

**Department of Environmental Quality**  
**Summary of Proposed Legislation**  
**Prepared for Environmental Quality Council's**  
**September 2008 meeting**

**The following legislative proposals are submitted to EQC for early drafting approval. These are in addition to the proposals already approved at the July meeting.**

**Certification for Wastewater Collection System Operators**

In existing statutes, operators of public water treatment plants, water distribution systems, and wastewater treatment plants are required to be trained and certified to perform the necessary functions. However, operators of wastewater collection systems are not certified. The proper operation of a collection system is as important to protecting public health as is proper operation of treatment plants.

This legislation would require the Department to provide certification for wastewater collection system operators and require that the approximately 30 community public wastewater systems in Montana serving over 3,300 people employ a certified wastewater collection operator. The bill also would allow for voluntary certification of operators of other systems. The bill also would add language and a definition of "industrial waste discharge system" to clarify certification requirements for industrial waste systems and ensure that the Department has authority to regulate them.

This is not a new approach and nationally other state's certification programs have already began certifying wastewater collection system operators. Developing a program in Montana would aid in maintaining expensive collection system infrastructure and allow for reciprocity of certified operators between Montana and other states. Large communities in Montana employ operators just to monitor and maintain the collection portion of the wastewater systems. These operators support certification, and the state's Operator Certification Advisory Council has reviewed and supports this proposal

**Public Water Supply Significant Deficiencies**

Current laws cover the review and approval of new public water systems, but do not specifically require that an operating system maintain the condition of the system after construction, nor do they provide the clear authority to require the correction of deficiencies at existing facilities. This legislation would provide clear authority for the Department to require at existing facilities the correction of deficiencies that have the potential to cause harm to public health or the environment. The Department does not propose to require every existing system to meet all new construction standards as they evolve, only those identified by the Department as being significant deficiencies with the potential to adversely affect public health or the environment.

The Department's ability to require the repair of significant deficiencies will be necessary for the Department to properly implement the new federal Ground Water Rule and for the state to retain primacy from EPA in regulating public water supplies. As a condition of primacy, the Department must have the authority to adopt rules at least as stringent as the federal requirements. EPA has recently identified that it does not believe the Department's law and rules are in compliance with the primacy requirements.

### **Amend the Environmental Rehabilitation and Response Account (ERRA) to provide for cleanup of certain solid waste sites**

Owners of illegal solid waste storage or disposal sites typically have little interest in compliance and usually do not have the resources for proper cleanup. DEQ spends significant time in litigation to compel compliance at these sites. If an owner fails to comply with a cleanup order, this legislation would allow DEQ to use ERRA to properly remove, recycle or dispose of the wastes. Expenditures would be limited to sites that are in violation of a DEQ administrative order or a court order. The legislation also would provide authority for cost recovery where feasible to restore expended funds.

### **Revise Biodiesel Incentives**

Montana has several tax incentives for biodiesel producers and distributors. This legislation would expand those incentives in two ways:

- **extend the current tax credit for alternative fuel motor vehicle conversion to include biodiesel**  
Current law (15-30-164) provides incentives for motor vehicle conversion to the following alternative fuels: natural gas, liquefied petroleum gas, liquefied natural gas, hydrogen, electricity, and any other fuel if at least 85% of the fuel is methanol, ethanol or other alcohol, ether, or any combination of them. This proposal would add to this list biodiesel as provided in 15-70-301 for commercial and industrial diesel vehicles using blends of at least 5% biodiesel.
- **provide incentives to commercial and industrial biodiesel consumers** as a means of directly encouraging biodiesel use and indirectly facilitating further development of the biodiesel production and distribution industry in Montana. 15-32-703, MCA Provides “an individual, corporation, partnership, or small business corporation...a credit against taxes...for the costs of investments...used for storing or blending biodiesel with petroleum diesel for sale.” This ignores those businesses that might retrofit their refueling infrastructure for biodiesel use within their business. Extending this incentive to include use would encompass operations such as bus fleets, construction, and transportation contractors, thus providing a significant potential boost in core biodiesel markets within the state. This proposal would extend existing credits to commercial and industrial users for use or storage of blends of at least 5% biodiesel.

### **Roadkill Composting**

DEQ issues licenses to the Montana Department of Transportation (MDT) for road kill composting facilities. Composting has proven to be an efficient, cost-effective and environmentally benign method of dealing with road kill. There are over a dozen MDT compost sites actively managed throughout Montana that both agencies hope to preserve and expand.

This function may conflict with existing law governing disposal of dead animals (75-10-213, MCA). The existing law is at best problematic for this program, and at worst could seriously curtail it. At the September EQC meeting DEQ will discuss possible approaches to reconciling this conflict.