

HOUSE BILL NO. 383

INTRODUCED BY RANEY, REA, BRADLEY

IN THE HOUSE

JANUARY 24, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON NATURAL RESOURCES.

JANUARY 25, 1991 FIRST READING.

FEBRUARY 7, 1991 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 8, 1991 PRINTING REPORT.

FEBRUARY 9, 1991 SECOND READING, DO PASS.

FEBRUARY 11, 1991 ENGROSSING REPORT.

FEBRUARY 12, 1991 THIRD READING, PASSED.
AYES, 75; NOES, 22.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 13, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON NATURAL RESOURCES.

FIRST READING.

MARCH 23, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 27, 1991 SECOND READING, CONCURRED IN.

MARCH 28, 1991 THIRD READING, CONCURRED IN.
AYES, 38; NOES, 10.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 1, 1991 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 383
 2 INTRODUCED BY Randy Pea Bradley
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT
 5 OF HEALTH AND ENVIRONMENTAL SCIENCES TO REGULATE INDUSTRIAL
 6 FURNACES AND INDUSTRIAL BOILERS THAT BURN HAZARDOUS WASTES
 7 IF THERE ARE NO FEDERAL REGULATIONS OR TO REGULATE THEM MORE
 8 STRINGENTLY THAN FEDERAL REGULATIONS; AMENDING SECTION
 9 75-10-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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11 STATEMENT OF INTENT

12 A statement of intent is required for this bill because
 13 it expands and clarifies rulemaking authority delegated to
 14 the department of health and environmental sciences. It is
 15 the intent of the legislature to provide the authority for
 16 the adoption of administrative rules for the operation and
 17 performance of industrial boilers and industrial furnaces
 18 that burn hazardous wastes. The department currently has two
 19 applications for interim status permits for such
 20 fuel-burning activities at cement plants operating in the
 21 state.

22 The United States environmental protection agency (EPA)
 23 was scheduled to have published performance regulations by
 24 the end of 1990 for industrial furnaces and industrial
 25 boilers, including cement kilns, but it has not published

1 these regulations. The EPA has the authority and has been
 2 requested to approve two cement kilns that would burn
 3 hazardous wastes before the EPA regulations are in effect.
 4 It is the intent of the legislature to ensure that adequate
 5 state regulations are in place before any hazardous wastes
 6 are burned.

7 It is the additional intent of the legislature to allow
 8 the state regulations to be more restrictive than the
 9 federal regulations if needed to adequately protect the
 10 citizens and environment of Montana.

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

13 **Section 1.** Section 75-10-405, MCA, is amended to read:
 14 "75-10-405. Administrative rules. (1) The department
 15 may adopt, amend, or repeal rules governing hazardous waste,
 16 including but not limited to the following:
 17 (a) identification and classification of those
 18 hazardous wastes subject to regulation and those that are
 19 not;
 20 (b) requirements for the proper treatment, storage,
 21 transportation, and disposal of hazardous waste;
 22 (c) requirements for siting, design, operation,
 23 maintenance, monitoring, inspection, closure, postclosure,
 24 and reclamation of hazardous waste management facilities;
 25 (d) requirements for the issuance, denial, renewal,

1 modification, and revocation of permits for hazardous waste
 2 management facilities;

3 (e) requirements for corrective action within and
 4 outside of facility boundaries and for financial assurance
 5 of that corrective action;

6 (f) requirements for manifests and the manifest system
 7 for tracking hazardous waste and for reporting and
 8 recordkeeping by generators, transporters, and owners and
 9 operators of hazardous waste management facilities;

10 (g) requirements for training of facility personnel and
 11 for financial assurance of facility owners and operators and
 12 for liability of guarantors providing financial assurance;

13 (h) requirements for registration of generators and
 14 transporters;

15 (i) a schedule of fees for hazardous waste management
 16 facility permits and registration of hazardous waste
 17 generators;

18 (j) a schedule of fees to defray a portion of the costs
 19 of establishing, operating, and maintaining any state
 20 hazardous waste management facility authorized by 75-10-412;

21 (k) requirements for availability to the public of
 22 information obtained by the department regarding facilities
 23 and sites used for the treatment, storage, and disposal of
 24 hazardous wastes; and

25 (l) other rules which are necessary to obtain and

1 maintain authorization under the federal program.

2 (2) The department may not adopt rules under this part
 3 that are more restrictive than those promulgated by the
 4 federal government under the Resource Conservation and
 5 Recovery Act of 1976, as amended, except that the
 6 department:

7 (a) may require the registration of transporters not
 8 otherwise required to register with the state of Montana
 9 pursuant to the federal Resource Conservation and Recovery
 10 Act of 1976, as amended;

11 (b) may require generators and facilities to report on
 12 an annual rather than on a biennial basis;

13 (c) may adopt requirements for the prevention and
 14 correction of leakage from underground storage tanks,
 15 including:

16 (i) reporting by owners and operators;

17 (ii) financial responsibility;

18 (iii) release detection, prevention, and corrective
 19 action;

20 (iv) standards for design, construction, installation,
 21 and closure;

22 (v) development of a schedule of fees, not to exceed
 23 \$50 for a tank over 1,100 gallons and not to exceed \$20 for
 24 a tank 1,100 gallons or less, per tank, for tank
 25 notification and permits to defray state and local costs of

1 implementing an underground storage tank program; and
2 (vi) delegation of authority and funds to local agents
3 for inspections and implementation. The delegation of
4 authority to local agents must complement and may not
5 duplicate existing authority for implementation of rules
6 adopted by the state fire marshal that relate to underground
7 storage tanks.

8 (d) may adopt regulatory requirements for hazardous
9 waste transfer facilities; and

10 (e) shall require the owner or manager of any proposed
11 commercial facility for the storage, collection, or transfer
12 of hazardous waste to conduct a public hearing, as provided
13 for in 75-10-441; and

14 (f) may adopt rules and performance standards for
15 industrial furnaces and boilers that burn hazardous wastes.

16 The rules and performance standards:

17 (i) may be adopted if there are no federal regulations;

18 or

19 (ii) may be more restrictive than federal regulations."

20 NEW SECTION. Section 2. Effective date. [This act] is
21 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0383, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

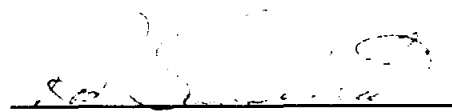
A bill to allow the Department of Health and Environmental Sciences to regulate industrial furnaces and industrial boilers that burn hazardous wastes if there are no federal regulations or to regulate them more stringently than federal regulations.

ASSUMPTIONS:


1. Rules adopted by DHES under authority of this bill would be essentially equivalent to EPA rules.
2. Implementation of rules could be accomplished with the staff resources as proposed in the executive budget.

FISCAL IMPACT:

None



ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning



BOB RANEY, PRIMARY SPONSOR DATE
Fiscal Note for HB0383, as introduced. **HB 383**

APPROVED BY COMM. ON
NATURAL RESOURCES

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HOUSE BILL NO. *383*
Raney Pea Bradley

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STATEMENT OF INTENT

A statement of intent is required for this bill because it expands and clarifies rulemaking authority delegated to the department of health and environmental sciences. It is the intent of the legislature to provide the authority for the adoption of administrative rules for the operation and performance of industrial boilers and industrial furnaces that burn hazardous wastes. The department currently has two applications for interim status permits for such fuel-burning activities at cement plants operating in the state.

The United States environmental protection agency (EPA) was scheduled to have published performance regulations by the end of 1990 for industrial furnaces and industrial boilers, including cement kilns, but it has not published

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It is the additional intent of the legislature to allow the state regulations to be more restrictive than the federal regulations if needed to adequately protect the citizens and environment of Montana.

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

Section 1. Section 75-10-405, MCA, is amended to read:

***75-10-405. Administrative rules.** (1) The department may adopt, amend, or repeal rules governing hazardous waste, including but not limited to the following:

(a) identification and classification of those hazardous wastes subject to regulation and those that are not;

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(c) requirements for siting, design, operation, maintenance, monitoring, inspection, closure, postclosure, and reclamation of hazardous waste management facilities;

(d) requirements for the issuance, denial, renewal,

SECOND READING

HB 383



1 modification, and revocation of permits for hazardous waste
 2 management facilities;

3 (e) requirements for corrective action within and
 4 outside of facility boundaries and for financial assurance
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 7 for tracking hazardous waste and for reporting and
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18 (j) a schedule of fees to defray a portion of the costs
 19 of establishing, operating, and maintaining any state
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21 (k) requirements for availability to the public of
 22 information obtained by the department regarding facilities
 23 and sites used for the treatment, storage, and disposal of
 24 hazardous wastes; and

25 (l) other rules which are necessary to obtain and

1 maintain authorization under the federal program.

2 (2) The department may not adopt rules under this part
 3 that are more restrictive than those promulgated by the
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 5 Recovery Act of 1976, as amended, except that the
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9 waste transfer facilities; and

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13 for in 75-10-441+; and

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