 the department may pay up to ~~five-thousand-dollars~~ ~~(\$5,000)~~,  
16 providing the county can justify this payment."

17 Section 19. Section 69-6811, R.C.M. 1947, is amended  
18 to read as follows:

19 "69-6811. Prohibition. It is unlawful to place junked  
20 motor vehicles or the body portion of junked motor  
21 vehicles between ~~high-water~~ high-water channel banks of  
22 any stream or to reinforce banks of a stream with such  
23 junked motor vehicle or the body portion of such junked  
24 motor vehicles."

25 Section 20. Repealer. Section 26-339, R.C.M. 1947 is

1 repealed.

-End-

SENATE BILL NO. 2

INTRODUCED BY BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO ENVIRONMENTAL PROTECTION; AMENDING SECTIONS 26-1514, 26-1517, 32-4728, 69-3911, 69-3912, 69-3914, 69-3915, 69-3916, 69-3917, 69-4820.1, 69-4824, 69-5003, 69-5602, 69-5603, 69-5607, 69-5803, 69-5806, 69-6807, AND 69-6811, R.C.M. 1947; AND REPEALING SECTION 26-339, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 26-1514, R.C.M. 1947, is amended to read as follows:

"26-1514. Procedure for considering projects -- team.

(1) The supervisors shall receive all notices of proposed projects within their district. They shall, within five-(5) days of receipt of a notice, examine and investigate the notice and determine whether the proposal is for a project. They ~~within the 5 days, they shall, within such period,~~ send a copy of their determination to the department and the applicant. If the supervisors determine that the proposal is not a project, the applicant may, upon receipt of written notice, proceed with the proposed activity.

(2) If the supervisors determine that the proposal is

There are no changes in SB 2, and due to length will not be rerun. Please refer to yellow copy for complete text.

THIRD READING

for a project, the department shall, within ~~five-(5)~~ days of receipt of such ~~the~~ determination, notify the supervisors whether the department requests an on-site inspection by a team.

(3) The supervisors shall call a team together within ~~twenty-(20)~~ days of receipt of the request of the department for an on-site inspection. Any ~~A~~ member of the team shall notify the supervisors in writing, within ~~five-(5)~~ days after notice of the call for an inspection, of his waiver of participation in the inspection. If the department does not request an on-site inspection within the time specified above, the supervisors may deny or approve the project or may make recommendations for alternative plans.

(4) Each member of the team shall recommend, in writing, within ~~fifty-(50)~~ days of ~~the~~ date of application, denial, approval, or modification of the project to the supervisors. The applicant may waive participation in this recommendation.

(5) The supervisors shall review the proposed project and affirm, overrule, or modify the individual team recommendations, and notify the applicant and team members, within ~~sixty-(60)~~ days of the date of application, of their decision.

(6) When a member of the team disagrees with the supervisors' action, he may ask, within ~~five-(5)~~ days of

1 receipt of the supervisors' decision, that an arbitration  
2 panel, as provided in section 26-1515, be appointed to hear  
3 the dispute and make a final written decision thereon.

4 (7) Upon written notice, with any a recommendation or  
5 alternative plan, by the supervisors to the applicant, the  
6 applicant, within fifteen--{15} days, shall notify the  
7 supervisors in writing if he wishes to proceed with the  
8 project in accordance with the recommendations or  
9 alternative plans. No work may be commenced on a project  
10 prior to before the expiration and of this fifteen--{15} day  
11 period unless written permission is given by all team  
12 members. If the written decision of the supervisors approves  
13 the proposed project without recommendation or alternative  
14 plan, the applicant may proceed with the project upon the  
15 expiration of ten--{10} days after receipt of the decision.

16 (8) The supervisors may extend, upon the request of  
17 any a team member, the time limits provided in section  
18 26-1514 subsections (4) and (5) where, in their  
19 determination, the time provided is not sufficient to carry  
20 out the purposes of this act. The time extension may not,  
21 in total, exceed one--{1} year from date of application. The  
22 applicant shall be notified, within sixty--{60} days of date  
23 of application, of the initial time extension and shall be  
24 notified immediately of any subsequent time extensions.

25 (9) No work on a project under this act may take place

1 without the written consent of the supervisors."

2 Section 2. Section 26-1517, R.C.M. 1947, is amended to  
3 read as follows:

4 "26-1517. Emergencies -- procedure. (1) The provisions  
5 of this act shall ~~do~~ not apply to those actions which are  
6 necessary to safeguard life or property, including growing  
7 crops, during periods of emergency. The person responsible  
8 for any a project under this section shall notify the  
9 supervisors in writing within fifteen--{15} days of the  
10 action taken as a result of an emergency.

11 (2) The supervisors shall send one {1} copy of the  
12 notice, within five--{5} days of its receipt, to the  
13 department.

14 (3) A team, called together as described in section  
15 26-1514 (3), shall make an on-site inspection and individual  
16 written reports to the supervisors within thirty--{30} days  
17 giving their observations and opinions on the emergency  
18 project.

19 (4) If the same or a similar emergency occurs to the  
20 same applicant more than once within any a five--{5} year  
21 period, the supervisors shall request the team members to  
22 include in their reports a determination of the validity of  
23 the emergency action and to ascertain the feasibility of a  
24 more permanent solution to that the emergency action.

25 (5) The supervisors shall determine the feasibility of

## 1 SENATE BILL NO. 2

2 INTRODUCED BY BLAYLOCK

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
5 CLARIFY THE LAWS RELATING TO ENVIRONMENTAL PROTECTION;  
6 AMENDING SECTIONS 26-1514, 26-1517, 32-4728, 69-3911,  
7 69-3912, 69-3914, 69-3915, 69-3916, 69-3917, 69-4820.1,  
8 69-4824, 69-5003, 69-5602, 69-5603, 69-5607, 69-5803,  
9 69-5806, 69-6807, AND 69-6811, R.C.M. 1947; AND REPEALING  
10 SECTION 26-339, R.C.M. 1947."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:13 Section 1. Section 26-1514, R.C.M. 1947, is amended to  
14 read as follows:

15 "26-1514. Procedure for considering projects -- team.

16 (1) The supervisors shall receive all notices of proposed  
17 projects within their district. They shall, within ~~five~~(5)  
18 days of receipt of a notice, examine and investigate the  
19 notice and determine whether the proposal is for a project.  
20 ~~They within the 5 days, they shall, within such period,~~ send  
21 a copy of their determination to the department and the  
22 applicant. If the supervisors determine that the proposal  
23 is not a project, the applicant may, upon receipt of written  
24 notice, proceed with the proposed activity.

25 (2) If the supervisors determine that the proposal is

1 for a project, the department shall, within ~~five~~(5) days of  
2 receipt of ~~such~~ the determination, notify the supervisors  
3 whether the department requests an on-site inspection by a  
4 team.

5 (3) The supervisors shall call a team together within  
6 ~~twenty~~(20) days of receipt of the request of the department  
7 for an on-site inspection. ~~Any~~ A member of the team shall  
8 notify the supervisors in writing, within ~~five~~(5) days  
9 after notice of the call for an inspection, of his waiver of  
10 participation in the inspection. If the department does not  
11 request an on-site inspection within the time specified  
12 above, the supervisors may deny or approve the project or  
13 may make recommendations for alternative plans.

14 (4) Each member of the team shall recommend in  
15 writing, within ~~fifty~~(50) days of ~~the~~ date of application,  
16 denial, approval, or modification of the project to the  
17 supervisors. The applicant may waive participation in this  
18 recommendation.

19 (5) The supervisors shall review the proposed project  
20 and affirm, overrule, or modify the individual team  
21 recommendations, and notify the applicant and team members,  
22 within ~~sixty~~(60) days of the date of application, of their  
23 decision.

24 (6) When a member of the team disagrees with the  
25 supervisors' action, he may ask, within ~~five~~(5) days of

1 receipt of the supervisors' decision, that an arbitration  
2 panel, as provided in section 26-1515, be appointed to hear  
3 the dispute and make a final written decision thereon.

4 (7) Upon written notice, with any a recommendation or  
5 alternative plan, by the supervisors to the applicant, the  
6 applicant, within fifteen--(15) days, shall notify the  
7 supervisors in writing if he wishes to proceed with the  
8 project in accordance with the recommendations or  
9 alternative plans. No work may be commenced on a project  
10 prior to before the expiration and of this fifteen--(15) day  
11 period unless written permission is given by all team  
12 members. If the written decision of the supervisors approves  
13 the proposed project without recommendation or alternative  
14 plan, the applicant may proceed with the project upon the  
15 expiration of ten--(10) days after receipt of the decision.

16 (8) The supervisors may extend, upon the request of  
17 any a team member, the time limits provided in section  
18 26-1514 subsections (4) and (5) where, in their  
19 determination, the time provided is not sufficient to carry  
20 out the purposes of this act. The time extension may not,  
21 in total, exceed one--(1) year from date of application. The  
22 applicant shall be notified, within sixty--(60) days of date  
23 of application, of the initial time extension and shall be  
24 notified immediately of any subsequent time extensions.

25 (9) No work on a project under this act may take place

1 without the written consent of the supervisors.\*

2 Section 2. Section 26-1517, R.C.M. 1947, is amended to  
3 read as follows:

4 "26-1517. Emergencies -- procedure. (1) The provisions  
5 of this act shall do not apply to those actions which are  
6 necessary to safeguard life or property, including growing  
7 crops, during periods of emergency. The person responsible  
8 for any a project under this section shall notify the  
9 supervisors in writing within fifteen--(15) days of the  
10 action taken as a result of an emergency.

11 (2) The supervisors shall send one (1) copy of the  
12 notice, within five--(5) days of its receipt, to the  
13 department.

14 (3) A team, called together as described in section  
15 26-1514 (3), shall make an on-site inspection and individual  
16 written reports to the supervisors within thirty--(30) days  
17 giving their observations and opinions on the emergency  
18 project.

19 (4) If the same or a similar emergency occurs to the  
20 same applicant more than once within any a five--(5) year  
21 period, the supervisors shall request the team members to  
22 include in their reports a determination of the validity of  
23 the emergency action and to ascertain the feasibility of a  
24 more permanent solution to that the emergency action.

25 (5) The supervisors shall determine the feasibility of

1 a more permanent solution and shall recommend, within  
 2 ~~thirty--(30)~~ days, that the person put the solution into  
 3 effect within a reasonable period of time, as determined by  
 4 the supervisors. Failure of the person to put that solution  
 5 into effect is not a violation of this act unless a  
 6 subsequent emergency action results from this failure.

7 (6) When a member of the team or the applicant  
 8 disagrees with the supervisors' recommendation, he may ask  
 9 that an arbitration panel, as provided in section 26-1515,  
 10 be appointed to hear the dispute and make a final written  
 11 decision thereon."

12 Section 3. Section 32-4728, R.C.M. 1947, is amended to  
 13 read as follows:

14 "32-4728. Nonconforming advertising as nuisance. All  
 15 outdoor advertising which does not conform to the  
 16 requirements of this act ~~are~~ is a public ~~nuisances~~  
 17 nuisance."

18 Section 4. Section 69-3911, R.C.M. 1947, is amended to  
 19 read as follows:

20 "69-3911. Permits. (1) The board may, by rule or  
 21 ~~regulations,~~ prohibit the construction, installation,  
 22 alteration, or use of ~~any a~~ machine, equipment, device, or  
 23 facility which it finds may directly or indirectly cause or  
 24 contribute to air pollution or which is intended primarily  
 25 to prevent or control the emission of air pollutants, unless

1 a permit therefor has been obtained ~~from it.~~

2 (2) Not later than ~~one-hundred-eighty-(180)~~ days ~~prior~~  
 3 ~~to--the--time--that~~ before construction begins and not later  
 4 than ~~one-hundred-twenty-(120)~~ days ~~prior to--the--time--that~~  
 5 before installation, alteration, or use ~~commences~~ begins,  
 6 the owner or operator shall file with the department the  
 7 appropriate permit application on forms available from the  
 8 department.

9 (3) ~~Notwithstanding anything contained in subsection~~  
 10 ~~(2),~~ the the department may, for good cause shown, waive the  
 11 provisions of subsection (2) or shorten the time required  
 12 for filing the appropriate applications.

13 (4) The department shall require that applications for  
 14 permits be accompanied by any plans, specifications, and  
 15 other information it ~~deems~~ considers necessary.

16 (5) An application is not considered filed until the  
 17 applicant has submitted all information and completed all  
 18 application forms required by subsections (2), (3), and (4).  
 19 However, if the department fails to notify the applicant in  
 20 writing, within ~~thirty-(30)~~ days after the purported filing  
 21 of an application, that the application is incomplete and  
 22 fails to list the reasons why the application is considered  
 23 incomplete, the application is considered filed as of the  
 24 date of the purported filing.

25 (6) The department shall provide for the issuance,

1 suspension, revocation, and renewal of ~~any permits~~ a permit  
2 issued under this section.

3 (7) Where an application for a permit requires the  
4 compilation of an environmental impact statement under the  
5 Montana Environmental Policy Act, the department shall  
6 notify the applicant in writing, within ~~one-hundred-eighty~~  
7 ~~{180}~~ days of the receipt of a filed application as defined  
8 in subsection (5), ~~in writing~~, of the approval or denial of  
9 the application. However, where an application does not  
10 require the compilation of an environmental impact  
11 statement, the department shall notify the applicant in  
12 writing, within ~~sixty--{60}~~ days of the receipt of a filed  
13 application, as defined in subsection (5), ~~in writing~~, of  
14 the approval or denial of the application.

15 (8) When the department approves or denies the  
16 application for a permit under this section, ~~any a person or~~  
17 ~~persons~~ who is jointly or severally adversely affected by  
18 the department's decision may request, within ~~fifteen--{15}~~  
19 days after the department renders its decision, upon  
20 affidavit setting forth the grounds therefor, a hearing  
21 before the board. A hearing shall be held under the  
22 provisions of the Montana Administrative Procedure Act. The  
23 department's decision on the application is not final unless  
24 ~~fifteen--{15}~~ days have elapsed and there is no request for a  
25 hearing under this section. The filing of a request for a

1 hearing postpones the effective date of the department's  
2 decision until the conclusion of the hearing and issuance of  
3 a final decision by the board."

4 Section 5. Section 69-3912, R.C.M. 1947, is amended to  
5 read as follows:

6 "69-3912. Inspections. (1) The department may enter  
7 and inspect, at any reasonable time, any property, premises,  
8 or place, except a private residence, on or at which an air  
9 contaminant source is located or is being constructed or  
10 installed for the purpose of ascertaining the state of  
11 compliance with this act and rules in force under it.

12 (2) A person may not refuse entry or access to an  
13 authorized representative of the department who presents  
14 appropriate credentials when ~~it the department~~ requests  
15 entry for purposes of inspection, ~~and who presents~~  
16 ~~appropriate--credentials~~. A person may not obstruct, hamper,  
17 or interfere with an inspection.

18 (3) At his request, the owner or operator of the  
19 premises shall receive a report ~~setting-forth~~ stating all  
20 facts found which relate to compliance status."

21 Section 6. Section 69-3914, R.C.M. 1947, is amended to  
22 read as follows:

23 "69-3914. Enforcement. (1) When the department ~~has~~  
24 ~~reason-to-believe~~ believes that a violation of this act or a  
25 rule made under it has occurred, it may cause written notice



1 to be served on the alleged violator. The notice shall  
 2 specify the provision of this act or rule alleged to be  
 3 violated, and the facts alleged to constitute a violation,  
 4 and may include an order to take necessary corrective action  
 5 within a reasonable period of time stated in the order. The  
 6 order becomes final unless, within no-later-than-thirty-(30)  
 7 days after ~~the date~~ the notice is received, the person named  
 8 requests in writing a hearing before the board. On receipt  
 9 of the request, the board shall hold a hearing.

10 (2) If, after a hearing held under subsection (1) of  
 11 this section, the board finds that violations have occurred,  
 12 it shall either affirm or modify an order previously issued,  
 13 or issue an appropriate order for the prevention, abatement,  
 14 or control of the emissions involved or for the taking of  
 15 other corrective action it considers appropriate. If, after  
 16 hearing on an order contained in a notice, the board finds  
 17 that no violation is occurring, it shall rescind the order.  
 18 An order issued as part of a notice or after a hearing may  
 19 prescribe the date by which the violation shall cease and  
 20 may prescribe time limits for particular action in  
 21 preventing, abating, or controlling the emissions.

22 (3) Instead of issuing the order provided for in  
 23 subsection (1) ~~of this section~~, the department may either:

24 (a) ~~Require~~ require that the alleged violators appear  
 25 before the board for a hearing at a time and place specified

1 in the notice, and answer the charges complained of; or

2 (b) ~~initiate~~ initiate action under section 69-3921 ~~or~~  
 3 69-3921.1.

4 (4) This chapter does not prevent the board or  
 5 department from making efforts to obtain voluntary  
 6 compliance through warning, conference, or any other  
 7 appropriate means.

8 (5) In connection with a hearing held under this  
 9 section, the board may, and on application by a party shall,  
 10 compel the attendance of witnesses and the production of  
 11 evidence on behalf of the parties."

12 Section 7. Section 69-3915, R.C.M. 1947, is amended to  
 13 read as follows:

14 "69-3915. Emergency procedure. (1) Any other law to  
 15 the contrary notwithstanding, if the department finds that a  
 16 generalized condition of air pollution exists and that it  
 17 creates an emergency requiring immediate action to protect  
 18 human health or safety, the department shall order persons  
 19 causing or contributing to the air pollution to immediately  
 20 reduce or discontinue immediately the emission of air  
 21 contaminants. Upon issuance of this order, the department  
 22 shall fix a place and time within ~~not-later-than~~  
 23 ~~twenty-four-(24)~~ hours thereafter, for a hearing to be held  
 24 before the board. ~~Not-more-than-twenty-four~~ Within (24)  
 25 hours after the commencement of the hearing, and without

1 adjournment, the board shall affirm, modify, or set aside  
2 the order of the department.

3 (2) In the absence of a generalized condition such as  
4 that referred to in subsection (1) ~~of this section~~, if the  
5 department finds that emissions from the operation of one  
6 ~~(1)~~ or more air contaminant sources ~~is~~ are causing imminent  
7 danger to human health or safety, it may order the person or  
8 persons responsible for the operation ~~or operations~~ in  
9 question to reduce or discontinue emissions immediately,  
10 without regard for ~~section~~ 69-3914. In this event, the  
11 requirements for hearing and affirmance, modification, or  
12 setting aside of orders ~~set forth as provided~~ in subsection  
13 (1) ~~of this section~~ apply.

14 (3) This section does not limit any power which the  
15 governor or any other officer may have to declare an  
16 emergency and act on the basis of this declaration, whether  
17 the power is conferred by statute, or constitutional  
18 provisions, or inheres in the office.\*

19 Section 8. Section 69-3916, R.C.M. 1947, is amended to  
20 read as follows:

21 \*69-3916. Variances -- filing fees. (1) ~~Any~~ A person  
22 who owns or is in control of ~~any~~ a plant, building,  
23 structure, process, or equipment may apply to the board for  
24 an exemption or partial exemption from rules ~~or regulations~~  
25 governing the quality, nature, duration, or extent of

1 emissions of air pollutants. The application shall be  
2 accompanied by such information and data as the board may  
3 require. The board may grant ~~such an~~ exemption or partial  
4 exemption if it finds that:

5 (a) ~~The~~ the emissions occurring or proposed to occur  
6 do not constitute a danger to public health or safety; and

7 (b) ~~Compliance~~ compliance with the rules or  
8 regulations from which exemption is sought would produce  
9 hardship without equal or greater benefits to the public.

10 (2) No exemption or partial exemption ~~shall~~ may be  
11 granted pursuant to this section except after public hearing  
12 on due notice and until the board has considered the  
13 relative interests of the applicant, other owners or  
14 property likely to be affected by the emissions, and the  
15 general public.

16 (3) No exemption or partial exemption pursuant to this  
17 section ~~shall~~ may be granted for a period to exceed ~~one~~ (1)  
18 year, but ~~any such~~ the exemption or partial exemption may be  
19 renewed for like periods if no complaint is made to the  
20 board ~~on account thereof because of it~~ or if, ~~such~~ after the  
21 complaint ~~having~~ has been made and duly considered at a  
22 public hearing held by the board on due notice, the board  
23 finds that renewal is justified. No renewal ~~shall~~ may be  
24 granted except on application therefor. ~~Any such~~ An  
25 application shall be made at least ~~sixty~~ (60) days ~~prior~~ to

1 ~~before~~ the expiration of the exemption or partial exemption.  
 2 Immediately ~~prior--to~~ ~~before~~ application for renewal the  
 3 applicant shall give public notice of ~~such~~ ~~his~~ application  
 4 in accordance with rules ~~and regulations~~ of the board. Any A  
 5 renewal pursuant to this subsection shall be on the same  
 6 grounds and subject to the same limitations and requirements  
 7 as provided in subsection ~~(1) (a) of this section.~~

8 (4) An exemption, partial exemption, or renewal  
 9 thereof ~~shall~~ ~~is~~ not be a right of the applicant or holder  
 10 thereof but shall be ~~granted~~ in ~~AI~~ the discretion of the  
 11 board. However, ~~any~~ a person adversely affected by an  
 12 exemption, partial exemption, or renewal granted by the  
 13 board may obtain judicial review thereof as provided by  
 14 section 69-3917 ~~of this act.~~

15 (5) Nothing in this section and no exemption, partial  
 16 exemption, or renewal granted pursuant ~~hereto shall~~ ~~to this~~  
 17 ~~section may~~ be construed to prevent or limit the application  
 18 of the emergency provisions and procedures of section  
 19 69-3915 ~~of this act~~ to any a person or his property.

20 (6) Any A person who owns or is in control of any a  
 21 plant, building, structure, process, or equipment  
 22 (hereinafter called a facility) who applies to the board for  
 23 an exemption or partial exemption or a renewal of an  
 24 exemption or partial exemption from any a rule governing the  
 25 quality, nature, duration, or extent of emissions of air

1 pollutants shall submit with the application for variance a  
 2 sum of not less than ~~five hundred dollars--(\$500)~~ or two  
 3 percent--~~(2%)~~ of the cost of the equipment to bring the  
 4 facility into compliance with the rule~~s~~ for which a  
 5 variance is sought, whichever is greater, but not to exceed  
 6 ~~eighty thousand dollars--(\$80,000)~~. The department shall  
 7 prepare a statement of actual costs, and any funds in excess  
 8 of this shall be returned to the applicant. ~~The value of any~~  
 9 ~~fee in excess of five hundred dollars--(\$500) shall be~~  
 10 ~~calculated by determining the cost of the equipment required~~  
 11 ~~to bring the facility into compliance with the rule(s) for~~  
 12 ~~which the variance is being sought.~~ The person requesting  
 13 the variance shall describe the facility in sufficient  
 14 detail, with accompanying estimates of cost and verifying  
 15 materials, to permit the department to determine, with  
 16 reasonable accuracy, the sum of the fee ~~which accompanied~~  
 17 ~~the request for variance.~~ For a renewal of an exemption or  
 18 partial exemption, if no public hearing, environmental  
 19 impact statement, or appreciable investigation by the  
 20 department is necessary, ~~or no environmental impact~~  
 21 ~~statement is deemed necessary, or if no appreciable~~  
 22 ~~investigation of the renewal application is necessary by the~~  
 23 department, the minimum filing fee shall apply or the fee  
 24 may be waived by the department. The filing fee shall be  
 25 deposited in the earmarked revenue fund provided for in

1 ~~section 79-410.~~ It is the intent of the legislature that  
 2 the revenues derived from the filing fees shall be used by  
 3 the department;

4 (a) to compile the information required for rendering a  
 5 decision on the request;

6 (b) to compile the information necessary for any  
 7 environmental impact statements;

8 (c) to offset the costs of a public hearing, printing,  
 9 or mailing; and

10 (d) to carry out its other responsibilities under this  
 11 chapter."

12 Section 9. Section 69-3917, R.C.M. 1947, is amended to  
 13 read as follows:

14 "69-3917. Hearings and judicial review. (1) No rule  
 15 and no amendment or repeal thereof ~~shall~~ may take effect  
 16 except after public hearing on due notice and after the  
 17 advisory council has been ~~afforded not less than~~ given at  
 18 least thirty--(30) days prior to before publication of the  
 19 proposed text to comment thereon. ~~Such~~ The notice shall be  
 20 given by public advertisement not less than ~~twenty-(20)~~ or  
 21 more than ~~thirty-(30) days prior to before~~ the date set for  
 22 ~~such the public~~ hearing.

23 (2) Nothing in this section ~~shall~~ may be construed to  
 24 require a hearing ~~prior--to before~~ the issuance of an  
 25 emergency order pursuant to ~~section 12-[69-3915]-of this~~

1 ~~act.~~

2 (3) ~~Any~~ A person aggrieved by ~~any an~~ order of the  
 3 board or local control authority may apply for rehearing  
 4 upon one or more of the following grounds, and upon no other  
 5 grounds:

6 (a) ~~The the~~ board or local control authority acted  
 7 without or in excess of its powers;

8 (b) ~~The the~~ order was procured by fraud;

9 (c) ~~The the~~ order is contrary to the evidence;

10 (d) ~~The the~~ applicant has discovered new evidence,  
 11 material to him, which he could not, with reasonable  
 12 diligence, have discovered and produced at the hearing; ~~or~~

13 (e) ~~Competent~~ competent evidence was excluded to the  
 14 prejudice of the applicant. The petition must be in such  
 15 form and filed in such time as the board shall prescribe.

16 (4) (a) Within ~~thirty-(30)~~ days after the application  
 17 for rehearing is denied, or, if the application is granted,  
 18 within ~~thirty-(30)~~ days after the decision on the rehearing,  
 19 ~~any a~~ party aggrieved thereby may appeal to the district  
 20 court of ~~any the~~ judicial district of the state which is the  
 21 situs of property affected by the order.

22 (b) The appeal shall be taken by serving a written  
 23 notice of appeal upon the ~~executive-officer~~ chairman of the  
 24 board, which service shall be made by the delivery of a copy  
 25 of the notice to ~~such-officer,~~ the chairman and by filing

1 the original with the clerk of the court to which the appeal  
 2 is taken. Immediately upon after service upon the board,  
 3 the board shall certify to the district court the entire  
 4 record and proceedings, including all testimony and evidence  
 5 taken by the board. Immediately upon receiving the certified  
 6 record, the district court shall fix a day for filing of  
 7 briefs and hearing arguments on the cause, and shall cause a  
 8 notice of the same to be served upon the board and the  
 9 appellant.

10 (c) The court shall hear and decide the cause upon the  
 11 record of the board. The court shall determine whether or  
 12 not the board regularly pursued its authority, whether or  
 13 not the findings of the board were supported by substantial  
 14 competent evidence, and whether or not the board made errors  
 15 of law prejudicial to the appellant.

16 (5) Either the board ~~for~~ the person aggrieved may  
 17 appeal from the decision of the district court to the  
 18 supreme court. The proceedings before the supreme court  
 19 shall be limited to a review of the record of the hearing  
 20 before the board and of the district court's review of that  
 21 record."

22 Section 10. Section 69-4820.1, R.C.M. 1947, is amended  
 23 to read as follows:

24 "69-4820.1. Additional ~~enforcement-remedies sanctions~~  
 25 authorized. (1) In addition to all other remedies created by

1 this act, the department is authorized to take appropriate  
 2 enforcement action on its own initiative to:

3 (a) prevent, abate, and control the pollution of state  
 4 waters;

5 (b) prevent, abate, and control any violation of a  
 6 condition or limitation imposed by a permit issued under  
 7 ~~section 69-4806, R.C.M. 1947~~ 69-4809.1 (1)(a);

8 (c) prevent, abate, and control any ~~violations~~  
 9 violation of regulations rules relating to pretreatment  
 10 standards.

11 (2) In furtherance of subsection (1) ~~of this section,~~  
 12 ~~any a~~ person violating ~~any a~~ condition, limitation,  
 13 standard, or other requirement established pursuant to this  
 14 chapter may be served with a compliance order issued by the  
 15 department. ~~Such the~~ order must specify the condition,  
 16 limitation, standard, or other requirement violated and must  
 17 set a time for compliance. However, in establishing a time  
 18 for compliance, the department shall take into account the  
 19 seriousness of the violation and any good faith efforts that  
 20 have been made to comply with the condition, limitation,  
 21 standard, or other requirement that has been violated. The  
 22 compliance order issued under this section shall be  
 23 personally served by an authorized representative of the  
 24 department.

25 (3) The department is authorized to commence a civil

1 action seeking appropriate relief, including a permanent or  
 2 temporary injunction, for any a violation which would be  
 3 subject to a compliance order under subsection (2) of this  
 4 section. Any An action under this subsection may be  
 5 commenced in the district court of any the county in which  
 6 the defendant is located or resides or is doing business,  
 7 and the court shall have jurisdiction to restrain such the  
 8 violation and to require compliance.

9 (4) Any A person found to be in violation of a  
 10 condition, limitation, standard, or other requirement  
 11 established pursuant to this section shall be subject to the  
 12 penalty provisions of section 69-4823, R.C.M. 1947.

13 (5) For the purpose of this subsection, the term  
 14 "person" shall mean, in addition to the definition contained  
 15 in section 69-4802, R.C.M. 1947, any responsible corporate  
 16 officer."

17 Section 11. Section 69-4824, R.C.M. 1947, is amended  
 18 to read as follows:

19 "69-4824. Emergencies. Notwithstanding any other  
 20 provisions of this chapter, if the department finds that a  
 21 person is committing or is about to commit an act in  
 22 violation of this chapter or an order or rule issued under  
 23 it which, if it occurs or continues, will cause substantial  
 24 pollution the harmful effects of which will not be remedied  
 25 immediately after the commission or cessation of the act,

1 the department shall order such the person to stop, avoid,  
 2 or moderate the act so that the substantial injury will not  
 3 occur. The order shall be effective immediately upon receipt  
 4 by the person to whom it is directed, unless the department  
 5 provides otherwise. Notice of the order shall conform to  
 6 the requirements of section 13-(1)-(69-4820-(1))-of-this-act  
 7 69-4820 (1) so far as practicable; the notice shall indicate  
 8 that the order is an emergency order. Upon issuing such an  
 9 order, the department shall fix a place and time for a  
 10 hearing before the board, not later than five--(5) days  
 11 thereafter, unless the person to whom the order is directed  
 12 shall request a later time. The department may deny a  
 13 request for a later time if it finds that the person to whom  
 14 the order is directed is not complying with the order. The  
 15 hearing shall be conducted in the manner specified in  
 16 section 13-subsections-(4)-(5)-and-(6)-[69-4820-(4)-(5)-  
 17 (6)]--of--this-act 69-4820. As soon as practicable after the  
 18 hearing, the board shall affirm, modify, or set aside the  
 19 order of the department. The order of the board shall be  
 20 accompanied by the statement specified in section--13--(6)  
 21 [69-4820--(6)]-of-this-act 69-4820 (5). An action for review  
 22 of the order of the board may be initiated in the manner  
 23 specified in section 15-[69-4821]-of-this-act 69-4821. The  
 24 initiation of such an action or taking of an appeal shall  
 25 may not stay the effectiveness of the order, unless the

1 court ~~shall find~~ finds that the board did not have  
2 reasonable cause to issue an order under this section."

3 Section 12. Section 69-5003, R.C.M. 1947, is amended  
4 to read as follows:

5 \*69-5003. Approval of plans for facilities in  
6 subdivisions. (1) A person may not file a subdivision plat  
7 with a county clerk and recorder, make disposition of ~~any~~ a  
8 lot within a subdivision, erect ~~any~~ a building or shelter in  
9 a subdivision which requires facilities for the supply of  
10 water or disposal of sewage or solid waste, or occupy ~~any~~ a  
11 permanent building in a subdivision until the department has  
12 indicated that the subdivision is subject to no sanitary  
13 restriction.

14 (2) A county clerk and recorder may not accept a  
15 subdivision plat for filing until:

16 (a) the person wishing to file the plat has obtained  
17 approval of the local health officer having jurisdiction and  
18 has filed the approval with the department; and

19 (b) the department has indicated by stamp or  
20 certificate that it has approved the plat and plans and  
21 specifications and that the subdivision is subject to no  
22 sanitary restriction.

23 (3) When a subdivision as defined in this chapter is  
24 excluded from the provisions of ~~title 11, chapter 38,~~  
25 ~~section 11-3862, R.C.M. 1947,~~ except section 11-3862 (8),

1 ~~R.C.M. 1947,~~ and the subdivision is otherwise subject to the  
2 provisions of this chapter, plans and specifications of the  
3 ~~subdivisions~~ subdivision shall be submitted to the  
4 department, and the department shall indicate by certificate  
5 that it has approved the plans and specifications and that  
6 the subdivision is not subject to a sanitary restriction.  
7 The plan review by the department shall be as follows:

8 (a) The developer shall present to the department a  
9 preliminary plan of the proposed development and whatever  
10 information the developer feels necessary for its subsequent  
11 review. Within ~~sixty (60)~~ sixty days of receipt of this  
12 ~~submission--based-upon-its-receipt~~ by the department, the  
13 department shall notify the developer if the material  
14 submitted is satisfactory to determine if sanitary  
15 restrictions are necessary and, if not, what additional  
16 information is required for subsequent action by the  
17 department.

18 (b) If additional information is necessary to  
19 determine if sanitary restrictions are necessary, no further  
20 processing will be made on the request until the ~~missing~~  
21 missing information is made available to the department by  
22 the developer.

23 (c) The department must notify the developer within  
24 ~~thirty (30)~~ thirty days if his submission of additional requested  
25 material is satisfactory. If the material is not

1 satisfactory, the provision of subsection (b) shall apply.

2 (d) After the department has notified the developer  
3 that ~~they have it has~~ all the necessary information required  
4 for review, the department must give final action of the  
5 proposed plan within ~~sixty--(60)~~ days, unless an  
6 environmental impact statement is required, at which time  
7 this deadline may be increased to ~~one-hundred--twenty--(120)~~  
8 days.

9 (4) A person may not construct or use ~~any facilities a~~  
10 ~~facility~~ which ~~deviate~~ deviates from the plans and  
11 specifications filed with the department until the  
12 department has approved the deviation."

13 Section 13. Section 69-5602, R.C.M. 1947, is amended  
14 to read as follows:

15 "~~69-5602. Rules--adoption-by-department-of-health--and~~  
16 ~~environmental-sciences Department authorized to adopt rules.~~  
17 The department shall adopt rules for ~~construction~~  
18 ~~constructing~~ and operating tourist campgrounds and trailer  
19 courts to insure sanitation and protect public health."

20 Section 14. Section 69-5603, R.C.M. 1947, is amended  
21 to read as follows:

22 "~~69-5603. License from--department required --~~  
23 inspections. A person operating a tourist campground or  
24 trailer court shall:

25 (1) obtain a license from the department;

1 (2) permit inspections by state~~v~~ or local health  
2 officers, sanitarians, or other authorized persons at all  
3 reasonable times."

4 Section 15. Section 69-5607, R.C.M. 1947, is amended  
5 to read as follows:

6 "~~69-5607. Violations and--penalty -- penalties --~~  
7 disposition of fines. ~~Any A~~ person violating ~~any a~~ provision  
8 of this chapter or ~~regulation a rule~~ made under it shall be  
9 guilty of a misdemeanor and, upon conviction, shall be  
10 fined not less than ~~fifty-dollars--(\$50)~~ nor or more than ~~one~~  
11 ~~hundred-dollars--(\$100)~~ for the first offense, and not less  
12 than ~~seventy-five-dollars--(\$75)~~ nor or more than ~~two-hundred~~  
13 ~~dollars--(\$200)~~ for the second offense; and for the third and  
14 subsequent offenses, ~~he shall be punished~~ by a fine of not  
15 less than ~~two-hundred-dollars--(\$200)~~ and imprisonment in the  
16 county jail not to exceed ~~ninety--(90)~~ days. Fines shall be  
17 paid to the county treasurer of the county in which the  
18 tourist campground or trailer court is located. The county  
19 treasurer shall send all fines collected to the state  
20 treasurer for deposit in the state general fund."

21 Section 16. Section 69-5803, R.C.M. 1947, is amended  
22 to read as follows:

23 "~~69-5803. Definitions. (1) "By-product material" means~~  
24 ~~any a~~ radioactive material (except special nuclear material)  
25 yielded in or made radioactive by exposure to the radiation



1 incident to the process of producing or utilizing special  
2 nuclear material.

3 (2) "Ionizing radiation" means gamma rays and ~~x-rays~~ ~~γ~~  
4 ~~rays~~, alpha and beta particles, high-speed electrons,  
5 neutrons, protons, and other nuclear particles but not sound  
6 or radio waves or visible, infrared, or ~~ultra-violet~~  
7 ~~ultraviolet~~ light.

8 (3) "General license" means a license effective  
9 pursuant to ~~regulations~~ ~~rules~~ promulgated by the department  
10 ~~of--health--and--environmental--sciences~~ without the filing of  
11 an application to transfer, acquire, own, possess, or use  
12 quantities of or devices or equipment utilizing quantities  
13 of by-product, source, special nuclear materials, or other  
14 radioactive material occurring naturally or produced  
15 artificially. General licenses are effective without the  
16 filing of applications with the department ~~of--health--and~~  
17 ~~environmental--sciences~~ or the issuing of licensing documents  
18 to the user.

19 (4) "Specific license" means a license issued after  
20 application to use, manufacture, produce, transfer,  
21 receive, acquire, own, or possess quantities of or devices  
22 or equipment utilizing quantities of by-product, special  
23 nuclear materials, or other radioactive material occurring  
24 naturally or produced artificially.

25 (5) "Person" means any ~~an~~ individual, corporation,

1 partnership, firm, association, trust, estate, public or  
2 private institution, group, agency, political subdivision or  
3 agency thereof, and any legal successor, representative,  
4 agent, or agency of the foregoing, other than the United  
5 States atomic energy commission, any successor thereto, or  
6 federal agencies licensed by the atomic energy commission.

7 (6) "Source material" means uranium, thorium, or any  
8 other material which the department ~~of--health--and~~  
9 ~~environmental--sciences~~ or the United States atomic energy  
10 commission declares by order to be source material or ores  
11 containing one ~~(1)~~ or more of the foregoing materials, in  
12 such concentration as the department ~~of--health--and~~  
13 ~~environmental--sciences~~ or the atomic energy commission  
14 declares by order to be source material after the atomic  
15 energy commission has determined the material in such  
16 concentration to be source material.

17 (7) "Special nuclear material" means plutonium,  
18 uranium enriched in the isotope 233 or in the isotope 235,  
19 and any other material which the department ~~of--health--and~~  
20 ~~environmental--sciences~~ or the United States atomic energy  
21 commission, or any successor thereto, declares by order to  
22 be special nuclear material or any material artificially  
23 enriched by any of the foregoing, but does not include  
24 source material.

25 (8) "Registration" means the registering by the legal

1 owner, user, or authorized representative with the  
 2 department of ~~health and environmental~~ sciences in the  
 3 manner ~~prescribed by rule or regulation~~ of sources of  
 4 ionizing radiation in the manner prescribed by rule.

5 (9) "Department" means the department of health and  
 6 environmental sciences."

7 Section 17. Section 69-5806, R.C.M. 1947, is amended  
 8 to read as follows:

9 "69-5806. Licensing and registration of ~~persons~~  
 10 ~~handling radioactive materials or equipment using such~~  
 11 ~~materials.~~ (1) The department shall provide by rule or  
 12 ~~regulation~~ for general or specific licensing of persons to  
 13 receive, possess, or transfer radioactive materials and  
 14 devices or equipment utilizing such materials. ~~Such the~~  
 15 ~~rules or regulations~~ shall provide for amendment,  
 16 suspension, or revocation of licenses pursuant to ~~section 17~~  
 17 ~~[69-5811] of this act, 69-5812.~~

18 (2) Each application for a specific license shall be  
 19 in writing and shall state such information as the  
 20 department by rule or ~~regulation~~ may determine to be  
 21 necessary to decide the technical, insurance, and financial  
 22 qualifications or any other qualification of the applicant  
 23 as the department ~~may deem~~ considers reasonable and  
 24 necessary to protect the occupational and public health and  
 25 safety. The department may, at any time after the filing of

1 the application and before the expiration of the license,  
 2 require further written statements and may make such  
 3 inspections as the department ~~may deem~~ considers necessary  
 4 in order to determine whether the license should be granted,  
 5 or denied, or ~~whether the license should be~~ modified,  
 6 suspended, or revoked. All applications and statements shall  
 7 be signed by the applicant or licensee. The department may  
 8 require ~~any applications~~ an application or ~~statements~~  
 9 statement to be made under oath or affirmation.

10 (3) Each license shall be in such form and contain  
 11 such terms and conditions as the department may by rule or  
 12 ~~regulation~~ prescribe.

13 (4) No license issued pursuant to the provisions of  
 14 this act and no right to possess or utilize sources of  
 15 ionizing radiation granted by any license ~~shall~~ may be  
 16 assigned or in any manner disposed of.

17 (5) The terms and conditions of all licenses shall be  
 18 subject to amendment, revision, or modification by rules,  
 19 ~~regulations~~ or orders issued in accordance with the  
 20 provisions of this act.

21 (6) The department may require registration and  
 22 inspection of persons dealing with sources of ionizing  
 23 radiation which do not require a specific license and may  
 24 require compliance with specific safety standards to be  
 25 promulgated by the department.

1 (7) The department is authorized to exempt certain  
2 users from the licensing or registration requirements set  
3 forth in this section when the department makes a finding  
4 that the exemption of such ~~the~~ users will not constitute a  
5 significant risk to the health and safety of the public. ~~and~~

6 (8) Any ~~A~~ report of investigation or inspection ~~or~~  
7 any information concerning trade secrets or secret  
8 industrial processes obtained under this act shall not be  
9 disclosed or opened to public inspection except as may be  
10 necessary for the performance of the functions of the  
11 department. ~~and~~

12 (9) Rules ~~and regulations~~ promulgated pursuant to this  
13 act may provide for recognition of ~~such~~ other state or  
14 federal licenses as the department ~~may deem~~ considers  
15 desirable, subject to such registration requirements as the  
16 department ~~may prescribe~~ prescribes."

17 Section 18. Section 69-6807, R.C.M. 1947, is amended  
18 to read as follows:

19 "69-6807. Deposit of fees -- special junk vehicle  
20 assessment fee. (1) All motor vehicle wrecking facility  
21 license fees and fees collected as motor vehicle disposal  
22 fees shall be deposited with the state treasurer to be  
23 utilized for ~~to~~ control, collection, and disposal of junk  
24 vehicles ~~and~~

25 ~~to--to--conduct--a--feasibility-study-to-determine-the~~

1 ~~suitability-of-resource-recovery-from-our-solid-waste--the~~  
2 ~~cost--of--which--may-not-exceed-two-hundred-thousand-dollars~~  
3 ~~(\$200,000)--and-the-results-of-which-will-be-made-available~~  
4 ~~to-the-public-and-legislature-by-1977.~~

5 (2) ~~There--is--assessed--a~~ A special junk vehicle  
6 disposal fee ~~commencing-on-july-1-1973~~ shall be assessed  
7 on each new application for a motor vehicle title and on  
8 each transfer of motor vehicle title in the amount of two  
9 dollars ~~(\$2)~~ on passenger cars and trucks under 8001 pounds  
10 GVW ~~which-shall-be-collected-by-the-county-treasurer--and~~  
11 ~~commencing-with-the-year-1974~~, there shall be assessed an AD  
12 additional special junk vehicle disposal fee shall be  
13 assessed in the amount of fifty 50 cents ~~(\$50)~~ on each  
14 passenger car and truck under 8001 pounds GVW registered for  
15 licensing. The ~~fifty-cents-(\$50)~~ fee fees shall be  
16 collected by the county treasurer. However, the following  
17 are exempt from payment of the fees:

18 (a) vehicles leased or owned by the state or by a  
19 county or municipality;

20 (b) vehicles used for transportation by nonresident,  
21 migratory workers temporarily employed in agricultural work  
22 in this state;

23 (c) vehicles displaying dealers' license plates, as  
24 provided in section 53-122, while owned by a dealer; and

25 (d) house trailers or equipment which are not

1 self-propelled or which require towing upon a highway of  
2 this state.

3 (3) The department shall report to each legislature  
4 the amount collected under this act and the cost of  
5 administration of the act to date so that any necessary  
6 adjustment of the amount of the fee may be made to assure  
7 that no more than the actual cost of operation of the  
8 program is collected.

9 (4) The department shall pay to a county the amount of  
10 the approved junk vehicle collection and graveyard budget of  
11 the county. The yearly payment may not exceed ~~one-dollar~~  
12 ~~{\$1}~~ for each motor vehicle under 8001 pounds GVW that is  
13 licensed in that county. However, for those counties that  
14 have fewer than ~~five-thousand-{5,000}~~ such motor vehicles,  
15 the department may pay up to ~~five-thousand-dollars-{\$5,000}~~,  
16 providing the county can justify this payment."

17 Section 19. Section 69-6811, R.C.M. 1947, is amended  
18 to read as follows:

19 "69-6811. Prohibition. It is unlawful to place junked  
20 motor vehicles, or the body portion of junked motor  
21 vehicles, between ~~high-water~~ high-water channel banks of  
22 any stream or to reinforce banks of a stream with such  
23 junked motor vehicle or the body portion of such junked  
24 motor vehicles."

25 Section 20. Repealer. Section 26-339, R.C.M. 1947 is

1 repealed.

-End-