

CHAPTER NO. 68

HOUSE BILL NO. 192  
INTRODUCED BY MANUEL  
BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 16, 1979	Introduced and referred to Committee on Natural Resources.
January 25, 1979	Committee recommend bill do pass as amended. Report adopted.
January 26, 1979	Printed and placed on members' desks.
January 27, 1979	Second reading, do pass as amended.
January 29, 1979	Correctly engrossed.
January 30, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

January 31, 1979	Introduced and referred to Committee on Natural Resources.
February 23, 1979	Committee recommend bill be concurred in. Report adopted.
February 27, 1979	Second reading, concurred in.
March 1, 1979	Third reading, concurred in.

IN THE HOUSE

March 2, 1979	Returned from second house, concurred in. Sent to enrolling. Reported correctly enrolled.
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1 HOUSE BILL NO. 192  
 2 INTRODUCED BY Manuel  
 3 BY REQUEST OF THE CODE COMMISSIONER

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 6 CLARIFY THE LAW RELATING TO ENVIRONMENTAL PROTECTION;  
 7 AMENDING SECTIONS 75-3-103, 75-3-104, 75-3-204, 75-3-301,  
 8 75-3-405, 75-5-615, 75-6-111, 75-7-204, 75-10-113,  
 9 75-10-121, 75-10-213, 75-10-214, 75-10-232, 75-15-123,  
 10 75-15-215, 75-20-408, AND 75-20-501, MCA."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 75-3-103, MCA, is amended to read:  
 14 "75-3-103. Definitions. The definitions used in this  
 15 chapter are intended to be consistent with those used in 10  
 16 CFR 1-199 and 49 CFR 173.389-173.399. Unless the context  
 17 requires otherwise, in this chapter the following  
 18 definitions apply:

19 (1) "Byproduct material" means a radioactive material  
 20 (except special nuclear material) yielded in or made  
 21 radioactive by exposure to the radiation incident to the  
 22 process of producing or utilizing special nuclear material.

23 (2) "Department" means the department of health and  
 24 environmental sciences.

25 (3) "Disposal" means burial in soil, release through

1 the sanitary sewerage system, incineration, or permanent  
 2 long-term storage with no intention of or provision for  
 3 subsequent removal.

4 (3)(4) "General license" means a license effective  
 5 pursuant to rules promulgated by the department without the  
 6 filing of an application to transfer, acquire, own, possess,  
 7 or use quantities of or devices or equipment utilizing  
 8 quantities of byproduct, source, special nuclear materials,  
 9 or other radioactive material occurring naturally or  
 10 produced artificially. General licenses are effective  
 11 without the filing of applications with the department or  
 12 the issuing of licensing documents to the user.

13 (4)(5) "Ionizing radiation" means gamma rays and  
 14 x-rays, alpha and beta particles, high-speed electrons,  
 15 neutrons, protons, and other nuclear particles, but not  
 16 sound or radio waves or visible, infrared, or ultraviolet  
 17 light.

18 (6) "Large quantity radioactive material" is that  
 19 quantity of radioactive material defined in 49 CFR  
 20 173.389(b).

21 (5)(7) "Person" means an individual, corporation,  
 22 partnership, firm, association, trust, estate, public or  
 23 private institution, group, agency, political subdivision or  
 24 agency thereof, and any legal successor, representative,  
 25 agent, or agency of the foregoing, other than the United

1 States ~~atomic-energy~~ nuclear regulatory commission, any  
2 successor thereto, or federal agencies licensed by the  
3 ~~atomic-energy~~ nuclear regulatory commission.

4 ~~(6)(10)~~ "Registration" means the registering with the  
5 department by the legal owner, user, or authorized  
6 representative of sources of ionizing radiation in the  
7 manner prescribed by rule.

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

17 ~~(8)(10)~~ "Special nuclear material" means plutonium,  
18 uranium 233, uranium enriched in the isotope 233 or in the  
19 isotope 235, and any other material which the department or  
20 the United States ~~atomic-energy~~ nuclear regulatory  
21 commission or any successor thereto declares by order to be  
22 special nuclear material or any material artificially  
23 enriched by any of the foregoing, but does not include  
24 source material.

25 ~~(9)(11)~~ "Specific license" means a license issued after

1 application to use, manufacture, produce, transfer, receive,  
2 acquire, own, or possess quantities of or devices or  
3 equipment utilizing quantities of byproduct, special nuclear  
4 materials, or other radioactive material occurring naturally  
5 or produced artificially."

6 Section 2. Section 75-3-104, MCA, is amended to read:

7 "75-3-104. Exemptions -- sources, diagnosis, and  
8 therapy. (1) This chapter ~~shall~~ does not apply to the  
9 following sources or conditions:

10 (a) electrical equipment that is not intended  
11 primarily to produce radiation and that, by nature of  
12 design, does not produce radiation at the point of nearest  
13 approach at a weekly rate higher than one-tenth the  
14 appropriate limit for any critical organ exposed. The  
15 production testing or production servicing of such equipment  
16 ~~shall~~ is not be exempt.

17 (b) radiation machines during process of manufacture  
18 or in storage or transit;

19 (c) any radioactive material while being transported  
20 in conformity with regulations adopted by the ~~atomic-energy~~  
21 nuclear regulatory commission or any successor thereto or  
22 the interstate commerce commission and specifically  
23 applicable to the transportation of such radioactive  
24 materials.

25 (2) No exemptions under this section are granted for

1 those quantities or types of activities which ~~that~~ do not  
2 comply with the established rules ~~and--regulations~~  
3 promulgated by the ~~atomic--energy~~ nuclear regulatory  
4 commission or by any successor thereto.

5 (3) The provisions of this chapter ~~shall~~ may not be  
6 construed to limit the kind or amount of radiation that may  
7 be intentionally applied to a person for diagnostic or  
8 therapeutic purposes by or under the direction of a licensed  
9 practitioner of the healing arts."

10 Section 3. Section 75-3-204, MCA, is amended to read:

11 "75-3-204. Records. (1) The department shall require  
12 each person who acquires, possesses, or uses a source of  
13 ionizing radiation to maintain records relating to its  
14 receipt, storage, transfer, or disposal and such other  
15 records as the department may require, subject to such  
16 exemptions as may be provided by rules.

17 (2) The department shall require each person who  
18 acquires, possesses, or uses a source of ionizing radiation  
19 to maintain appropriate records showing the radiation  
20 exposure of all individuals for whom personnel monitoring is  
21 required by rules of the department. Copies of these  
22 records and those required to be kept by subsection (1) of  
23 this section shall be submitted to the department on  
24 request.

25 (3) The department shall adopt reasonable regulations,

1 compatible with those of the United States ~~atomic--energy~~  
2 nuclear regulatory commission or the national committee on  
3 radiation protection, pertaining to reports of exposure of  
4 personnel to radiation. ~~Such~~ the regulations shall require  
5 that reports of excessive exposure be made to the individual  
6 exposed and to the department and shall make provision for  
7 periodic and terminal reports to individuals for whom  
8 personnel monitoring is required."

9 Section 4. Section 75-3-301, MCA, is amended to read:

10 "75-3-301. ~~Definitions~~ Definition. ~~The definitions~~  
11 ~~used in this part are intended to be consistent with those~~  
12 ~~used in 18 CFR 1-199 and 49 CFR 173.389-173.399. As used in~~  
13 ~~this part, the following definitions apply:~~

14 (1) ~~"Byproduct material" means any radioactive~~  
15 ~~material (except special nuclear material) yielded in or~~  
16 ~~made radioactive by exposure to the radiation incident to~~  
17 ~~the process of producing or utilizing special nuclear~~  
18 ~~material.~~

19 (2) ~~"Special nuclear material" means:~~

20 (a) ~~plutonium, uranium-233, uranium enriched in the~~  
21 ~~isotope-233 or in the isotope-235, and any other material~~  
22 ~~which the United States nuclear regulatory commission~~  
23 ~~determines to be special nuclear material; or~~

24 (b) ~~any material artificially enriched by any of the~~  
25 ~~foregoing.~~

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1       ~~(3) "Large quantity radioactive material" is that~~  
2       ~~quantity of radioactive material defined in 49 CFR~~  
3       ~~173.389(b).~~

4       ~~(4) "Disposal" means burial in soil, release through~~  
5       ~~the sanitary sewerage system, incineration, or permanent~~  
6       ~~long-term storage with no intention of or provision for~~  
7       ~~subsequent removal.~~

8       ~~(5) "Person" Notwithstanding the definition in~~  
9       ~~75-3-103, as used in this part "person" means any~~  
10       ~~individual, group, firm, partnership, corporation,~~  
11       ~~cooperative, association, government subdivision, government~~  
12       ~~agency, local government, or other organization or entity."~~

13       Section 5. Section 75-3-405, MCA, is amended to read:

14       "75-3-405. Penalty. Any A person who violates  
15       75-3-404~~(1)~~ is guilty of a misdemeanor punishable by a fine  
16       of not less than \$100 and not more than \$1,000 or by  
17       confinement in the county jail of not less than 30 days and  
18       not more than 90 days or by both such fine and  
19       imprisonment."

20       Section 6. Section 75-5-615, MCA, is amended to read:

21       "75-5-615. Violators subject to penalties. (1) A  
22       person found to be in violation of a condition, limitation,  
23       standard, or other requirement established pursuant to  
24       75-5-612 through 75-5-614 shall be is subject to the penalty  
25       provisions of 75-5-631, 75-5-632, 75-5-633, and 75-5-635.

1       (2) For the purpose of this ~~[subsection]~~ section, the  
2       term "person" shall mean means, in addition to the  
3       definition contained in 75-5-103, any responsible corporate  
4       officer."

5       Section 7. Section 75-6-111, MCA, is amended to read:

6       "75-6-111. Appeal from rule or standard -- injunction  
7       to require compliance. (1) A person aggrieved by a rule,  
8       standard, or order adopted or issued pursuant to this part  
9       may appeal to the district court. While the appeal is  
10       pending, the rule, standard, or order is in force.

11       (2) The department may seek an injunction from the  
12       appropriate district court to require compliance with this  
13       part or a rule or order issued as authorized by this part.  
14       The department may also initiate an action to collect a  
15       civil criminal penalty as provided in 75-6-113."

16       Section 8. Section 75-7-204, MCA, is amended to read:

17       "75-7-204. Work for which permit required. (1) A  
18       person who proposes to do any work which that will alter or  
19       diminish the course, current, or cross-sectional area of a  
20       lake or its lakeshore must first secure a permit for the  
21       work from the local governing body.

22       (2) Without limitation, the following activities, when  
23       conducted below mean annual high-water elevation, are  
24       examples of work for which a permit is required:  
25       construction of channels and ditches; dredging of lake

1 bottom areas to remove muck, silt, or weeds; ~~lagooning~~  
 2 ~~subjecting sewage to natural oxidation and drying in a~~  
 3 ~~lagoon;~~ filling; constructing breakwaters or pilings;  
 4 ~~constructing wharves and docks."~~

5 Section 9. Section 75-10-113, MCA, is amended to read:

6 "75-10-113. User's fee assessed. In the event the  
 7 revenues of a project ~~solid waste management system~~ are  
 8 insufficient to pay the costs, a local government may levy a  
 9 pro rata fee against the users of the solid waste management  
 10 district. Such ~~the~~ pro rata fee shall be based on a per ton,  
 11 per pound ~~assessment,~~ or volume assessment."

12 Section 10. Section 75-10-121, MCA, is amended to  
 13 read:

14 "75-10-121. Solid waste management loans --  
 15 requisites. (1) The department may, in the name of the state  
 16 of Montana, enter into agreements with a local government  
 17 for loans, subject to any existing contractual obligations  
 18 of the local government.

19 (2) A loan agreement ~~shall~~ must include but not be  
 20 limited to the following:

21 (a) the amount of the loan, not to exceed the  
 22 estimated reasonable amount of the total implementation  
 23 cost, excluding equipment, construction, or land acquisition  
 24 as determined by the department;

25 (b) an agreement by the department to pay part of the

1 amount of the loan to the local government on a timetable as  
 2 may be agreed upon by the parties;

3 (c) an agreement by the local government to proceed  
 4 with the project ~~solid waste management system~~ in accordance  
 5 with plans approved by the department;

6 (d) an agreement by the local government to commence  
 7 operation of the project ~~solid waste management system~~ on  
 8 its completion and not to discontinue operations or dispose  
 9 of the project ~~solid waste management system~~ without the  
 10 approval of the department;

11 (e) an agreement by the local government to operate  
 12 and maintain a solid waste management system in accordance  
 13 with applicable provisions of part 2 of this chapter and  
 14 rules of the department;

15 (f) an agreement by the local government to pledge any  
 16 available sources of revenue to the repayment of loans  
 17 according to the schedule established by the department. Any  
 18 revenues from the sale of energy or recycled materials  
 19 recovered from the solid waste management system and any  
 20 money received under federal grants for local solid waste  
 21 management may be used to make such payments. State loan  
 22 funds for local solid waste management systems may be used  
 23 only for front-end organizational activities.

24 (g) an agreement by the local government to establish  
 25 and maintain adequate financial records for the project

1 ~~solid waste management system~~, including an annual audit of  
 2 the financial records and transactions covering each fiscal  
 3 year by a certified public accountant. A copy of each audit  
 4 ~~shall~~ **must** be submitted to the department of administration  
 5 and the department within 30 days after its completion.  
 6 Failure of a local government to file a copy of the audit as  
 7 required by this section shall be grounds for rescinding the  
 8 loan agreement.

9 (3) The department may enter into further agreements  
 10 with a local government and acquire further guarantees or  
 11 securities as are necessary to implement the provisions of  
 12 this part."

13 Section 11. Section 75-10-213, MCA, is amended to  
 14 read:

15 "75-10-213. Unlawful disposition of dead animals --  
 16 exception. ~~(1)~~ It is unlawful to:

17 ~~(a)~~ **(1)** place all or any part of a dead animal in any  
 18 lake, river, creek, pond, reservoir, road, street, alley,  
 19 lot, or field;

20 ~~(b)~~ **(2)** place all or any part of a dead animal within 1  
 21 mile of the residence of any person unless the dead animal  
 22 or part of a dead animal is burned or buried at least 7 feet  
 23 underground; or

24 ~~(c)~~ **(3)** being the owner, permit all or any part of a  
 25 dead animal to remain in the places specified in subsections

1 ~~(1)(a)~~ and ~~(1)(b)~~ **(2)** of this section except as provided in  
 2 subsection ~~(1)(b)~~ **(2)** of this section.

3 ~~(2) Every 24 hours that a dead animal or part of a~~  
 4 ~~dead animal remains in the places specified in subsections~~  
 5 ~~(1)(a) and (1)(b) except as provided in subsection (1)(b)~~  
 6 ~~is a separate violation."~~

7 Section 12. Section 75-10-214, MCA, is amended to  
 8 read:

9 "75-10-214. Exclusions -- exceptions to exclusions.

10 (1) (a) This part may not be construed to prohibit a person  
 11 from disposing of his own solid waste, except hazardous  
 12 waste, upon land owned, or leased, by that person or covered  
 13 by easement or permit as long as it does not create a  
 14 nuisance or public health hazard.

15 (b) A person may dispose of his own hazardous wastes  
 16 upon land owned, or leased, by that person or covered by  
 17 easement or permit after complying with the licensing  
 18 requirements of this part and the rules ~~that shall be~~  
 19 adopted to regulate the disposal or transport of hazardous  
 20 wastes.

21 (c) The exclusion contained in subsection (1)(a) of  
 22 this section does not apply to a division of land of 5 acres  
 23 or less made after July 1, 1977, which falls within the  
 24 definition of subdivision in Title 76, chapter 4, part 1, or  
 25 the Montana Subdivision and Platting Act in Title 76,

1 chapter 3.

2 (2) The licensing requirements of this part do not  
3 apply to the transportation of marketable hazardous wastes  
4 to a manufacturing or processing center."

5 Section 13. Section 75-10-232, MCA, is amended to  
6 read:

7 "75-10-232. Penalty for violations. (1) (a) Any A  
8 person violating this part or regulations prescribed by the  
9 department under this part, except 75-10-212(?) or  
10 75-10-213, shall be is guilty of a misdemeanor and upon  
11 conviction shall be fined not less than \$50 or more than  
12 \$500.

13 (b) A person who stores, treats, transports, or  
14 disposes of a hazardous waste in violation of this part, a  
15 rule adopted as authorized by this part, or an order issued  
16 as provided in this part is subject to a civil penalty of  
17 not more than \$25,000.

18 ~~{2}--A--person--who--violates--75-10-213--or--rules--adopted~~  
19 ~~by--the--department--under--the--provisions--of--75-10-213--is~~  
20 ~~guilty--of--a--misdemeanor--on--conviction--he--shall--be--fined~~  
21 ~~not--less--than--\$10--or--more--than--\$500,--imprisoned--for--not--more~~  
22 ~~than--90--days--or--both--fines--collected--for--violation--of~~  
23 ~~75-10-213--shall--be--paid--to--the--county--treasurer--of--the~~  
24 ~~county--in--which--the--violation--occurs.~~

25 {3}{21} Each day upon which a violation occurs is a

1 separate violation."

2 Section 14. Section 75-15-123, MCA, is amended to  
3 read:

4 "75-15-123. Acquisition of outdoor advertising rights  
5 --compensation. (1) The department may acquire by gift,  
6 purchase, agreement, exchange, or eminent domain existing  
7 outdoor advertising and property rights pertaining to the  
8 advertising which were that was lawfully in existence on  
9 June 24, 1971, and which by virtue of 75-15-111(1) are is  
10 nonconforming. Eminent domain shall be exercised in  
11 accordance with the laws of the state.

12 (2) Just compensation shall be paid for outdoor  
13 advertising and property rights pertaining to the  
14 advertising acquired through the process of eminent domain.  
15 The department may remove outdoor advertising found in  
16 violation of 75-15-112 or 75-15-132 without payment of  
17 compensation.

18 (3) ~~Despite a contrary provision in this part, a sign~~  
19 ~~may not be required to be removed without just compensation~~  
20 ~~unless found to be in violation of 75-15-112 or 75-15-132.~~  
21 Except as provided in 75-15-131 and 75-15-132, a sign may  
22 not be required to be removed unless at the time of removal  
23 or discontinuance there are sufficient funds, from whatever  
24 source, appropriated and immediately available to pay the  
25 just compensation required under this section and unless at



1 that time the federal funds required to be contributed under  
2 section 131(g) of Title 23, United States Code, with respect  
3 to the outdoor advertising being removed have been  
4 apportioned and are immediately available to this state."

5 Section 15. Section 75-15-215, MCA, is amended to  
6 read:

7 "75-15-215. Restrictions as to location. No license  
8 shall ~~may~~ be granted for the establishment, maintenance, or  
9 operation of a junkyard within 1,000 feet of the nearest  
10 edge of the right-of-way of any a highway on the interstate  
11 or primary systems except ~~the following~~ a license may be  
12 granted for a junkyard:

13 (1) ~~those which are~~ screened by natural objects,  
14 ~~planting planted objects,~~ fences, or other appropriate means  
15 so as not to be visible from the main-traveled way of any  
16 such highway or otherwise removed from sight;

17 (2) those located within ~~areas which are~~ an area zoned  
18 for industrial use under authority of law;

19 (3) those located within unzoned industrial ~~areas~~  
20 ~~area, which areas shall be as~~ determined from actual land  
21 uses and defined by ~~regulations to be~~ rules promulgated by  
22 the ~~highway commission~~ department of highways;

23 (4) ~~those which are~~ that is not visible from the  
24 main-traveled way of any such highway."

25 Section 16. Section 75-20-408, MCA, is amended to

1 read:

2 "75-20-408. Penalties for violation of chapter --  
3 civil action by attorney general. (1) (a) Whoever commences  
4 to construct or operate a facility without first obtaining a  
5 certificate required under 75-20-201 or a waiver thereof  
6 under 75-20-304(3)† ~~or~~ having first obtained a certificate,  
7 constructs, operates, or maintains a facility other than in  
8 compliance with the certificate† ~~or~~ violates any other  
9 provision of this chapter or any rule or order adopted  
10 thereunder† ~~or~~ knowingly submits false information in any  
11 report or application required by this chapter or rule or  
12 order adopted thereunder† or causes any of the  
13 aforementioned acts to occur ~~shall be~~ is liable to ~~for~~ a  
14 civil penalty of not more than \$10,000 for each violation.

15 (b) Each day of a continuing violation ~~shall~~  
16 ~~constitute~~ constitutes a separate offense.

17 (c) The penalty ~~shall be~~ is recoverable in a civil  
18 suit brought by the attorney general on behalf of the state  
19 in the first district court of ~~the first judicial district~~  
20 of Montana.

21 (2) Whoever knowingly and willfully violates  
22 subsection (1) shall be fined not more than \$10,000 for each  
23 violation or imprisoned for not more than 1 year, or both.  
24 Each day of a continuing violation ~~shall constitute~~  
25 constitutes a separate offense.

1 (3) In addition to any penalty provided in subsections  
 2 (1) or (2), whenever the department determines that a person  
 3 is violating or is about to violate any of the provisions of  
 4 this section, it may refer the matter to the attorney  
 5 general who may bring a civil action on behalf of the state  
 6 in the first district court of the first judicial district  
 7 of Montana for injunctive or other appropriate relief  
 8 against the violation and to enforce this chapter or a  
 9 certificate issued hereunder. Upon a proper showing, a  
 10 permanent or preliminary injunction or temporary restraining  
 11 order shall be granted without bond.

12 (4) The department shall also enforce this chapter and  
 13 bring legal actions to accomplish the enforcement through  
 14 its own legal counsel.

15 (5) All fines and penalties collected shall be  
 16 deposited in the earmarked revenue fund for the use of the  
 17 department in administering this chapter."

18 Section 17. Section 75-20-501, MCA, is amended to  
 19 read:

20 "75-20-501. Annual long-range plan submitted --  
 21 contents -- available to public. (1) Each utility and each  
 22 person contemplating the construction of a facility within  
 23 this state in the ensuing 10 years shall furnish annually to  
 24 the department for its review a long-range plan for the  
 25 construction and operation of facilities.

1 (2) The plan shall be submitted on or April 1 of each  
 2 year and shall ~~must~~ include the following:

3 (a) the general location, size, and type of all  
 4 facilities to be owned and operated by the utility or person  
 5 whose construction is projected to commence during the  
 6 ensuing 10 years, as well as those facilities to be removed  
 7 from service during the planning period;

8 (b) in the case of utility facilities, a description  
 9 of efforts by the utility or person to coordinate the plan  
 10 with other utilities or persons so as to provide a  
 11 coordinated regional plan for meeting the energy needs of  
 12 the region;

13 (c) a description of the efforts to involve  
 14 environmental protection and land use planning agencies in  
 15 the planning process, as well as other efforts to identify  
 16 and minimize environmental problems at the earliest possible  
 17 stage in the planning process;

18 (d) projections of the demand for the service rendered  
 19 by the utility or person and explanation of the basis for  
 20 those projections and a description of the manner and extent  
 21 to which the proposed facilities will meet the projected  
 22 demand; and

23 (e) additional information that the board by rule or  
 24 the department on its own initiative or upon the advice of  
 25 interested state agencies might request in order to carry

1 out the purposes of this chapter.

2 (3) The plan shall be made available to the public by  
3 the department. The utility or person shall give public  
4 notice throughout the state of its plan by filing the plan  
5 with the environmental quality council, the department of  
6 health and environmental sciences, the department of  
7 highways, the department of public service regulation, the  
8 department of state lands, ~~the department of fish and game,~~  
9 and the department of community affairs. Citizen  
10 environmental protection and resource planning groups and  
11 other interested persons may obtain a plan by written  
12 request and payment therefor to the department."

-End-

Approved by Committee  
on Natural Resources

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25 (3) "Disposal" means burial in soil, release through

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 14 x-rays, alpha and beta particles, high-speed electrons,  
 15 neutrons, protons, and other nuclear particles, but not  
 16 sound or radio waves or visible, infrared, or ultraviolet  
 17 light.

18 (6) "Large quantity radioactive material" is that  
 19 quantity of radioactive material defined in 49 CFR  
 20 173.389(b).

21 (7) (7) "Person" means an individual, corporation,  
 22 partnership, firm, association, trust, estate, public or  
 23 private institution, group, agency, political subdivision or  
 24 agency thereof, and any legal successor, representative,  
 25 agent, or agency of the foregoing, other than the United

1 States atomic--energy nuclear regulatory commission, any  
 2 successor thereto, or federal agencies licensed by the  
 3 atomic-energy nuclear regulatory commission.

4 ~~(6)~~(8) "Registration" means the registering with the  
 5 department by the legal owner, user, or authorized  
 6 representative of sources of ionizing radiation in the  
 7 manner prescribed by rule.

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

17 ~~(8)~~(10) "Special nuclear material" means plutonium,  
 18 uranium 233, uranium enriched in the isotope 233 or in the  
 19 isotope 235, and any other material which the department or  
 20 the United States atomic--energy nuclear regulatory  
 21 commission or any successor thereto declares by order to be  
 22 special nuclear material or any material artificially  
 23 enriched by any of the foregoing, but does not include  
 24 source material.

25 ~~(9)~~(11) "Specific license" means a license issued after

1 application to use, manufacture, produce, transfer, receive,  
 2 acquire, own, or possess quantities of or devices or  
 3 equipment utilizing quantities of byproduct, special nuclear  
 4 materials, or other radioactive material occurring naturally  
 5 or produced artificially."

6 Section 2. Section 75-3-104, MCA, is amended to read:  
 7 "75-3-104. Exemptions -- sources, diagnosis, and  
 8 therapy. (1) This chapter ~~shall~~ does not apply to the  
 9 following sources or conditions:

10 (a) electrical equipment that is not intended  
 11 primarily to produce radiation and that, by nature of  
 12 design, does not produce radiation at the point of nearest  
 13 approach at a weekly rate higher than one-tenth the  
 14 appropriate limit for any critical organ exposed. The  
 15 production testing or production servicing of such equipment  
 16 ~~shall~~ is not be exempt.

17 (b) radiation machines during process of manufacture  
 18 or in storage or transit;

19 (c) any radioactive material while being transported  
 20 in conformity with regulations adopted by the atomic-energy  
 21 nuclear regulatory commission or any successor thereto or  
 22 the interstate commerce commission and specifically  
 23 applicable to the transportation of such radioactive  
 24 materials.

25 (2) No exemptions under this section are granted for

1 those quantities or types of activities which ~~that~~ do not  
 2 comply with the established rules ~~and--regulations~~  
 3 promulgated by the ~~atomic--energy~~ nuclear regulatory  
 4 commission or by any successor thereto.

5 (3) The provisions of this chapter ~~shall~~ may not be  
 6 construed to limit the kind or amount of radiation that may  
 7 be intentionally applied to a person for diagnostic or  
 8 therapeutic purposes by or under the direction of a licensed  
 9 practitioner of the healing arts."

10 Section 3. Section 75-3-204, MCA, is amended to read:

11 "75-3-204. Records. (1) The department shall require  
 12 each person who acquires, possesses, or uses a source of  
 13 ionizing radiation to maintain records relating to its  
 14 receipt, storage, transfer, or disposal and such other  
 15 records as the department may require, subject to such  
 16 exemptions as may be provided by rules.

17 (2) The department shall require each person who  
 18 acquires, possesses, or uses a source of ionizing radiation  
 19 to maintain appropriate records showing the radiation  
 20 exposure of all individuals for whom personnel monitoring is  
 21 required by rules of the department. Copies of these  
 22 records and those required to be kept by subsection (1) of  
 23 this section shall be submitted to the department on  
 24 request.

25 (3) The department shall adopt reasonable regulations,

1 compatible with those of the United States ~~atomic--energy~~  
 2 nuclear regulatory commission or the national committee on  
 3 radiation protection, pertaining to reports of exposure of  
 4 personnel to radiation. Such ing regulations shall require  
 5 that reports of excessive exposure be made to the individual  
 6 exposed and to the department and shall make provision for  
 7 periodic and terminal reports to individuals for whom  
 8 personnel monitoring is required."

9 Section 4. Section 75-3-301, MCA, is amended to read:

10 "75-3-301. Definitions Definition. ~~The definitions~~  
 11 ~~used in this part are intended to be consistent with those~~  
 12 ~~used in 10-CFR-1-199 and 49-CFR-173.309-173.399. As used in~~  
 13 ~~this part, the following definitions apply:~~

14 (1) "Byproduct--material" ~~means any radioactive~~  
 15 ~~material (except special nuclear material) yielded in or~~  
 16 ~~made radioactive by exposure to the radiation incident to~~  
 17 ~~the process of producing or utilizing special nuclear~~  
 18 ~~material;~~

19 (2) "Special nuclear material" ~~means:~~

20 (a) ~~plutonium, uranium-233, uranium enriched in the~~  
 21 ~~isotope-233 or in the isotope-235, and any other material~~  
 22 ~~which the United States nuclear regulatory commission~~  
 23 ~~determines to be special nuclear material; or~~

24 (b) ~~any material artificially enriched by any of the~~  
 25 ~~foregoing;~~

1       (3) ~~"Large quantity radioactive material" is that~~  
 2       ~~quantity of radioactive material defined in 49-EFR~~  
 3       ~~173-309(b).~~

4       (4) ~~"Disposal" means burial in soil, release through~~  
 5       ~~the sanitary sewerage system, incineration, or permanent~~  
 6       ~~long-term storage with no intention of or provision for~~  
 7       ~~subsequent removal.~~

8       (5) ~~"Person" Notwithstanding the definition in~~  
 9       ~~75-3-103, as used in this part "person" means any~~  
 10       ~~individual, group, firm, partnership, corporation,~~  
 11       ~~cooperative, association, government subdivision, government~~  
 12       ~~agency, local government, or other organization or entity."~~

13       Section 5. Section 75-3-405, MCA, is amended to read:  
 14       "75-3-405. Penalty. Any ~~A~~ person who violates  
 15       75-3-404~~++~~ is guilty of a misdemeanor punishable by a fine  
 16       of not less than \$100 and not more than \$1,000 or by  
 17       confinement in the county jail of not less than 30 days and  
 18       not more than 90 days or by both such ~~fine and~~  
 19       imprisonment."

20       Section 6. Section 75-5-615, MCA, is amended to read:  
 21       "75-5-615. Violators subject to penalties. (1) A  
 22       person found to be in violation of a condition, limitation,  
 23       standard, or other requirement established pursuant to  
 24       75-5-612 through 75-5-614 ~~shall be~~ is subject to the penalty  
 25       provisions of 75-5-631, 75-5-632, 75-5-633, and 75-5-635.

1       (2) For the purpose of this ~~[subsection]~~ section, the  
 2       term "person" ~~shall mean~~ means, in addition to the  
 3       definition contained in 75-5-103, any responsible corporate  
 4       officer."

5       Section 7. Section 75-6-111, MCA, is amended to read:  
 6       "75-6-111. Appeal from rule or standard -- injunction  
 7       to require compliance. (1) A person aggrieved by a rule,  
 8       standard, or order adopted or issued pursuant to this part  
 9       may appeal to the district court. While the appeal is  
 10       pending, the rule, standard, or order is in force.

11       (2) The department may seek an injunction from the  
 12       appropriate district court to require compliance with this  
 13       part or a rule or order issued as authorized by this part.  
 14       The department may also initiate an action to collect a  
 15       ~~etv++~~ criminal penalty as provided in 75-6-113."

16       Section 8. Section 75-7-204, MCA, is amended to read:  
 17       "75-7-204. Work for which permit required. (1) ~~A~~  
 18       person who proposes to do any work which ~~that~~ will alter or  
 19       diminish the course, current, or cross-sectional area of a  
 20       lake or its lakeshore must first secure a permit for the  
 21       work from the local governing body.

22       (2) Without limitation, the following activities, when  
 23       conducted below mean annual high-water elevation, are  
 24       examples of work for which a permit is required:  
 25       construction of channels and ditches; dredging of lake

1 bottom areas to remove muck, silt, or weeds; ~~reopening~~  
 2 LAGOONING, MEANING THE PLACEMENT OF A NARROW STRIP OF LAND  
 3 ACROSS A PORTION OF A LAKE TO CREATE A LAGOON; subjecting  
 4 sewage to natural oxidation and drying in a lagoon; filling;  
 5 constructing breakwaters of pilings; ~~constructing~~ wharves  
 6 and docks."

7 Section 9. Section 75-10-113, MCA, is amended to read:

8 "75-10-113. User's fee assessed. In the event the  
 9 revenues of a project solid waste management system are  
 10 insufficient to pay the costs, a local government may levy a  
 11 pro rata fee against the users of the solid waste management  
 12 district. Such ~~the~~ pro rata fee shall be based on a per ton,  
 13 per pound ~~assessment,~~ or volume assessment."

14 Section 10. Section 75-10-121, MCA, is amended to  
 15 read:

16 "75-10-121. Solid waste management loans --  
 17 requisites. (1) The department may, in the name of the state  
 18 of Montana, enter into agreements with a local government  
 19 for loans, subject to any existing contractual obligations  
 20 of the local government.

21 (2) A loan agreement shall ~~must~~ include but not be  
 22 limited to the following:

23 (a) the amount of the loan, not to exceed the  
 24 estimated reasonable amount of the total implementation  
 25 cost, excluding equipment, construction, or land acquisition

1 as determined by the department;

2 (b) an agreement by the department to pay part of the  
 3 amount of the loan to the local government on a timetable as  
 4 may be agreed upon by the parties;

5 (c) an agreement by the local government to proceed  
 6 with the project solid waste management system in accordance  
 7 with plans approved by the department;

8 (d) an agreement by the local government to commence  
 9 operation of the project solid waste management system on  
 10 its completion and not to discontinue operations or dispose  
 11 of the project solid waste management system without the  
 12 approval of the department;

13 (e) an agreement by the local government to operate  
 14 and maintain a solid waste management system in accordance  
 15 with applicable provisions of part 2 of this chapter and  
 16 rules of the department;

17 (f) an agreement by the local government to pledge any  
 18 available sources of revenue to the repayment of loans  
 19 according to the schedule established by the department. Any  
 20 revenues from the sale of energy or recycled materials  
 21 recovered from the solid waste management system and any  
 22 money received under federal grants for local solid waste  
 23 management may be used to make such payments. State loan  
 24 funds for local solid waste management systems may be used  
 25 only for front-end organizational activities.



1 (g) an agreement by the local government to establish  
 2 and maintain adequate financial records for the project  
 3 ~~solid waste management system~~, including an annual audit of  
 4 the financial records and transactions covering each fiscal  
 5 year by a certified public accountant. A copy of each audit  
 6 ~~shall~~ must be submitted to the department of administration  
 7 and the department within 30 days after its completion.  
 8 Failure of a local government to file a copy of the audit as  
 9 required by this section shall be grounds for rescinding the  
 10 loan agreement.

11 (3) The department may enter into further agreements  
 12 with a local government and acquire further guarantees or  
 13 securities as are necessary to implement the provisions of  
 14 this part."

15 Section 11. Section 75-10-213, MCA, is amended to  
 16 read:

17 "75-10-213. Unlawful disposition of dead animals --  
 18 exception. ~~It is unlawful to:~~

19 ~~(1)~~ place all or any part of a dead animal in any  
 20 lake, river, creek, pond, reservoir, road, street, alley,  
 21 lot, or field;

22 ~~(2)~~ place all or any part of a dead animal within 1  
 23 mile of the residence of any person unless the dead animal  
 24 or part of a dead animal is burned or buried at least 2 feet  
 25 underground; or

1 ~~(c)(1)~~ being the owner, permit all or any part of a  
 2 dead animal to remain in the places specified in subsections  
 3 (1)~~(a)~~ and ~~(1)(b)~~ (2) of this section except as provided in  
 4 subsection ~~(1)(b)~~ (2) of this section.

5 ~~(2)--Every-24-hours-that-a-dead-animal--or--part--of--a~~  
 6 ~~dead--animal--remains-in-the-places-specified-in-subsections~~  
 7 ~~(1)(a)-and-(1)(b)-except-as-provided-in-subsection--(1)(b)-~~  
 8 ~~is-a-separate-violation"~~

9 Section 12. Section 75-10-214, MCA, is amended to  
 10 read:

11 "75-10-214. Exclusions -- exceptions to exclusions.

12 (1) (a) This part may not be construed to prohibit a person  
 13 from disposing of his own solid waste, except hazardous  
 14 waste, upon land owned or leased by that person or covered  
 15 by easement or permit as long as it does not create a  
 16 nuisance or public health hazard.

17 (b) A person may dispose of his own hazardous waste  
 18 upon land owned or leased by that person or covered by  
 19 easement or permit after complying with the licensing  
 20 requirements of this part and the rules ~~that shall be~~  
 21 adopted to regulate the disposal or transport of hazardous  
 22 wastes.

23 (c) The exclusion contained in subsection (1)(a) of  
 24 this section does not apply to a division of land of 5 acres  
 25 or less made after July 1, 1977, which falls within the

1 definition of subdivision in Title 76, chapter 4, part 1, or  
2 the Montana Subdivision and Platting Act in Title 76,  
3 chapter 3.

4 (2) The licensing requirements of this part do not  
5 apply to the transportation of marketable hazardous wastes  
6 to a manufacturing or processing center."

7 Section 13. Section 75-10-232, MCA, is amended to  
8 read:

9 "75-10-232. Penalty for violations. (1) (a) Any A  
10 person violating this part or regulations prescribed by the  
11 department under this part, except 75-10-212(2) or  
12 75-10-213, shall be is guilty of a misdemeanor and upon  
13 conviction shall be fined not less than \$50 or more than  
14 \$500.

15 (b) A person who stores, treats, transports, or  
16 disposes of a hazardous waste in violation of this part, a  
17 rule adopted as authorized by this part, or an order issued  
18 as provided in this part is subject to a civil penalty of  
19 not more than \$25,000.

20 ~~{2}--A-person-who-violates-75-10-213-or--rules--adopted  
21 by--the--department--under--the--provisions--of-75-10-213-is  
22 guilty-of-a-misdemeanor--On-conviction, he-shall--he--fined  
23 not-less-than-\$10-or-more-than-\$500, imprisoned-for-not-more  
24 than--90--days--or--both--Fines-collected-for-violation-of  
25 75-10-213-shall-be-paid-to--the--county--treasurer--of--the~~

1 ~~county-in-which-the-violation-occurs~~

2 ~~{3}{2}~~ Each day upon which a violation occurs is a  
3 separate violation."

4 Section 14. Section 75-15-123, MCA, is amended to  
5 read:

6 "75-15-123. Acquisition of outdoor advertising rights  
7 --compensation. (1) The department may acquire by gift,  
8 purchase, agreement, exchange, or eminent domain existing  
9 outdoor advertising and property rights pertaining to the  
10 advertising which--were ~~that was~~ lawfully in existence on  
11 June 24, 1971, and which by virtue of 75-15-111(1) are is  
12 nonconforming. Eminent domain shall be exercised in  
13 accordance with the laws of the state.

14 (2) Just compensation shall be paid for outdoor  
15 advertising and property rights pertaining to the  
16 advertising acquired through the process of eminent domain.  
17 The department may remove outdoor advertising found in  
18 violation of 75-15-112 or 75-15-132 without payment of  
19 compensation.

20 (3) ~~Despite--a--contrary-provision-in-this-part, a sign  
21 may-not-be-required-to-be-removed-without-just--compensation  
22 unless--found--to-be-in-violation-of-75-15-112-or-75-15-132~~  
23 Except as provided in 75-15-131 and 75-15-132, a sign may  
24 not be required to be removed unless at the time of removal  
25 or discontinuance there are sufficient funds, from whatever

1 source, appropriated and immediately available to pay the  
 2 just compensation required under this section and unless at  
 3 that time the federal funds required to be contributed under  
 4 section 131(g) of Title 23, United States Code, with respect  
 5 to the outdoor advertising being removed have been  
 6 apportioned and are immediately available to this state."

7 Section 15. Section 75-15-215, MCA, is amended to  
 8 read:

9 "75-15-215. Restrictions as to location. No license  
 10 ~~shall~~ may be granted for the establishment, maintenance, or  
 11 operation of a junkyard within 1,000 feet of the nearest  
 12 edge of the right-of-way of any a highway on the interstate  
 13 or primary systems ~~except the following a license may be~~  
 14 granted for a junkyard:

15 (1) ~~those--which--are~~ screened by natural objects,  
 16 ~~planting planted objects,~~ fences, or other appropriate means  
 17 so as not to be visible from the main-traveled way of any  
 18 such highway or otherwise removed from sight;

19 (2) those located within ~~areas--which--are~~ an area zoned  
 20 for industrial use under authority of law;

21 (3) those located within unzoned industrial ~~areas~~  
 22 area, which--~~areas--~~ ~~shall~~ be as determined from actual land  
 23 uses and defined by ~~regulations--to--be~~ rules promulgated by  
 24 the highway-commission department of highways;

25 (4) ~~those--which--are~~ that is not visible from the

1 main-traveled way of any such highway."

2 Section 16. Section 75-20-408, MCA, is amended to  
 3 read:

4 "75-20-408. Penalties for violation of chapter --  
 5 civil action by attorney general. (1) (a) Whoever commences  
 6 to construct or operate a facility without first obtaining a  
 7 certificate required under 75-20-201 or a waiver thereof  
 8 under 75-20-304(3) ~~or~~ or having first obtained a certificate,  
 9 constructs, operates, or maintains a facility other than in  
 10 compliance with the certificate ~~or~~ or violates any other  
 11 provision of this chapter or any rule or order adopted  
 12 thereunder ~~or~~ or knowingly submits false information in any  
 13 report or application required by this chapter or rule or  
 14 order adopted thereunder ~~or~~ or causes any of the  
 15 aforementioned acts to occur ~~shall~~ be is liable to ~~for~~ for a  
 16 civil penalty of not more than \$10,000 for each violation.

17 (b) Each day of a continuing violation ~~shall~~  
 18 ~~constitute~~ constitutes a separate offense.

19 (c) The penalty ~~shall~~ be is recoverable in a civil  
 20 suit brought by the attorney general on behalf of the state  
 21 in the ~~first~~ first district court of ~~the first judicial district~~  
 22 of Montana.

23 (2) Whoever knowingly and willfully violates  
 24 subsection (1) shall be fined not more than \$10,000 for each  
 25 violation or imprisoned for not more than 1 year, or both.

1 Each day of a continuing violation shall--constitute  
 2 constitutes a separate offense.

3 (3) In addition to any penalty provided in subsections  
 4 (1) or (2), whenever the department determines that a person  
 5 is violating or is about to violate any of the provisions of  
 6 this section, it may refer the matter to the attorney  
 7 general who may bring a civil action on behalf of the state  
 8 in the first district court of the first judicial district  
 9 of Montana for injunctive or other appropriate relief  
 10 against the violation and to enforce this chapter or a  
 11 certificate issued hereunder. Upon a proper showing, a  
 12 permanent or preliminary injunction or temporary restraining  
 13 order shall be granted without bond.

14 (4) The department shall also enforce this chapter and  
 15 bring legal actions to accomplish the enforcement through  
 16 its own legal counsel.

17 (5) All fines and penalties collected shall be  
 18 deposited in the earmarked revenue fund for the use of the  
 19 department in administering this chapter."

20 Section 17. Section 75-20-501, MCA, is amended to  
 21 read:

22 "75-20-501. Annual long-range plan submitted --  
 23 contents -- available to public. (1) Each utility and each  
 24 person contemplating the construction of a facility within  
 25 this state in the ensuing 10 years shall furnish annually to

1 the department for its review a long-range plan for the  
 2 construction and operation of facilities.

3 (2) The plan shall be submitted on by April 1 of each  
 4 year and shall must include the following:

5 (a) the general location, size, and type of all  
 6 facilities to be owned and operated by the utility or person  
 7 whose construction is projected to commence during the  
 8 ensuing 10 years, as well as those facilities to be removed  
 9 from service during the planning period;

10 (b) in the case of utility facilities, a description  
 11 of efforts by the utility or person to coordinate the plan  
 12 with other utilities or persons so as to provide a  
 13 coordinated regional plan for meeting the energy needs of  
 14 the region;

15 (c) a description of the efforts to involve  
 16 environmental protection and land use planning agencies in  
 17 the planning process, as well as other efforts to identify  
 18 and minimize environmental problems at the earliest possible  
 19 stage in the planning process;

20 (d) projections of the demand for the service rendered  
 21 by the utility or person and explanation of the basis for  
 22 those projections and a description of the manner and extent  
 23 to which the proposed facilities will meet the projected  
 24 demand; and

25 (e) additional information that the board by rule or

1 the department on its own initiative or upon the advice of  
2 interested state agencies might request in order to carry  
3 out the purposes of this chapter.

4 (3) The plan shall be made available to the public by  
5 the department. The utility or person shall give public  
6 notice throughout the state of its plan by filing the plan  
7 with the environmental quality council, the department of  
8 health and environmental sciences, the department of  
9 highways, the department of public service regulation, the  
10 department of state lands, ~~the department of fish and game,~~  
11 and the department of community affairs. Citizen  
12 environmental protection and resource planning groups and  
13 other interested persons may obtain a plan by written  
14 request and payment therefor to the department."

-End-

1 HOUSE BILL NO. 192  
 2 INTRODUCED BY MANUEL  
 3 BY REQUEST OF THE CODE COMMISSIONER

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 6 CLARIFY THE LAW RELATING TO ENVIRONMENTAL PROTECTION;  
 7 AMENDING SECTIONS 75-3-103, 75-3-104, 75-3-204, 75-3-301,  
 8 75-3-405, 75-5-615, 75-6-111, 75-7-204, 75-10-113,  
 9 75-10-121, 75-10-213, 75-10-214, 75-10-232, 75-15-123,  
 10 75-15-215, 75-20-408, AND 75-20-501, MCA."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 75-3-103, MCA, is amended to read:

14 "75- 103. Definitions. The definitions used in this  
 15 chapter are intended to be consistent with those used in 10  
 16 CFR 1-198 and 49 CFR 173.389-173.399. Unless the context  
 17 requires otherwise, in this chapter the following  
 18 definitions apply:

19 (1) "Byproduct material" means a radioactive material  
 20 (except special nuclear material) yielded in or made  
 21 radioactive by exposure to the radiation incident to the  
 22 process of producing or utilizing special nuclear material.

23 (2) "Department" means the department of health and  
 24 environmental sciences.

25 (3) "Disposal" means burial in soil; release through

1 the sanitary sewerage system, incineration, or permanent  
 2 long-term storage with no intention of or provision for  
 3 subsequent removal.

4 (3)(4) "General license" means a license effective  
 5 pursuant to rules promulgated by the department without the  
 6 filing of an application to transfer, acquire, own, possess,  
 7 or use quantities of or devices or equipment utilizing  
 8 quantities of byproduct, source, special nuclear materials,  
 9 or other radioactive material occurring naturally or  
 10 produced artificially. General licenses are effective  
 11 without the filing of applications with the department or  
 12 the issuing of licensing documents to the user.

13 (4)(5) "Ionizing radiation" means gamma rays and  
 14 x-rays, alpha and beta particles, high-speed electrons,  
 15 neutrons, protons, and other nuclear particles, but not  
 16 sound or radio waves or visible, infrared, or ultraviolet  
 17 light.

18 (6) "Large quantity radioactive material" is that  
 19 quantity of radioactive material defined in 49 CFR  
 20 173.389(a).

21 (5)(7) "Person" means an individual, corporation,  
 22 partnership, firm, association, trust, estate, public or  
 23 private institution, group, agency, political subdivision or  
 24 agency thereof, and any legal successor, representative,  
 25 agent, or agency of the foregoing, other than the United

1 States atomic--energy nuclear regulatory commission, any  
 2 successor thereto, or federal agencies licensed by the  
 3 atomic-energy nuclear regulatory commission.

4 ~~(67)(8)~~ "Registration" means the registering with the  
 5 department by the legal owner, user, or authorized  
 6 representative of sources of ionizing radiation in the  
 7 manner prescribed by rule.

8 ~~(77)(9)~~ "Source material" means uranium, thorium, or  
 9 any other material which the department or the United States  
 10 atomic-energy nuclear regulatory commission declares by  
 11 order to be source material or ores containing one or more  
 12 of the foregoing materials in such concentration as the  
 13 department or the atomic---energy nuclear regulatory  
 14 commission declares by order to be source material after the  
 15 atomic-energy nuclear regulatory commission has determined  
 16 the material in such concentration to be source material.

17 ~~(87)(10)~~ "Special nuclear material" means plutonium,  
 18 uranium-233, uranium enriched in the isotope 233 or in the  
 19 isotope 235, and any other material which the department or  
 20 the United States atomic---energy nuclear regulatory  
 21 commission or any successor thereto declares by order to be  
 22 special nuclear material or any material artificially  
 23 enriched by any of the foregoing, but does not include  
 24 source material.

25 ~~(97)(11)~~ "Specific license" means a license issued after

1 application to use, manufacture, produce, transfer, receive,  
 2 acquire, own, or possess quantities of or devices or  
 3 equipment utilizing quantities of byproduct, special nuclear  
 4 materials, or other radioactive material occurring naturally  
 5 or produced artificially."

6 Section 2. Section 75-3-104, MCA, is amended to read:

7 "75-3-104. Exemptions -- sources, diagnosis, and  
 8 therapy. (1) This chapter ~~shall~~ does not apply to the  
 9 following sources or conditions:

10 (a) electrical equipment that is not intended  
 11 primarily to produce radiation and that, by nature of  
 12 design, does not produce radiation at the point of nearest  
 13 approach at a weekly rate higher than one-tenth the  
 14 appropriate limit for any critical organ exposed. The  
 15 production testing or production servicing of such equipment  
 16 ~~shall~~ is not be exempt.

17 (b) radiation machines during process of manufacture  
 18 or in storage or transit;

19 (c) any radioactive material while being transported  
 20 in conformity with regulations adopted by the atomic-energy  
 21 nuclear regulatory commission or any successor thereto or  
 22 the interstate commerce commission and specifically  
 23 applicable to the transportation of such radioactive  
 24 materials.

25 (2) No exemptions under this section are granted for

1 those quantities or types of activities which ~~that~~ do not  
2 comply with the established rules and--regulations  
3 promulgated by the ~~atomic--energy~~ nuclear--regulatory  
4 commission or by any successor thereto.

5 (3) The provisions of this chapter ~~shall~~ may not be  
6 construed to limit the kind or amount of radiation that may  
7 be intentionally applied to a person for diagnostic or  
8 therapeutic purposes by or under the direction of a licensed  
9 practitioner of the healing arts."

10 Section 3. Section 75-3-204, MCA, is amended to read:

11 "75-3-204. Records. (1) The department shall require  
12 each person who acquires, possesses, or uses a source of  
13 ionizing radiation to maintain records relating to its  
14 receipt, storage, transfer, or disposal and such other  
15 records as the department may require, subject to such  
16 exemptions as may be provided by rules.

17 (2) The department shall require each person who  
18 acquires, possesses, or uses a source of ionizing radiation  
19 to maintain appropriate records showing the radiation  
20 exposure of all individuals for whom personnel monitoring is  
21 required by rules of the department. Copies of these  
22 records and those required to be kept by subsection (1) of  
23 this section shall be submitted to the department on  
24 request.

25 (3) The department shall adopt reasonable regulations,

1 compatible with those of the United States ~~atomic--energy~~  
2 nuclear--regulatory commission or the national committee on  
3 radiation protection, pertaining to reports of exposure of  
4 personnel to radiation. Such ~~the~~ regulations shall require  
5 that reports of excessive exposure be made to the individual  
6 exposed and to the department and shall make provision for  
7 periodic and terminal reports to individuals for whom  
8 personnel monitoring is required."

9 Section 4. Section 75-3-301, MCA, is amended to read:

10 "75-3-301. Definitions ~~Definition.~~ ~~The definitions~~  
11 ~~used in this part are intended to be consistent with those~~  
12 ~~used in 18-EFR-1-199 and 49-EFR-173,389-173,399. As used in~~  
13 ~~this part, the following definitions apply:~~

14 (1) "~~Byproduct--material~~" ~~means any radioactive~~  
15 ~~material (except special nuclear material) yielded in or~~  
16 ~~made radioactive by exposure to the radiation incident to~~  
17 ~~the process of producing or utilizing special nuclear~~  
18 ~~material;~~

19 (2) "~~Special nuclear material~~" ~~means~~  
20 (a) ~~plutonium, uranium-233, uranium enriched in the~~  
21 ~~isotope-233 or in the isotope-235, and any other material~~  
22 ~~which the United States nuclear regulatory commission~~  
23 ~~determines to be special nuclear material; or~~

24 (b) ~~any material artificially enriched by any of the~~  
25 ~~foregoing;~~



1           (3) ~~"Large quantity radioactive material" is that~~  
 2           ~~quantity of radioactive material defined in 49 CFR~~  
 3           ~~173.309(b).~~

4           (4) ~~"Disposal" means burial in soil, release through~~  
 5           ~~the sanitary sewerage system, incineration, or permanent~~  
 6           ~~long-term storage with no intention of or provision for~~  
 7           ~~subsequent removal.~~

8           (5) ~~"Person" Notwithstanding the definition in~~  
 9           ~~75-2-103, as used in this part "person" means any~~  
 10           ~~individual, group, firm, partnership, corporation,~~  
 11           ~~cooperative, association, government subdivision, government~~  
 12           ~~agency, local government, or other organization or entity."~~

13           Section 5. Section 75-3-405, MCA, is amended to read:

14           "75-3-405. Penalty. Any A person who violates  
 15           75-3-404~~††~~ is guilty of a misdemeanor punishable by a fine  
 16           of not less than \$100 and not more than \$1,000 or by  
 17           confinement in the county jail of not less than 30 days and  
 18           not more than 90 days or by both such ~~fine~~ and  
 19           imprisonment."

20           Section 6. Section 75-5-615, MCA, is amended to read:

21           "75-5-615. Violators subject to penalties. (1) A  
 22           person found to be in violation of a condition, limitation,  
 23           standard, or other requirement established pursuant to  
 24           75-5-612 through 75-5-614 ~~shall be is~~ subject to the penalty  
 25           provisions of 75-5-631, 75-5-632, 75-5-633, and 75-5-635.

1           (2) For the purpose of this ~~subsection~~ section, the  
 2           term "person" ~~shall mean~~ means, in addition to the  
 3           definition contained in 75-5-103, any responsible corporate  
 4           officer."

5           Section 7. Section 75-6-111, MCA, is amended to read:

6           "75-6-111. Appeal from rule or standard -- injunction  
 7           to require compliance. (1) A person aggrieved by a rule,  
 8           standard, or order adopted or issued pursuant to this part  
 9           may appeal to the district court. While the appeal is  
 10           pending, the rule, standard, or order is in force.

11           (2) The department may seek an injunction from the  
 12           appropriate district court to require compliance with this  
 13           part or a rule or order issued as authorized by this part.  
 14           The department may also initiate an action to collect a  
 15           civil ~~criminal~~ penalty as provided in 75-6-113."

16           Section 8. Section 75-7-204, MCA, is amended to read:

17           "75-7-204. Work for which permit required. (1) A  
 18           person who proposes to do any work which ~~that~~ will alter or  
 19           diminish the course, current, or cross-sectional area of a  
 20           lake or its lakeshore must first secure a permit for the  
 21           work from the local governing body.

22           (2) Without limitation, the following activities, when  
 23           conducted below mean annual high-water elevation, are  
 24           examples of work for which a permit is required:  
 25           construction of channels and ditches; dredging of lake

1 bottom areas to remove muck, silt, or weeds; ~~reopening~~  
 2 ~~LAGOONING; MEANING THE PLACEMENT OF A NARROW STRIP OF LAND~~  
 3 ~~ACROSS A PORTION OF A LAKE TO CREATE A LAGOON; subjecting~~  
 4 ~~the water to natural oxidation and drying in a lagoon~~ filling;  
 5 constructing breakwaters of pilings; ~~constructing~~ wharves  
 6 and docks."

7 Section 9. Section 75-10-113, MCA, is amended to read:

8 "75-10-113. User's fee assessed. In the event the  
 9 revenues of a project solid waste management system are  
 10 insufficient to pay the costs a local government may levy a  
 11 pro rata fee against the users of the solid waste management  
 12 district. ~~The~~ pro rata fee shall be based on a per ton,  
 13 per pound assessment, or volume assessment."

14 Section 10. Section 75-10-121, MCA, is amended to  
 15 read:

16 "75-10-121. Solid waste management loans --  
 17 prerequisites. (1) The department may, in the name of the state  
 18 of Montana, enter into agreements with a local government  
 19 for loans, subject to any existing contractual obligations  
 20 of the local government.

21 (2) A loan agreement shall ~~must~~ include but not be  
 22 limited to the following:

23 (a) the amount of the loan, not to exceed the  
 24 estimated reasonable amount of the total implementation  
 25 cost, excluding equipment, construction, or land acquisition

1 as determined by the department;

2 (b) an agreement by the department to pay part of the  
 3 amount of the loan to the local government on a timetable as  
 4 may be agreed upon by the parties;

5 (c) an agreement by the local government to proceed  
 6 with the project solid waste management system in accordance  
 7 with plans approved by the department;

8 (d) an agreement by the local government to commence  
 9 operation of the project solid waste management system on  
 10 its completion and not to discontinue operations or dispose  
 11 of the project solid waste management system without the  
 12 approval of the department;

13 (e) an agreement by the local government to operate  
 14 and maintain a solid waste management system in accordance  
 15 with applicable provisions of part 2 of this chapter and  
 16 rules of the department;

17 (f) an agreement by the local government to pledge any  
 18 available sources of revenue to the repayment of loans  
 19 according to the schedule established by the department. Any  
 20 revenues from the sale of energy or recycled materials  
 21 recovered from the solid waste management system and any  
 22 money received under federal grants for local solid waste  
 23 management may be used to make such payments. State loan  
 24 funds for local solid waste management systems may be used  
 25 only for front-end organizational activities.

1 (g) an agreement by the local government to establish  
 2 and maintain adequate financial records for the project  
 3 solid\_waste\_management\_system, including an annual audit of  
 4 the financial records and transactions covering each fiscal  
 5 year by a certified public accountant. A copy of each audit  
 6 shall ~~must~~ be submitted to the department of administration  
 7 and the department within 30 days after its completion.  
 8 Failure of a local government to file a copy of the audit as  
 9 required by this section shall be grounds for rescinding the  
 10 loan agreement.

11 (3) The department may enter into further agreements  
 12 with a local government and acquire further guarantees or  
 13 securities as are necessary to implement the provisions of  
 14 this part."

15 Section 11. Section 75-10-213, MCA, is amended to  
 16 read:

17 "75-10-213. Unlawful disposition of dead animals --  
 18 exception. (1) It is unlawful to:

19 (a)(1) place all or any part of a dead animal in any  
 20 lake, river, creek, pond, reservoir, road, street, alley,  
 21 lot, or field;

22 (b)(2) place all or any part of a dead animal within 1  
 23 mile of the residence of any person unless the dead animal  
 24 or part of a dead animal is burned or buried at least 2 feet  
 25 underground; or

1 (c)(3) being the owner, permit all or any part of a  
 2 dead animal to remain in the places specified in subsections  
 3 (1)(a) and (1)(b) (2) of this section except as provided in  
 4 subsection (1)(b) (2) of this section.

5 (c) -- Every 24 hours that a dead animal -- or -- part -- of -- a  
 6 dead -- animal -- remains -- in -- the -- places -- specified -- in -- subsections  
 7 (1)(a) -- and -- (1)(b) -- except -- as -- provided -- in -- subsection -- (1)(b) --  
 8 is -- a -- separate -- violation."

9 Section 12. Section 75-10-214, MCA, is amended to  
 10 read:

11 "75-10-214. Exclusions -- exceptions to exclusions.

12 (1) (a) This part may not be construed to prohibit a person  
 13 from disposing of his own solid waste, except hazardous  
 14 waste, upon land owned, or leased, by that person or covered  
 15 by easement or permit as long as it does not create a  
 16 nuisance or public health hazard.

17 (b) A person may dispose of his own hazardous waste  
 18 upon land owned, or leased, by that person or covered by  
 19 easement or permit after complying with the licensing  
 20 requirements of this part and the rules that shall be  
 21 adopted to regulate the disposal or transport of hazardous  
 22 wastes.

23 (c) The exclusion contained in subsection (1)(a) of  
 24 this section does not apply to a division of land of 5 acres  
 25 or less made after July 1, 1977, which falls within the

1 definition of subdivision in Title 76, chapter 4, part 1, or  
 2 the Montana Subdivision and Platting Act in Title 76,  
 3 chapter 3.

4 (2) The licensing requirements of this part do not  
 5 apply to the transportation of marketable hazardous wastes  
 6 to a manufacturing or processing center."

7 Section 13. Section 75-10-232, MCA, is amended to  
 8 read:

9 "75-10-232. Penalty for violations. (1) (a) Any A  
 10 person violating this part or regulations prescribed by the  
 11 department under this part, except 75-10-212(2) or  
 12 75-10-213, shall be is guilty of a misdemeanor and upon  
 13 conviction shall be fined not less than \$50 or more than  
 14 \$500.

15 (b) A person who stores, treats, transports, or  
 16 disposes a hazardous waste in violation of this part, a  
 17 rule adopted as authorized by this part, or an order issued  
 18 as provided in this part is subject to a civil penalty of  
 19 not more than \$25,000.

20 (2) ~~A person who violates 75-10-213 or rules adopted~~  
 21 ~~by the department under the provisions of 75-10-213 is~~  
 22 ~~guilty of a misdemeanor. On conviction he shall be fined~~  
 23 ~~not less than \$10 or more than \$500, imprisoned for not more~~  
 24 ~~than 90 days, or both. Fines collected for violation of~~  
 25 ~~75-10-213 shall be paid to the county treasurer of the~~

1 ~~county in which the violation occurs.~~

2 (3) ~~(2)~~ Each day upon which a violation occurs is a  
 3 separate violation."

4 Section 14. Section 75-15-123, MCA, is amended to  
 5 read:

6 "75-15-123. Acquisition of outdoor advertising rights  
 7 --compensation. (1) The department may acquire by gift,  
 8 purchase, agreement, exchange, or eminent domain existing  
 9 outdoor advertising and property rights pertaining to the  
 10 advertising which ~~were~~ that was lawfully in existence on  
 11 June 24, 1971, and which by virtue of 75-15-111(1) ~~are~~ is  
 12 nonconforming. Eminent domain shall be exercised in  
 13 accordance with the laws of the state.

14 (2) Just compensation shall be paid for outdoor  
 15 advertising and property rights pertaining to the  
 16 advertising acquired through the process of eminent domain.  
 17 The department may remove outdoor advertising found in  
 18 violation of 75-15-112 or 75-15-132 without payment of  
 19 compensation.

20 (3) ~~Despite a contrary provision in this part, a sign~~  
 21 ~~may not be required to be removed without just compensation~~  
 22 ~~unless found to be in violation of 75-15-112 or 75-15-132.~~  
 23 Except as provided in 75-15-131 and 75-15-132, a sign may  
 24 not be required to be removed unless at the time of removal  
 25 or discontinuance there are sufficient funds, from whatever

1 source, appropriated and immediately available to pay the  
 2 just compensation required under this section and unless at  
 3 that time the federal funds required to be contributed under  
 4 section 131(g) of Title 23, United States Code, with respect  
 5 to the outdoor advertising being removed have been  
 6 apportioned and are immediately available to this state."

7 Section 15. Section 75-15-215, MCA, is amended to  
 8 read:

9 "75-15-215. Restrictions as to location. No license  
 10 shall ~~may~~ be granted for the establishment, maintenance, or  
 11 operation of a junkyard within 1,000 feet of the nearest  
 12 edge of the right-of-way of any a highway on the interstate  
 13 or primary systems ~~except the following a license may be~~  
 14 ~~granted for a junkyard:~~

15 (1) ~~those--which--are~~ screened by natural objects,  
 16 ~~planting planted objects,~~ fences, or other appropriate means  
 17 so as not to be visible from the main-traveled way of any  
 18 such highway or otherwise removed from sight;

19 (2) those located within ~~areas--which--are~~ an area zoned  
 20 for industrial use under authority of law;

21 (3) those located within unzoned industrial areas  
 22 ~~area,~~ which--areas--shall be as determined from actual land  
 23 uses and defined by ~~regulations--to--be~~ rules promulgated by  
 24 the highway-commission ~~department of highways;~~

25 (4) ~~those--which--are~~ that is not visible from the

1 main-traveled way of any such highway."

2 Section 16. Section 75-20-408, MCA, is amended to  
 3 read:

4 "75-20-408. Penalties for violation of chapter --  
 5 civil action by attorney general. (1) (a) Whoever commences  
 6 to construct or operate a facility without first obtaining a  
 7 certificate required under 75-20-201 or a waiver thereof  
 8 under 75-20-304(3)† ~~or~~ having first obtained a certificate,  
 9 constructs, operates, or maintains a facility other than in  
 10 compliance with the certificate† ~~or~~ violates any other  
 11 provision of this chapter or any rule or order adopted  
 12 thereunder† ~~or~~ knowingly submits false information in any  
 13 report or application required by this chapter or rule or  
 14 order adopted thereunder† or causes any of the  
 15 aforementioned acts to occur ~~shall be~~ is liable to ~~for~~ a  
 16 civil penalty of not more than \$10,000 for each violation.

17 (b) Each day of a continuing violation ~~shall~~  
 18 ~~constitute~~ constitutes a separate offense.

19 (c) The penalty ~~shall be~~ is recoverable in a civil  
 20 suit brought by the attorney general on behalf of the state  
 21 in the first district court of ~~the first judicial district~~  
 22 of Montana.

23 (2) Whoever knowingly and willfully violates  
 24 subsection (1) shall be fined not more than \$10,000 for each  
 25 violation or imprisoned for not more than 1 year, or both.

1 Each day of a continuing violation shall constitute  
2 ~~constitute~~ a separate offense.

3 (3) In addition to any penalty provided in subsections  
4 (1) or (2), whenever the department determines that a person  
5 is violating or is about to violate any of the provisions of  
6 this section, it may refer the matter to the attorney  
7 general who may bring a civil action on behalf of the state  
8 in the first district court of ~~the first judicial district~~  
9 of Montana for injunctive or other appropriate relief  
10 against the violation and to enforce this chapter or a  
11 certificate issued hereunder. Upon a proper showing, a  
12 permanent or preliminary injunction or temporary restraining  
13 order shall be granted without bond.

14 (4) The department shall also enforce this chapter and  
15 bring legal actions to accomplish the enforcement through  
16 its own legal counsel.

17 (5) All fines and penalties collected shall be  
18 deposited in the earmarked revenue fund for the use of the  
19 department in administering this chapter."

20 Section 17. Section 75-20-501, MCA, is amended to  
21 read:

22 "75-20-501. Annual long-range plan submitted --  
23 contents -- available to public. (1) Each utility and each  
24 person contemplating the construction of a facility within  
25 this state in the ensuing 10 years shall furnish annually to

1 the department for its review a long-range plan for the  
2 construction and operation of facilities.

3 (2) The plan shall be submitted on ~~by~~ April 1 of each  
4 year and shall ~~must~~ include the following:

5 (a) the general location, size, and type of all  
6 facilities to be owned and operated by the utility or person  
7 whose construction is projected to commence during the  
8 ensuing 10 years, as well as those facilities to be removed  
9 from service during the planning period;

10 (b) in the case of utility facilities, a description  
11 of efforts by the utility or person to coordinate the plan  
12 with other utilities or persons so as to provide a  
13 coordinated regional plan for meeting the energy needs of  
14 the region;

15 (c) a description of the efforts to involve  
16 environmental protection and land use planning agencies in  
17 the planning process, as well as other efforts to identify  
18 and minimize environmental problems at the earliest possible  
19 stage in the planning process;

20 (d) projections of the demand for the service rendered  
21 by the utility or person and explanation of the basis for  
22 those projections and a description of the manner and extent  
23 to which the proposed facilities will meet the projected  
24 demand; and

25 (e) additional information that the board by rule or

1 the department on its own initiative or upon the advice of  
2 interested state agencies might request in order to carry  
3 out the purposes of this chapter.

4 (3) The plan shall be made available to the public by  
5 the department. The utility or person shall give public  
6 notice throughout the state of its plan by filing the plan  
7 with the environmental quality council, the department of  
8 health and environmental sciences, the department of  
9 highways, the department of public service regulation, the  
10 department of state lands, ~~the department of fish and game~~  
11 and the department of community affairs. Citizen  
12 environmental protection and resource planning groups and  
13 other interested persons may obtain a plan by written  
14 request and payment therefor to the department."

-End-

1 HOUSE BILL NO. 192

2 INTRODUCED BY MANUEL

3 BY REQUEST OF THE CODE COMMISSIONER

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6 CLARIFY THE LAW RELATING TO ENVIRONMENTAL PROTECTION;  
7 AMENDING SECTIONS 75-3-103, 75-3-104, 75-3-204, 75-3-301,  
8 75-3-405, 75-5-615, 75-6-111, 75-7-204, 75-10-113,  
9 75-10-121, 75-10-213, 75-10-214, 75-10-232, 75-15-123,  
10 75-15-215, 75-20-408, AND 75-20-501, MCA."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 75-3-103, MCA, is amended to read:

14 "75-3-103. Definitions. The definitions used in this  
15 chapter are intended to be consistent with those used in 10  
16 CFR 1-199 and 49 CFR 173.389-173.399. Unless the context  
17 requires otherwise, in this chapter the following  
18 definitions apply:

19 (1) "Byproduct material" means a radioactive material  
20 (except special nuclear material) yielded in or made  
21 radioactive by exposure to the radiation incident to the  
22 process of producing or utilizing special nuclear material.

23 (2) "Department" means the department of health and  
24 environmental sciences.

25 (3) "Disposal" means burial in soil, release through

1 the sanitary sewerage system, incineration, or permanent  
2 long-term storage with no intention of or provision for  
3 subsequent removal.

4 (3)(4) "General license" means a license effective  
5 pursuant to rules promulgated by the department without the  
6 filing of an application to transfer, acquire, own, possess,  
7 or use quantities of or devices or equipment utilizing  
8 quantities of byproduct, source, special nuclear materials,  
9 or other radioactive material occurring naturally or  
10 produced artificially. General licenses are effective  
11 without the filing of applications with the department or  
12 the issuing of licensing documents to the user.

13 (4)(5) "Ionizing radiation" means gamma rays and  
14 x-rays, alpha and beta particles, high-speed electrons,  
15 neutrons, protons, and other nuclear particles, but not  
16 sound or radio waves or visible, infrared, or ultraviolet  
17 light.

18 (6) "Large quantity radioactive material" is that  
19 quantity of radioactive material defined in 49 CFR  
20 173.389(b).

21 (5)(7) "Person" means an individual, corporation,  
22 partnership, firm, association, trust, estate, public or  
23 private institution, group, agency, political subdivision or  
24 agency thereof, and any legal successor, representative,  
25 agent, or agency of the foregoing, other than the United



1 States ~~atomic--energy~~ nuclear regulatory commission, any  
 2 successor thereto, or federal agencies licensed by the  
 3 ~~atomic-energy~~ nuclear regulatory commission.

4 ~~(6)(8)~~ "Registration" means the registering with the  
 5 department by the legal owner, user, or authorized  
 6 representative of sources of ionizing radiation in the  
 7 manner prescribed by rule.

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

17 ~~(8)(10)~~ "Special nuclear material" means plutonium,  
 18 ~~uranium 233,~~ uranium enriched in the isotope 233 or in the  
 19 isotope 235, and any other material which the department or  
 20 the United States ~~atomic--energy~~ nuclear regulatory  
 21 commission or any successor thereto declares by order to be  
 22 special nuclear material or any material artificially  
 23 enriched by any of the foregoing, but does not include  
 24 source material.

25 ~~(9)(11)~~ "Specific license" means a license issued after

1 application to use, manufacture, produce, transfer, receive,  
 2 acquire, own, or possess quantities of or devices or  
 3 equipment utilizing quantities of byproduct, special nuclear  
 4 materials, or other radioactive material occurring naturally  
 5 or produced artificially."

6 Section 2. Section 75-3-104, MCA, is amended to read:  
 7 "75-3-104. Exemptions -- sources, diagnosis, and  
 8 therapy. (1) This chapter ~~shall~~ does not apply to the  
 9 following sources or conditions:

10 (a) electrical equipment that is not intended  
 11 primarily to produce radiation and that, by nature of  
 12 design, does not produce radiation at the point of nearest  
 13 approach at a weekly rate higher than one-tenth the  
 14 appropriate limit for any critical organ exposed. The  
 15 production testing or production servicing of such equipment  
 16 ~~shall~~ is not be exempt.

17 (b) radiation machines during process of manufacture  
 18 or in storage or transit;

19 (c) any radioactive material while being transported  
 20 in conformity with regulations adopted by the ~~atomic-energy~~  
 21 nuclear regulatory commission or any successor thereto or  
 22 the interstate commerce commission and specifically  
 23 applicable to the transportation of such radioactive  
 24 materials.

25 (2) No exemptions under this section are granted for

1 those quantities or types of activities which ~~that~~ do not  
 2 comply with the established rules ~~and--regulations~~  
 3 promulgated by the ~~atomic--energy~~ nuclear--regulatory  
 4 commission or by any successor thereto.

5 (3) The provisions of this chapter shall ~~may~~ not be  
 6 construed to limit the kind or amount of radiation that may  
 7 be intentionally applied to a person for diagnostic or  
 8 therapeutic purposes by or under the direction of a licensed  
 9 practitioner of the healing arts."

10 Section 3. Section 75-3-204, MCA, is amended to read:

11 "75-3-204. Records. (1) The department shall require  
 12 each person who acquires, possesses, or uses a source of  
 13 ionizing radiation to maintain records relating to its  
 14 receipt, storage, transfer, or disposal and such other  
 15 records as the department may require, subject to such  
 16 exemptions as may be provided by rules.

17 (2) The department shall require each person who  
 18 acquires, possesses, or uses a source of ionizing radiation  
 19 to maintain appropriate records showing the radiation  
 20 exposure of all individuals for whom personnel monitoring is  
 21 required by rules of the department. Copies of these  
 22 records and those required to be kept by subsection (1) of  
 23 this section shall be submitted to the department on  
 24 request.

25 (3) The department shall adopt reasonable regulations,

1 compatible with those of the United States ~~atomic--energy~~  
 2 nuclear--regulatory commission or the national committee on  
 3 radiation protection, pertaining to reports of exposure of  
 4 personnel to radiation. Such ~~the~~ regulations shall require  
 5 that reports of excessive exposure be made to the individual  
 6 exposed and to the department and shall make provision for  
 7 periodic and terminal reports to individuals for whom  
 8 personnel monitoring is required."

9 Section 4. Section 75-3-301, MCA, is amended to read:

10 "75-3-301. Definitions ~~Definition.~~ ~~The definitions~~  
 11 ~~used in this part are intended to be consistent with those~~  
 12 ~~used in 10-6FR-1-199 and 49-6FR-173,389-173,399. As used in~~  
 13 ~~this part, the following definitions apply:~~

14 (1) "Byproduct--material" means any radioactive  
 15 material (except special nuclear material) yielded in or  
 16 made radioactive by exposure to the radiation incident to  
 17 the process of producing or utilizing special nuclear  
 18 materials

19 (2) "Special nuclear material" means:

20 (a) plutonium, uranium-233, uranium enriched in the  
 21 isotope-233 or in the isotope-235, and any other material  
 22 which the United States nuclear regulatory commission  
 23 determines to be special nuclear material; or

24 (b) any material artificially enriched by any of the  
 25 foregoing

1       ~~{3}--"Large--quantity--radioactive--material"--is--that~~  
 2       ~~quantity--of--radioactive--material--defined--in--49--CFR~~  
 3       ~~173.309(b).~~

4       ~~{4}--"Disposal"--means--burial--in--soil--release--through~~  
 5       ~~the--sanitary--sewerage--system--incineration--or--permanent~~  
 6       ~~long-term--storage--with--no--intention--of--or--provision--for~~  
 7       ~~subsequent--removal.~~

8       ~~{5}--"Person" Notwithstanding the definition in~~  
 9       ~~75-3-103, as used in this part "person" means any~~  
 10       ~~individual, group, firm, partnership, corporation,~~  
 11       ~~cooperative, association, government subdivision, government~~  
 12       ~~agency, local government, or other organization or entity."~~

13       Section 5. Section 75-3-405, MCA, is amended to read:

14       "75-3-405. Penalty. Any A person who violates  
 15       75-3-404~~{1}~~ is guilty of a misdemeanor punishable by a fine  
 16       of not less than \$100 and not more than \$1,000 or by  
 17       confinement in the county jail of not less than 30 days and  
 18       not more than 90 days or by both ~~such--fine--and~~  
 19       ~~imprisonment."~~

20       Section 6. Section 75-5-615, MCA, is amended to read:

21       "75-5-615. Violators subject to penalties. (1) A  
 22       person found to be in violation of a condition, limitation,  
 23       standard, or other requirement established pursuant to  
 24       75-5-612 through 75-5-614 ~~shall~~ be is subject to the penalty  
 25       provisions of 75-5-631, 75-5-632, 75-5-633, and 75-5-635.

1       (2) For the purpose of this ~~[subsection]~~ section, the  
 2       term "person" ~~shall~~ mean ~~means~~, in addition to the  
 3       definition contained in 75-5-103, any responsible corporate  
 4       officer."

5       Section 7. Section 75-6-111, MCA, is amended to read:

6       "75-6-111. Appeal from rule or standard -- injunction  
 7       to require compliance. (1) A person aggrieved by a rule,  
 8       standard, or order adopted or issued pursuant to this part  
 9       may appeal to the district court. While the appeal is  
 10       pending, the rule, standard, or order is in force.

11       (2) The department may seek an injunction from the  
 12       appropriate district court to require compliance with this  
 13       part or a rule or order issued as authorized by this part.  
 14       The department may also initiate an action to collect a  
 15       ~~civil~~ criminal penalty as provided in 75-6-113."

16       Section 8. Section 75-7-204, MCA, is amended to read:

17       "75-7-204. Work for which permit required. (1) A  
 18       person who proposes to do any work ~~which~~ that will alter or  
 19       diminish the course, current, or cross-sectional area of a  
 20       lake or its lakeshore must first secure a permit for the  
 21       work from the local governing body.

22       (2) Without limitation, the following activities, when  
 23       conducted below mean annual high-water elevation, are  
 24       examples of work for which a permit is required:  
 25       construction of channels and ditches; dredging of lake

1 bottom areas to remove muck, silt, or weeds; ~~recooning~~  
 2 ~~LAGOONING, MEANING THE PLACEMENT OF A NARROW STRIP OF LAND~~  
 3 ~~ACROSS A PORTION OF A LAKE TO CREATE A LAGOON; subjecting~~  
 4 ~~sewage-to-natural-oxidation-and-drying-in-a-lagoon~~ filling;  
 5 constructing breakwaters of pilings; ~~constructing~~ wharves  
 6 and docks."

7 Section 9. Section 75-10-113, MCA, is amended to read:  
 8 "75-10-113. User's fee assessed. In the event the  
 9 revenues of a project solid waste management system are  
 10 insufficient to pay the costs, a local government may levy a  
 11 pro rata fee against the users of the solid waste management  
 12 district. Such ~~the~~ pro rata fee shall be based on a per ton,  
 13 per pound ~~assessment~~, or volume assessment."

14 Section 10. Section 75-10-121, MCA, is amended to  
 15 read:

16 "75-10-121. Solid waste management loans --  
 17 requisites. (1) The department may, in the name of the state  
 18 of Montana, enter into agreements with a local government  
 19 for loans, subject to any existing contractual obligations  
 20 of the local government.

21 (2) A loan agreement shall ~~must~~ include but not be  
 22 limited to the following:

23 (a) the amount of the loan, not to exceed the  
 24 estimated reasonable amount of the total implementation  
 25 cost, excluding equipment, construction, or land acquisition

1 as determined by the department;

2 (b) an agreement by the department to pay part of the  
 3 amount of the loan to the local government on a timetable as  
 4 may be agreed upon by the parties;

5 (c) an agreement by the local government to proceed  
 6 with the project solid waste management system in accordance  
 7 with plans approved by the department;

8 (d) an agreement by the local government to commence  
 9 operation of the project solid waste management system on  
 10 its completion and not to discontinue operations or dispose  
 11 of the project solid waste management system without the  
 12 approval of the department;

13 (e) an agreement by the local government to operate  
 14 and maintain a solid waste management system in accordance  
 15 with applicable provisions of part 2 of this chapter and  
 16 rules of the department;

17 (f) an agreement by the local government to pledge any  
 18 available sources of revenue to the repayment of loans  
 19 according to the schedule established by the department. Any  
 20 revenues from the sale of energy or recycled materials  
 21 recovered from the solid waste management system and any  
 22 money received under federal grants for local solid waste  
 23 management may be used to make such payments. State loan  
 24 funds for local solid waste management systems may be used  
 25 only for front-end organizational activities.

1 (g) an agreement by the local government to establish  
 2 and maintain adequate financial records for the project  
 3 ~~solid waste management system~~, including an annual audit of  
 4 the financial records and transactions covering each fiscal  
 5 year by a certified public accountant. A copy of each audit  
 6 shall ~~must~~ be submitted to the department of administration  
 7 and the department within 30 days after its completion.  
 8 Failure of a local government to file a copy of the audit as  
 9 required by this section shall be grounds for rescinding the  
 10 loan agreement.

11 (3) The department may enter into further agreements  
 12 with a local government and acquire further guarantees or  
 13 securities as are necessary to implement the provisions of  
 14 this part."

15 Section 11. Section 75-10-213, MCA, is amended to  
 16 read:

17 "75-10-213. Unlawful disposition of dead animals --  
 18 exception. (1) It is unlawful to:

19 (a) place all or any part of a dead animal in any  
 20 lake, river, creek, pond, reservoir, road, street, alley,  
 21 lot, or field;

22 (b) place all or any part of a dead animal within 1  
 23 mile of the residence of any person unless the dead animal  
 24 or part of a dead animal is burned or buried at least 2 feet  
 25 underground; or

1 (c) ~~(1)~~ being the owner, permit all or any part of a  
 2 dead animal to remain in the places specified in subsections  
 3 (1)(a) and (1)(b) ~~(2)~~ of this section except as provided in  
 4 subsection (1)(b) ~~(2)~~ of this section.

5 ~~(2) -- Every 24 hours that a dead animal -- or -- part -- of -- a~~  
 6 ~~dead -- animal -- remains in the places specified in subsections~~  
 7 ~~(1)(a) and (1)(b) -- except as provided in subsection -- (1)(b) --~~  
 8 ~~is a separate violation."~~

9 Section 12. Section 75-10-214, MCA, is amended to  
 10 read:

11 "75-10-214. Exclusions -- exceptions to exclusions.  
 12 (1) (a) This part may not be construed to prohibit a person  
 13 from disposing of his own solid waste, except hazardous  
 14 waste, upon land owned, or leased, by that person or covered  
 15 by easement or permit as long as it does not create a  
 16 nuisance or public health hazard.

17 (b) A person may dispose of his own hazardous wastes  
 18 upon land owned, or leased, by that person or covered by  
 19 easement or permit after complying with the licensing  
 20 requirements of this part and the rules that shall be  
 21 adopted to regulate the disposal or transport of hazardous  
 22 wastes.

23 (c) The exclusion contained in subsection (1)(a) of  
 24 this section does not apply to a division of land of 5 acres  
 25 or less made after July 1, 1977, which falls within the

1 definition of subdivision in Title 76, chapter 4, part 1, or  
2 the Montana Subdivision and Platting Act in Title 76,  
3 chapter 3.

4 (2) The licensing requirements of this part do not  
5 apply to the transportation of marketable hazardous wastes  
6 to a manufacturing or processing center."

7 Section 13. Section 75-10-232, MCA, is amended to  
8 read:

9 "75-10-232. Penalty for violations. (1) (a) Any A  
10 person violating this part or regulations prescribed by the  
11 department under this part, except 75-10-212(2) or  
12 75-10-213, shall be is guilty of a misdemeanor and upon  
13 conviction shall be fined not less than \$50 or more than  
14 \$500.

15 (b) A person who stores, treats, transports, or  
16 disposes of a hazardous waste in violation of this part, a  
17 rule adopted as authorized by this part, or an order issued  
18 as provided in this part is subject to a civil penalty of  
19 not more than \$25,000.

20 ~~(2) A person who violates 75-10-213 or rules adopted~~  
21 ~~by the department under the provisions of 75-10-213 is~~  
22 ~~guilty of a misdemeanor. On conviction, he shall be fined~~  
23 ~~not less than \$10 or more than \$500, imprisoned for not more~~  
24 ~~than 90 days, or both. Fines collected for violation of~~  
25 ~~75-10-213 shall be paid to the county treasurer of the~~

1 ~~county in which the violation occurs~~

2 ~~(3) (2) Each day upon which a violation occurs is a~~  
3 ~~separate violation."~~

4 Section 14. Section 75-15-123, MCA, is amended to  
5 read:

6 "75-15-123. Acquisition of outdoor advertising rights  
7 --compensation. (1) The department may acquire by gift,  
8 purchase, agreement, exchange, or eminent domain existing  
9 outdoor advertising and property rights pertaining to the  
10 advertising which were that was lawfully in existence on  
11 June 24, 1971, and which by virtue of 75-15-111(1) are is  
12 nonconforming. Eminent domain shall be exercised in  
13 accordance with the laws of the state.

14 (2) Just compensation shall be paid for outdoor  
15 advertising and property rights pertaining to the  
16 advertising acquired through the process of eminent domain.  
17 The department may remove outdoor advertising found in  
18 violation of 75-15-112 or 75-15-132 without payment of  
19 compensation.

20 (3) ~~Despite a contrary provision in this part, a sign~~  
21 ~~may not be required to be removed without just compensation~~  
22 ~~unless found to be in violation of 75-15-112 or 75-15-132.~~  
23 Except as provided in 75-15-131 and 75-15-132, a sign may  
24 not be required to be removed unless at the time of removal  
25 or discontinuance there are sufficient funds, from whatever

1 source, appropriated and immediately available to pay the  
 2 just compensation required under this section and unless at  
 3 that time the federal funds required to be contributed under  
 4 section 131(g) of Title 23, United States Code, with respect  
 5 to the outdoor advertising being removed have been  
 6 apportioned and are immediately available to this state."

7 Section 15. Section 75-15-215, MCA, is amended to  
 8 read:

9 "75-15-215. Restrictions as to location. No license  
 10 shall ~~may~~ be granted for the establishment, maintenance, or  
 11 operation of a junkyard within 1,000 feet of the nearest  
 12 edge of the right-of-way of any a highway on the interstate  
 13 or primary systems ~~except the following a license may be~~  
 14 ~~granted for a junkyard:~~

15 (1) ~~these--which--are~~ screened by natural objects,  
 16 ~~planted planted objects~~, fences, or other appropriate means  
 17 so as not to be visible from the main-traveled way of any  
 18 such highway or otherwise removed from sight;

19 (2) ~~these~~ located within ~~areas--which--are~~ an area zoned  
 20 for industrial use under authority of law;

21 (3) ~~these~~ located within unzoned industrial areas  
 22 ~~area, which--areas--shall--be~~ as determined from actual land  
 23 uses and defined by ~~regulations--to--be~~ rules promulgated by  
 24 the ~~highway-commission~~ department of highways;

25 (4) ~~these--which--are~~ ~~that~~ is not visible from the

1 main-traveled way of any such highway."

2 Section 16. Section 75-20-408, MCA, is amended to  
 3 read:

4 "75-20-408. Penalties for violation of chapter --  
 5 civil action by attorney general. (1) (a) Whoever commences  
 6 to construct or operate a facility without first obtaining a  
 7 certificate required under 75-20-201 or a waiver thereof  
 8 under 75-20-304(3)† ~~or~~ having first obtained a certificate,  
 9 constructs, operates, or maintains a facility other than in  
 10 compliance with the certificate† ~~or~~ violates any other  
 11 provision of this chapter or any rule or order adopted  
 12 thereunder† ~~or~~ knowingly submits false information in any  
 13 report or application required by this chapter or rule or  
 14 order adopted thereunder† or causes any of the  
 15 aforementioned acts to occur ~~shall--be~~ is liable to for a  
 16 civil penalty of not more than \$10,000 for each violation.

17 (b) Each day of a continuing violation shall  
 18 constitute ~~constitutes~~ a separate offense.

19 (c) The penalty shall-be is recoverable in a civil  
 20 suit brought by the attorney general on behalf of the state  
 21 in the first district court of ~~the first judicial district~~  
 22 of Montana.

23 (2) Whoever knowingly and willfully violates  
 24 subsection (1) shall be fined not more than \$10,000 for each  
 25 violation or imprisoned for not more than 1 year, or both.

1 Each day of a continuing violation ~~shall constitute~~  
 2 ~~constitutes~~ a separate offense.

3 (3) In addition to any penalty provided in subsections  
 4 (1) or (2), whenever the department determines that a person  
 5 is violating or is about to violate any of the provisions of  
 6 this section, it may refer the matter to the attorney  
 7 general who may bring a civil action on behalf of the state  
 8 in the first district court of ~~the first judicial district~~  
 9 of Montana for injunctive or other appropriate relief  
 10 against the violation and to enforce this chapter or a  
 11 certificate issued hereunder. Upon a proper showing, a  
 12 permanent or preliminary injunction or temporary restraining  
 13 order shall be granted without bond.

14 (4) The Department shall also enforce this chapter and  
 15 bring legal actions to accomplish the enforcement through  
 16 its own legal counsel.

17 (5) All fines and penalties collected shall be  
 18 deposited in the earmarked revenue fund for the use of the  
 19 department in administering this chapter."

20 Section 17. Section 75-20-501, MCA, is amended to  
 21 read:

22 "75-20-501. Annual long-range plan submitted --  
 23 contents -- available to public. (1) Each utility and each  
 24 person contemplating the construction of a facility within  
 25 this state in the ensuing 10 years shall furnish annually to

1 the department for its review a long-range plan for the  
 2 construction and operation of facilities.

3 (2) The plan shall be submitted on by April 1 of each  
 4 year and shall ~~shall~~ **must** include the following:

5 (a) the general location, size, and type of all  
 6 facilities to be owned and operated by the utility or person  
 7 whose construction is projected to commence during the  
 8 ensuing 10 years, as well as those facilities to be removed  
 9 from service during the planning period;

10 (b) in the case of utility facilities, a description  
 11 of efforts by the utility or person to coordinate the plan  
 12 with other utilities or persons so as to provide a  
 13 coordinated regional plan for meeting the energy needs of  
 14 the region;

15 (c) a description of the efforts to involve  
 16 environmental protection and land use planning agencies in  
 17 the planning process, as well as other efforts to identify  
 18 and minimize environmental problems at the earliest possible  
 19 stage in the planning process;

20 (d) projections of the demand for the service rendered  
 21 by the utility or person and explanation of the basis for  
 22 those projections and a description of the manner and extent  
 23 to which the proposed facilities will meet the projected  
 24 demand; and

25 (e) additional information that the board by rule or



1 the department on its own initiative or upon the advice of  
2 interested state agencies might request in order to carry  
3 out the purposes of this chapter.

4 (3) The plan shall be made available to the public by  
5 the department. The utility or person shall give public  
6 notice throughout the state of its plan by filing the plan  
7 with the environmental quality council, the department of  
8 health and environmental sciences, the department of  
9 highways, the department of public service regulation, the  
10 department of state lands, ~~the department of fish and game,~~  
11 and the department of community affairs. Citizen  
12 environmental protection and resource planning groups and  
13 other interested persons may obtain a plan by written  
14 request and payment therefor to the department."

-End-