

SENATE BILL NO. 37

INTRODUCED BY D. ANKNEY

BY REQUEST OF THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE COAL-FIRED GENERATING UNIT
6 DECOMMISSIONING AND REMEDIATION ACT; PROVIDING FINDINGS AND INTENT; DEFINING TERMS;
7 ESTABLISHING REQUIREMENTS FOR SUBMISSION, REVIEW, MODIFICATION, AND APPROVAL OF A
8 DECOMMISSIONING AND REMEDIATION PLAN; GRANTING THE DEPARTMENT OF ENVIRONMENTAL
9 QUALITY RULEMAKING AUTHORITY; ESTABLISHING A FEE FOR THE FILING OF A DECOMMISSIONING
10 AND REMEDIATION PLAN; REQUIRING THE DEPARTMENT TO ENFORCE AND ADMINISTER THE
11 PROVISIONS OF A PLAN; ESTABLISHING THE DEGREE OF CLEANUP AND REMEDIATION REQUIRED AT
12 THE SITE WHERE A COAL-FIRED GENERATING UNIT IS DECOMMISSIONED; REQUIRING FINANCIAL
13 ASSURANCES FOR CLEANUP AND REMEDIATION; ESTABLISHING CIVIL PENALTIES AND
14 ENFORCEMENT FOR FAILURE TO DECOMMISSION AND REMEDIATE A COAL-FIRED GENERATING UNIT
15 IN ACCORDANCE WITH AN APPROVED PLAN; ESTABLISHING AN APPEALS PROCESS FOR A PERSON
16 WHOSE INTERESTS ARE ADVERSELY AFFECTED BY A FINAL DECISION OF THE DEPARTMENT TO
17 APPROVE, MODIFY, OR DISAPPROVE A PLAN; ESTABLISHING VENUE FOR A CHALLENGE TO THE PLAN;
18 ESTABLISHING AN APPEAL PROCESS FOR AN OPERATOR CHALLENGING AN ENFORCEMENT ACTION
19 OR ORDER; ESTABLISHING VENUE AND A STANDARD OF REVIEW FOR A CHALLENGE TO THE ACTION
20 OR ORDER; AMENDING SECTIONS 75-1-1001 AND 75-25-101, MCA; AND PROVIDING AN IMMEDIATE
21 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24
25 NEW SECTION. **Section 1. Short title.** [Sections 1 through 12] may be cited as the "Coal-Fired
26 Generating Unit Decommissioning and Remediation Act".

27
28 NEW SECTION. **Section 2. Intent -- findings -- policy and purpose.** (1) The legislature, mindful of
29 its constitutional obligations under Article II, section 3, and Article IX of the Montana constitution, has enacted the
30 Coal-Fired Generating Unit Decommissioning and Remediation Act. It is the legislature's intent that the



1 requirements of [sections 1 through 12] provide adequate remedies after the retirement of coal-fired generating
2 units for the protection of the environmental life support system from degradation and provide adequate remedies
3 to prevent unreasonable degradation of natural resources.

4 (2) It is the purpose of [sections 1 through 12] to:

5 (a) vest in the department the authority to review, approve, modify, or disapprove coal-fired generating
6 unit decommissioning and remediation plans and to exercise general administration and enforcement of [sections
7 1 through 12];

8 (b) ensure that adequate information is available to the public concerning the retirement,
9 decommissioning, and remediation of coal-fired generating units;

10 (c) preserve natural resources;

11 (d) protect and perpetuate the taxable value of property through remediation; and

12 (e) promote the health, safety, and general welfare of the people of this state.

13

14 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 12], the following definitions
15 apply:

16 (1) (a) "Affected property" means the surface area or subsurface area affected by a coal-fired generating
17 unit, including:

18 (i) land, surface water, or ground water directly affected by the coal-fired generating unit, associated
19 impoundments, disposal and waste operations, buildings, structures, or other improvements or operations
20 infrastructure; and

21 (ii) areas affected by activities necessary and incidental to the decommissioning and remediation of the
22 coal-fired generating unit.

23 (b) The term does not include land or water potentially affected by:

24 (i) changes in climate resulting from the emission of greenhouse gases from the coal-fired generating
25 unit; or

26 (ii) the mining of coal at an underground or strip mine regulated in accordance with Title 82, chapter 4,
27 and used at the coal-fired generating unit.

28 (2) "Coal-fired generating unit" means an individual unit of a coal-fired electrical generating facility
29 located in Montana, where the unit has a generating capacity that is greater than or equal to 200 megawatts.

30 (3) "Decommissioning" means the process undertaken after a coal-fired generating unit is retired to

1 ensure that the decontamination, dismantlement, removal, and disposal of the unit, including the unit itself and
 2 affected property and any related components and materials associated with the unit and affected property, are
 3 accomplished in compliance with [sections 1 through 12] and any other state or federal requirements.

4 (4) "Department" means the department of environmental quality provided for in 2-15-3501.

5 (5) "Operator" means the person engaged in operating or decommissioning a coal-fired generating unit.
 6 An operator may or may not be an owner.

7 (6) "Owner" means a person who has a legal or equitable interest in property subject to [sections 1
 8 through 12] or the person's legal representative.

9 (7) "Person" means a person, partnership, corporation, association, or other legal entity or any political
 10 subdivision or agency of the state or federal government.

11 (8) "Reasonably anticipated future uses" means likely future land or resource uses that take into
 12 consideration:

13 (a) local land and resource use regulations, ordinances, restrictions, or covenants;

14 (b) historical and anticipated uses of a site where a coal-fired generating unit is located;

15 (c) patterns of development in the immediate area; and

16 (d) relevant indications of anticipated land use from an operator or owner, or both, of a coal-fired
 17 generating unit and local planning officials.

18 (9) "Remediation" means all notification, investigation, administration, monitoring, cleanup, restoration,
 19 mitigation, abatement, removal, replacement, acquisition, enforcement, legal action, health studies, feasibility
 20 studies, and other actions necessary or appropriate to achieve a degree of cleanup required under [section 10].

21 (10) "Retired" or "retire" means the complete and permanent closure of a coal-fired generating unit.
 22 Retirement occurs on the date that the coal-fired generating unit ceases combustion of fuel and permanently
 23 ceases to generate electricity.

24
 25 **NEW SECTION. Section 4. Decommissioning and remediation plan required.** (1) Except as
 26 provided in subsection (2)(b), an operator that retires a coal-fired generating unit shall submit a decommissioning
 27 and remediation plan pursuant to [section 7] and decommission and remediate the coal-fired generating unit in
 28 accordance with the approved plan.

29 (2) (a) [Sections 1 through 12] do not absolve an operator or owner of a coal-fired generating unit from
 30 any other liability, settlement, or penalty for the decommissioning and remediation of the coal-fired generating

1 unit and affected property.

2 (b) If a change in the operator of a coal-fired generating unit occurs as a result of the sale, assignment,
3 or other transfer of ownership or operation at the coal-fired generating unit after the retirement but before
4 completion of decommissioning, the new operator at the time of decommissioning of the coal-fired generating
5 unit is subject to the requirements of [sections 1 through 12].

6
7 **NEW SECTION. Section 5. Actions -- general provisions.** [Sections 1 through 12] do not preclude
8 or prohibit the department from exercising its authority to enforce or require remediation, if determined necessary,
9 at a coal-fired generating unit or affected property in accordance with Title 75, chapter 10, part 6 or 7, any consent
10 order or settlement entered into by the department and the operator or owner, or any other environmental
11 enforcement action undertaken by the department and authorized by Title 75.

12
13 **NEW SECTION. Section 6. Powers, duties, and functions.** (1) The department shall:

14 (a) review a proposed coal-fired generating unit decommissioning and remediation plan and prepare an
15 environmental review document pursuant to the requirements of the Montana Environmental Policy Act provided
16 in Title 75, chapter 1, parts 1 through 3;

17 (b) approve, modify, or disapprove a coal-fired generating unit decommissioning and remediation plan;

18 (c) modify a coal-fired generating unit decommissioning and remediation plan only in accordance with
19 the provisions of [section 9];

20 (d) make investigations or inspections that are considered necessary to ensure compliance with any
21 provision of [sections 1 through 12] in accordance with [section 8(3)]; and

22 (e) enforce and administer the provisions of a coal-fired generating unit decommissioning and
23 remediation plan and issue orders necessary to implement the provisions of [sections 1 through 12].

24 (2) The department shall adopt rules that pertain to coal-fired generating unit decommissioning and
25 remediation plans and plan enforcement in order to accomplish the purposes of [sections 1 through 12].

26 (3) Before January 1, 2018, the department shall adopt rules:

27 (a) establishing fees, not to exceed \$1 million per application, for the filing and review of coal-fired
28 generating unit decommissioning and remediation plans, including preparation of the environmental review
29 document;

30 (b) assessing risk and establishing cleanup criteria; and

1 (c) providing other administrative requirements that the department considers necessary to implement
2 [sections 1 through 12].

3
4 **NEW SECTION. Section 7. Decommissioning and remediation plan requirements.** (1) No later than
5 3 months after a coal-fired generating unit is retired, the operator shall submit a proposed decommissioning and
6 remediation plan in the form that the department requires under applicable rules containing the following
7 information:

8 (a) the name of the operator of the coal-fired generating unit and the names and addresses of all owners
9 of the coal-fired generating unit; and

10 (b) an environmental overview of the site where the unit is located, the unit itself, and affected property
11 that includes the information required in subsections (2) through (4).

12 (2) The plan required in subsection (1) must outline decommissioning information, which must include:

13 (a) the legal description of the coal-fired generating unit and affected property and a map identifying the
14 location and size of the unit and affected property and relevant features, such as property boundaries, surface
15 topography, surface and subsurface structures, and utility lines;

16 (b) the physical characteristics of the unit and affected property and areas contiguous to the unit,
17 including the location of any surface water bodies and ground water aquifers;

18 (c) the location of any wells associated with the coal-fired generating unit to be decommissioned,
19 including all wells associated with impoundments, and a description of the use of the wells;

20 (d) the current and reasonably anticipated future uses of onsite ground and surface water where the unit
21 and affected property are located;

22 (e) the operational history of the unit;

23 (f) information, using sampling and modeling approved by the department, that includes:

24 (i) the nature and extent of any hazardous wastes as defined in 75-10-403, hazardous or deleterious
25 substances as defined in 75-10-701, solid waste as defined in 75-10-203, water contaminants or pollutants under
26 the state water quality requirements or present at concentrations greater than background, or other potentially
27 hazardous materials that are at the site where the unit is located or on affected property and a map showing
28 general areas and concentrations of those substances; and

29 (ii) sampling results or other data that characterize the soil, air, ground water, or surface water on the site
30 where the unit is located and on affected property.

1 (g) a description of potential human and environmental exposure to hazardous wastes as defined in
2 75-10-403, hazardous or deleterious substances as defined in 75-10-701, solid waste as defined in 75-10-203,
3 or other potentially hazardous materials at the site where the unit is located or on affected property; and

4 (h) a description of the proposed dismantling, demolition, and disposal of the unit and related
5 infrastructure, including information concerning removal of salable and salvageable equipment.

6 (3) The plan required in subsection (1) must outline remediation information, which must include:

7 (a) a detailed description of the components of the remediation proposal, including, to the extent
8 applicable:

9 (i) the proposed cleanup levels for the site where the unit is located and affected property;

10 (ii) the manner in which the remediation plan satisfies the requirements of [section 10];

11 (iii) identification of sampling or treatability studies; and

12 (iv) a demonstration that exposures to risk affecting the public health, safety, and welfare and the
13 environment at the facility will be eliminated or mitigated to an acceptable level by the plan;

14 (b) a brief comparison of the remediation proposal to reasonable alternatives capable of achieving the
15 degree of cleanup required according to [section 10];

16 (c) a timetable for implementing the proposal and for any necessary monitoring of the site where the unit
17 and affected property are located after the proposed measures are completed;

18 (d) a statement that applicable health and safety regulations will be met during implementation of the
19 remediation proposal; and

20 (e) a description of how short-term disturbances during implementation of the remediation proposal will
21 be minimized.

22 (4) The plan required in subsection (1) must outline financial information for the decommissioning and
23 remediation of the coal-fired generating unit, which must include:

24 (a) an estimate of the costs associated with the decommissioning and remediation of the coal-fired
25 generating unit and affected property, based on an engineering report issued by a licensed engineer approved
26 by the department;

27 (b) a plan for funding the decommissioning and remediation of the coal-fired generating unit and affected
28 property;

29 (c) the accumulated reserve of the operator or owner for the decommissioning and remediation of the
30 coal-fired generating unit and affected property as of the date of submission of the plan and the total amount

1 necessary to meet the estimated decommissioning and remediation costs;

2 (d) timeframes in which the decommissioning and remediation is intended to be accomplished;

3 (e) information concerning ownership of water rights and associated infrastructure owned by the operator
4 or owner of the coal-fired generating unit and plans to transfer, sell, or change the water rights and infrastructure
5 to allow for a local government unit's water supply to be maintained; and

6 (f) any other information related to the financing of decommissioning and remediation requested by the
7 department.

8 (5) A plan required pursuant to subsection (1) may consist of a plan for more than one unit that is retired
9 at the same time and planned for simultaneous decommissioning and remediation.

10

11 **NEW SECTION. Section 8. Approval of decommissioning and remediation plan -- time limits --**
12 **contents of notice -- expiration of approval.** (1) The department shall review for completeness a
13 decommissioning and remediation plan and shall provide a written completeness notice to the operator within
14 60 days of receipt and within 30 days of receipt of responses to notices of deficiencies. The initial completeness
15 notice must note all deficiencies identified in the information submitted.

16 (2) (a) Once the department determines that a proposed decommissioning and remediation plan is
17 complete, the department shall prepare an environmental review document pursuant to the requirements of Title
18 75, chapter 1, parts 1 through 3. The department shall provide formal written notification of approval, approval
19 with modification, or disapproval within 270 days of determining a proposed decommissioning and remediation
20 plan is complete unless the operator and the department agree to an extension of the review to a date certain.
21 During the review period, the operator shall be afforded the opportunity to respond in writing to the comments
22 received by the department on the draft environmental review document.

23 (b) Any modification to the decommissioning and remediation plan by the department must comply with
24 [section 9].

25 (3) The department may access the site where the unit is located, the unit itself, and affected property,
26 at reasonable times and after reasonable notice to the operator, during review of the plan to confirm information
27 provided by the operator and to verify that the remediation is being conducted consistent with the approved plan.

28 (4) The department shall approve a decommissioning and remediation plan if the department concludes
29 that the plan will meet the requirements of [section 10].

30 (5) If a decommissioning and remediation plan is not approved by the department, the department shall

1 promptly provide the operator with a written statement of the reasons for disapproval. The disapproval may be
2 appealed in accordance with [section 11].

3 (6) If conditions are discovered during implementation of a decommissioning and remediation plan that
4 were not identified in the review conducted pursuant to subsection (1) and that pose a risk to public health, safety,
5 or welfare, the operator shall notify the department within 10 days of discovery. The department may require the
6 operator to submit an amendment to the approved plan to address the conditions.

7 (7) The department may revoke its approval or conditionally revoke its approval contingent on the
8 operator taking corrective action identified by the department if the operator:

9 (a) fails to materially comply with the plan;

10 (b) submits materially misleading information in the plan or during implementation of the plan; or

11 (c) fails to report any newly discovered information to the department during the application process or
12 implementation of the plan regarding releases or threatened releases of hazardous wastes as defined in
13 75-10-403, hazardous or deleterious substances as defined in 75-10-701, solid waste as defined in 75-10-203,
14 or other potentially hazardous materials within 10 days of discovery of that information.

15 (8) The revocation may be appealed in accordance with [section 11].

16

17 **NEW SECTION. Section 9. Plan modifications by department.** (1) The department may only modify
18 the terms of a plan in compliance with this section.

19 (2) If the department finds, based on credible evidence, that a decommissioning and remediation plan
20 would violate a substantive numerical or narrative state standard or regulation, fail to meet the requirements of
21 [section 10], or otherwise violate the purpose of [sections 1 through 12], it may propose to the operator a
22 modification to the plan.

23 (3) The department shall notify the operator of the proposed modification in writing. The notice must
24 include:

25 (a) an identification of the existing plan;

26 (b) the justification for the modification, including all test results or other credible evidence that the
27 department relied on in proposing the modification; and

28 (c) the text, maps, drawings, and other appropriate information that constitute the proposed modification.

29 (4) The modification is not effective or enforceable until 30 days following the issuance of the
30 department's modification notice.

1 (5) The modification may be appealed in accordance with [section 11]. If the operator requests a hearing
2 on the proposed modification, the modification is not effective and enforceable until completion of the contested
3 case process.

4
5 **NEW SECTION. Section 10. Degree of cleanup required -- financial assurance.** (1) A coal-fired
6 generating unit decommissioning and remediation plan must attain a degree of cleanup consistent with [section
7 2].

8 (2) In approving a decommissioning and remediation plan under [sections 1 through 12], the department:

9 (a) except as provided in subsection (4), shall require cleanup consistent with applicable state or federal
10 environmental requirements, criteria, or other limitations;

11 (b) may consider substantive state or federal environmental requirements, criteria, or other limitations
12 that are relevant to the site conditions; and

13 (c) shall select remediation, considering present and reasonably anticipated future uses and giving due
14 consideration to institutional controls, that:

15 (i) demonstrate acceptable mitigation of exposure to risks to the public health, safety, and welfare and
16 the environment;

17 (ii) are effective and reliable in the short term and the long term;

18 (iii) are technically practicable and implementable;

19 (iv) use treatment technologies or resource recovery technologies if practicable, giving due consideration
20 to engineering controls; and

21 (v) are cost-effective.

22 (3) In approving a decommissioning and remediation plan, the department shall consider the
23 acceptability of the remediation to the affected community, as indicated by community members and the local
24 government.

25 (4) The department may select decommissioning and remediation that does not meet an applicable state
26 environmental requirement, criteria, or limitation under any one of the following circumstances:

27 (a) The decommissioning or remediation is an interim measure and will become part of a total, overall
28 remediation plan that will attain the applicable requirement, criteria, or limitation.

29 (b) Compliance with the applicable requirement, criteria, or limitation will result in greater risk to human
30 health and the environment than other remediation alternatives.

1 (c) Compliance with the applicable requirement, criteria, or limitation is technically impracticable from
2 an engineering perspective.

3 (d) The decommissioning and remediation will attain a standard of performance that is equivalent to that
4 required under the otherwise applicable requirement, criteria, or limitation through use of another method or
5 approach.

6 (e) Compliance with the requirement would not be cost-effective.

7 (5) For purposes of this section, cost-effectiveness must be determined through an analysis of
8 incremental costs and incremental risk reduction and other benefits of alternatives considered, taking into account
9 the total anticipated short-term and long-term costs of remedial action alternatives considered, including the total
10 anticipated cost of operation and maintenance activities.

11 (6) The department may require financial assurance from operator or owner, or both, of a coal-fired
12 generating unit in an amount that the department determines will ensure the completion of a decommissioning
13 and remediation plan. The operator or owner, or both, shall provide the financial assurance by any one method
14 or combination of methods satisfactory to the department, including but not limited to insurance, guarantee,
15 performance or other surety bond, letter of credit, qualification as a self-insurer, or other demonstration of financial
16 capability.

17
18 **NEW SECTION. Section 11. Decommissioning and remediation plan -- appeal -- venue.** (1) (a)
19 Subject to subsection (1)(b), a person whose interests are or may be adversely affected by a final decision of the
20 department to approve, modify, or disapprove a coal-fired generating unit decommissioning and remediation plan
21 under [sections 1 through 12] may file for judicial review of the department's decision. The request for judicial
22 review and a statement of the basis for the review must be filed with the court within 30 days of the department's
23 decision.

24 (b) In order for a person to file a request for review under subsection (1)(a), a person must have either
25 submitted comments to the department on a decommissioning and remediation plan or submitted comments at
26 a public meeting held in accordance with Title 75, chapter 1, during the environmental review conducted in
27 accordance with [section 6(1)]. The person may only request judicial review of those issues raised in the person's
28 comments.

29 (2) An operator may appeal the department's decision on an approval with modification, disapproval, or
30 revocation of a plan by submitting a request for judicial review. The request for judicial review and the statement

1 of the basis for the review must be filed with the court within 15 days of the department's decision.

2 (3) In considering a request for review under this part, the court shall uphold the decision made by the
3 department unless the objecting person can demonstrate, on the administrative record, that the department's
4 decision was arbitrary and capricious or otherwise not in accordance with the law.

5 (4) A petition for judicial review under this section must be brought in the county in which the coal-fired
6 generating unit is located, if mutually agreed upon by both parties in the action, or in the first judicial district, Lewis
7 and Clark County.

8 (5) If the court determines that the petition for judicial review was without merit or was made for an
9 improper purpose, such as to harass, to cause unnecessary delay, or to impose needless or increased cost in
10 litigation, the court may award attorney fees and costs incurred in defending the action.

11
12 **NEW SECTION. Section 12. Enforcement of decommissioning and remediation plan -- civil**
13 **penalties -- appeal -- venue.** (1) If the department finds that an operator has failed to implement an approved
14 decommissioning and remediation plan, it may serve written notice of the violation, by certified mail, on the
15 operator. The notice must specify the provision of [sections 1 through 12] and the facts alleged to constitute a
16 violation. The notice must include an order to take necessary corrective action within a reasonable period of time.
17 The time period must be stated in the order. Service by mail is complete on the date of mailing.

18 (2) (a) An operator who violates any provision of an approved decommissioning and remediation plan
19 or the department's order is subject to a civil penalty not to exceed \$10,000 for each violation. Each day of each
20 violation constitutes a separate violation. The department may institute and maintain in the name of the state any
21 enforcement proceedings under this section.

22 (b) Penalties assessed under this subsection (2) must be determined in accordance with the penalty
23 factors in 75-1-1001.

24 (3) Action under subsection (1) is not a bar to enforcement of a rule, order, or action made or issued
25 under [sections 1 through 12] by injunction or other appropriate civil remedies.

26 (4) Money collected under this section must be deposited in the alternative energy revolving loan account
27 established in 75-25-101.

28 (5) This section does not prevent the department from making efforts to obtain voluntary compliance
29 through warning, conference, or any other appropriate means.

30 (6) A court has jurisdiction to review an order issued under [sections 1 through 12] only in the following

1 actions:

2 (a) an action to recover penalties;

3 (b) an action to enforce an order issued under this section; or

4 (c) an action by a person to whom an order has been issued to determine the validity of the order, only
5 if the person has been in compliance and continues to be in compliance with the order pending a decision of the
6 court.

7 (7) A petition for judicial review of a department decision under this section must be brought in the county
8 in which the coal-fired generating unit is located, if mutually agreed upon by both parties in the action, or in the
9 first judicial district, Lewis and Clark County.

10 (8) In considering a request for review under [sections 1 through 12], the court shall uphold the decision
11 made by the department unless the objecting person can demonstrate, on the administrative record, that the
12 department's decision was arbitrary and capricious or otherwise not in accordance with the law.

13

14 **Section 13.** Section 75-1-1001, MCA, is amended to read:

15 **"75-1-1001. Penalty factors.** (1) In determining the amount of an administrative or civil penalty to which
16 subsection (4) applies, the department of environmental quality or the district court, as appropriate, shall take into
17 account the following factors:

18 (a) the nature, extent, and gravity of the violation;

19 (b) the circumstances of the violation;

20 (c) the violator's prior history of any violation, which:

21 (i) must be a violation of a requirement under the authority of the same chapter and part as the violation
22 for which the penalty is being assessed;

23 (ii) must be documented in an administrative order or a judicial order or judgment issued within 3 years
24 prior to the date of the occurrence of the violation for which the penalty is being assessed; and

25 (iii) may not, at the time that the penalty is being assessed, be undergoing or subject to administrative
26 appeal or judicial review;

27 (d) the economic benefit or savings resulting from the violator's action;

28 (e) the violator's good faith and cooperation;

29 (f) the amounts voluntarily expended by the violator, beyond what is required by law or order, to address
30 or mitigate the violation or impacts of the violation; and

1 (g) other matters that justice may require.

2 (2) After the amount of a penalty is determined under subsection (1), the department of environmental
3 quality or the district court, as appropriate, may consider the violator's financial ability to pay the penalty and may
4 institute a payment schedule or suspend all or a portion of the penalty.

5 (3) The department of environmental quality may accept a supplemental environmental project as
6 mitigation for a portion of the penalty. For purposes of this section, a "supplemental environmental project" is an
7 environmentally beneficial project that a violator agrees to undertake in settlement of an enforcement action but
8 which the violator is not otherwise legally required to perform.

9 (4) This section applies to penalties assessed by the department of environmental quality or the district
10 court under Title 75, chapters 2, 5, 6, 11, and 20; Title 75, chapter 10, parts 2, 4, 5, and 12; sections 1 through
11 12; and Title 76, chapter 4.

12 (5) The board of environmental review and the department of environmental quality may, for the statutes
13 listed in subsection (4) for which each has rulemaking authority, adopt rules to implement this section."
14

15 **Section 14.** Section 75-25-101, MCA, is amended to read:

16 **"75-25-101. Alternative energy revolving loan account.** (1) There is a special revenue account called
17 the alternative energy revolving loan account to the credit of the department of environmental quality.

18 (2) The alternative energy revolving loan account consists of money deposited into the account from air
19 quality penalties from 75-2-401 and 75-2-413, penalties from [section 12], and money from any other source. Any
20 interest earned by the account and any interest that is generated from a loan repayment must be deposited into
21 the account and used to sustain the program.

22 (3) Funds from the alternative energy revolving loan account may be used to provide loans to individuals,
23 small businesses, units of local government, units of the university system, and nonprofit organizations for the
24 purpose of building alternative energy systems, as defined in 15-32-102:

25 (a) to generate energy for their own use;

26 (b) for net metering as defined in 69-8-103; and

27 (c) for capital investments by those entities for energy conservation purposes, as defined in 15-32-102,
28 when done in conjunction with an alternative energy system.

29 (4) The amount of a loan may not exceed \$40,000, and the loan must be repaid within 10 years."
30

