

SENATE BILL NO. 200
 INTRODUCED BY Warden Blaylock Neely Rasmussen
Deane Hill BY REQUEST OF Sen. [Signature]
 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES Walt Scumble

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TITLE 69, CHAPTER 40; PROVIDING A SHORT TITLE FOR PURPOSES OF CITING THE CHAPTER; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO LICENSE SOLID WASTE MANAGEMENT SYSTEMS; AUTHORIZING THE DEPARTMENT TO INITIATE AND MAINTAIN ACTIONS TO COLLECT CIVIL PENALTIES; PROVIDING CONTROL OVER THE STORAGE, TREATMENT, AND DISPOSAL OF HAZARDOUS WASTES; AND AMENDING SECTIONS 69-4001, 69-4002, 69-4003, 69-4004, 69-4005, 69-4006, 69-4007, 69-4008, AND 69-4009, R.C.M. 1947."

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

Section 1. Section 69-4001, R.C.M. 1947, is amended to read as follows:

"69-4001. Legislative findings and policy. It is hereby found and declared that the health and welfare of Montana citizens are being endangered by improperly operated refuse-disposal-areas solid waste management systems and by the improper and unregulated disposal of hazardous wastes. It is declared the public policy of this state to control

refuse-disposal-areas solid waste management systems to protect the public health and safety and to conserve natural resources whenever possible."

Section 2. There is a new R.C.M. section numbered 69-4001.1 that reads as follows:

69-4001.1. Short title. This chapter may be cited as "The Montana Solid Waste Management Act".

Section 3. Section 69-4002, R.C.M. 1947, is amended to read as follows:

"69-4002. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

- (1) "Garbage"--means--putrescible--animal--and--vegetable wastes--resulting--from--handling--preparation--cooking--and consumption--of--food. "Solid waste" means all putrescible and nonputrescible wastes including but not limited to garbage; rubbish; refuse; hazardous wastes; ashes; sludge from sewage treatment plants; water supply treatment plants; or air pollution control facilities; septic tank and cesspool pumpings; construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; and wood wastes and inert materials. "Solid waste" does not mean municipal sewage, industrial wastewater effluents, or mining wastes regulated under the mining and reclamation laws administered by the department of state lands.

- (2) "Refuse"--means--putrescible--and--nonputrescible

1 ~~solid--wastes--(except--body--wastes)--including--garbage~~
 2 ~~rubbish--street--cleanings--dead--animals--yard--clippings--and~~
 3 ~~solid--market--and--solid--industrial--wastes.~~ "Department" means
 4 the department of health and environmental sciences,
 5 provided for in Title 82A, chapter 6.

6 (3) ~~"Rubbish"---means---nonputrescible--solid--wastes~~
 7 ~~consisting--of--both--combustible--and--noncombustible--wastes~~
 8 ~~such--as--paper--cardboard--abandoned--automobiles--tin--cans~~
 9 ~~woody--glass--bedding--crockery--and--similar--materials~~
 10 "Board" means the board of health and environmental
 11 sciences, provided for in 82A-605.

12 (4) ~~"Department"---means---the--department--of--health--and~~
 13 ~~environmental--sciences--provided--for--in--Title--82A--chapter~~
 14 ~~6.~~ "Person" means an individual, firm, partnership, company,
 15 association, corporation, city, town, local governmental
 16 entity, or any other governmental or private entity whether
 17 organized for profit or not.

18 (5) ~~"Board"---means---the---board---of---health---and~~
 19 ~~environmental--sciences--provided--for--in--section--82A--605.~~
 20 "Dispose" or "disposal" means the discharge, injection,
 21 deposit, dumping, spilling, leaking, or placing of any
 22 substance into or onto the land so that the substance or any
 23 constituent of it may enter the environment or be emitted
 24 into the air or discharged into any waters, including
 25 groundwaters.

1 (6) "Hazardous waste" means any waste or combination
 2 of wastes of a solid, liquid, contained gaseous, or
 3 semi-solid form which may cause or contribute to an increase
 4 in mortality or an increase in serious illness, taking into
 5 account the toxicity of the waste, its persistence and
 6 degradability in nature, its potential for assimilation or
 7 concentration in tissue, and other factors that may
 8 otherwise cause or contribute to adverse acute or chronic
 9 effects on the health of persons or other living organisms.
 10 Hazardous wastes include but are not limited to those which
 11 are toxic, radioactive, corrosive, flammable, irritants,
 12 strong sensitizers, or which generate pressure through
 13 decomposition, heat, or other means.

14 (7) "Storage" means the actual or intended containment
 15 of wastes, either on a temporary basis or for a period of
 16 years.

17 (8) "Transport" means the movement of wastes from the
 18 point of generation to any intermediate points and finally
 19 to the point of ultimate storage or disposal.

20 (9) "Treatment" means a method, technique, or process,
 21 including neutralization, designed to change the physical,
 22 chemical, or biological character or composition of any
 23 solid waste so as to neutralize the waste or so as to render
 24 it nonhazardous, safer for transport, amenable for recovery,
 25 amenable for storage, or reduced in volume.

1 (10) "Hazardous waste management" means the management
 2 of the storage, transport, treatment, recycling, recovery,
 3 or disposal of hazardous wastes.

4 (11) "Resource recovery" means the recovery of material
 5 or energy from solid waste.

6 (12) "Resource recovery system" means a solid waste
 7 management system which provides for the collection,
 8 separation, recycling, or recovery of solid wastes,
 9 including disposal of nonrecoverable waste residues.

10 (13) "Resource recovery facility" means a facility at
 11 which solid waste is processed for the purpose of
 12 extracting, converting to energy, or otherwise separating
 13 and preparing solid waste for reuse.

14 (14) "Solid waste management system" means a system
 15 which controls the storage, treatment, recycling, recovery,
 16 or disposal of solid waste."

17 Section 4. Section 69-4003, R.C.M. 1947, is amended to
 18 read as follows:

19 "69-4003. Dumping-in-an-unticensed-area-is Unapproved
 20 disposal prohibited. No person--partnership--company-or
 21 corporation-shall-hereafter may dispose of any--garbagey
 22 rubbish--or--refuse solid waste or transport hazardous waste
 23 in-any-place except as permitted under this act chapter."

24 Section 5. Section 69-4004, R.C.M. 1947, is amended to
 25 read as follows:

1 "69-4004. License required. Each--year--each--persony
 2 partnership--company--or--corporation-desiring-to-operate-a
 3 refuse-disposal-area-shall-obtain-a--license--for--operating
 4 same--from--the--localy-county--or-district-board-of-health
 5 having-jurisdiction--to-obtain-a--license--to--operate--a
 6 disposal--areay-application-to-the-localy-county-or-district
 7 board-of-health-having-jurisdictiony-must-be-made-on--forms
 8 provided--by--its-The-application-shall-contain-the-name-and
 9 residence-of-the-applicanty-the--location--of--the--proposed
 10 disposal--area--and-such-other-information-as-the-department
 11 may-by-regulation-requires---There--shall--be-paid--to--the
 12 localy---county--or--district--board--of--health--with--each
 13 application-for-such-license-or-for-renewal-of-such-licensy
 14 an-annual-license-fee-of-twenty-five-dollars-(\$25);-this-fee
 15 is-to-be-deposited-in-the-general--fund--of--the--county--in
 16 which--the-refuse-disposal-area-is-to-be-located. (1) Except
 17 as provided in 69-4008, no person may dispose of solid waste
 18 or operate a solid waste management system without a license
 19 from the department. The department shall provide
 20 application forms for a license as provided in this chapter.
 21 The application shall contain the name and business address
 22 of the applicant, the location of the proposed solid waste
 23 management system, a plan of operation and maintenance, and
 24 such other information as the department may by rule
 25 require.

1 (2) The department shall seek the advice and
 2 recommendations of the appropriate local board of health
 3 before issuing a license pursuant to this section. Before
 4 making a decision on a license application, the department
 5 shall inspect the proposed site in order to determine if the
 6 requirements of this chapter and rules adopted under it can
 7 be satisfied."

8 Section 6. Section 69-4005, R.C.M. 1947, is amended to
 9 read as follows:

10 ~~"69-4005. Department-to-approve--disposal--area State~~
 11 ~~hazardous waste disposal facility. Upon--receipt--of-the~~
 12 ~~application, the localy-county-or-district-board-of--health~~
 13 ~~having--jurisdiction--shall--notify--the-department-who-will~~
 14 ~~then-cause-to-be-made-an-inspection-of-the-proposed-site-and~~
 15 ~~determine-if-the-proposed-operation-can-comply-with-this-act~~
 16 ~~and-rules-and--regulations--adopted--pursuant--thereto--The~~
 17 ~~department--shall--also-inspect-and-approve-plans-which-have~~
 18 ~~been-drawn-up-by-the-applicant-for-the-creation-of-a--refuse~~
 19 ~~disposal--area--When--the-department-reports-favorably-upon~~
 20 ~~the-application, the localy--county--or--district--board--of~~
 21 ~~health--having--jurisdiction--may--issue--a--license--to-the~~
 22 ~~applicant. All--licenses--shall--expire--one--year--after~~
 23 ~~issuance, but--may-be-renewed-upon-payment-of-an-annual-fee~~
 24 ~~of-twenty-five-dollars-(\$25). The department may establish~~
 25 ~~maintain, and operate state hazardous waste management~~

1 ~~facilities to provide for the treatment, storage, or~~
 2 ~~disposal of hazardous wastes accepted by the department as a~~
 3 ~~result of spills, embargoes, citizen assistance requests,~~
 4 ~~and other similar occurrences. A state facility shall meet~~
 5 ~~all the requirements for a hazardous waste disposal site~~
 6 ~~required by this chapter."~~

7 Section 7. Section 69-4006, R.C.M. 1947, is amended to
 8 read as follows:

9 ~~"69-4006. Revocation of or denial refusal-to-renew of~~
 10 ~~license. The localy-county-or-district-board-of-health-having~~
 11 ~~jurisdiction, department may deny or revoke or-refuse-to~~
 12 ~~renew any a license to operate a solid waste management~~
 13 ~~system after reasonable notice-and-hearing-if-it-finds-that~~
 14 ~~the-disposal-area-is-not-operated-in-a-sanitary--manner--as~~
 15 ~~set--forth--by--this--law--and--by-the-rules-and-regulations~~
 16 ~~adopted-under-this-law, giving the applicant written notice~~
 17 ~~and an opportunity for a hearing before the board. The~~
 18 ~~decision to deny or revoke a license may be made only after~~
 19 ~~a finding that a solid waste management system cannot be~~
 20 ~~operated or is not being operated in compliance with this~~
 21 ~~chapter or a rule or order issued pursuant to this chapter.~~
 22 ~~The hearing held before the board on a denial or revocation~~
 23 ~~shall be held pursuant to the provisions of the Montana~~
 24 ~~Administrative Procedure Act."~~

25 Section 8. Section 69-4007, R.C.M. 1947, is amended to

1 read as follows:

2 "69-4007. ~~Rules and regulations inspections and~~
3 ~~recommendations Powers and duties of department. The~~
4 ~~department is authorized to promulgate rules and regulations~~
5 ~~for the operation of refuse disposal areas. Said regulations~~
6 ~~shall be prepared and published and shall contain sanitary~~
7 ~~standards for disposal areas. The department shall cause~~
8 ~~all licensed disposal areas to be inspected and recommended~~
9 ~~to the local county or district board of health action~~
10 ~~which may be taken to enforce the provisions of this act.~~

11 (1) The department shall adopt rules governing solid waste
12 management systems which shall include but not be limited
13 to:

14 (a) requirements for the plan of operation and
15 maintenance that must be submitted with an application under
16 this chapter;

17 (b) the classification of disposal sites according to
18 the physical capabilities of the site to contain the type of
19 solid waste to be disposed of;

20 (c) the procedures to be followed in the disposal,
21 treatment, or transport of solid wastes;

22 (d) the suitability of the site from a public health
23 standpoint when hydrology, geology, and climatology are
24 considered;

25 (e) procedures and requirements for the submission of

1 reports on the operation and maintenance of a solid waste
2 management system and the generation of hazardous wastes;
3 and

4 (f) any other factors relating to the sanitary
5 disposal or management of solid wastes.

6 (2) The department has continuing authority and
7 responsibility to inspect a solid waste management system
8 under the provisions of this chapter. Inspections may be
9 conducted only during reasonable hours and only after
10 presentation of appropriate credentials identifying the
11 inspector as a duly authorized employee of the department.

12 (3) The department may, through the attorney general
13 or appropriate county attorney, initiate and maintain in
14 district court enforcement actions, as provided in this
15 chapter, including actions to collect a civil penalty or to
16 enjoin the operation of a solid waste management system that
17 is in violation of this chapter or a rule adopted by the
18 department or order issued as provided in this chapter."

19 Section 9. Section 69-4008, R.C.M. 1947, is amended to
20 read as follows:

21 "69-4008. ~~Landowner's rights preserved in publicly~~
22 ~~operated disposal areas~~ Exclusion from chapter. (1) This act
23 chapter shall ~~may~~ not be construed to prohibit any a person
24 from disposing of his own garbage, rubbish or refuse solid
25 waste upon his own land as long as such disposal it does not

1 create a nuisance or public health hazard. Any incorporated
 2 city--town--rural--improvement--district--or--county--may
 3 establish a disposal area and operate same without paying
 4 the annual license fee but must meet all other requirements
 5 of this act.

6 (2) The exclusion contained in this section does not
 7 apply to:

8 (a) disposal of hazardous wastes; or

9 (b) after July 1, 1977, a division of land which falls
 10 within the definition of subdivision in Title 69, chapter
 11 50, or the Montana Subdivision and Platting Act in Title 11,
 12 chapter 38."

13 Section 10. Section 69-4009, R.C.M. 1947, is amended
 14 to read as follows:

15 "69-4009. Penalty for violations. ~~Any person violating~~
 16 ~~this act or regulations prescribed by the department under~~
 17 ~~this act shall be guilty of a misdemeanor and upon~~
 18 ~~conviction shall be fined not less than fifty dollars~~
 19 ~~(\$50) nor more than five hundred dollars (\$500). Each day~~
 20 ~~upon which a violation of this act occurs shall be~~
 21 ~~considered a separate offense. (1) A person who disposes of~~
 22 solid waste or operates a solid waste management system in
 23 violation of this chapter, a rule adopted as authorized by
 24 this chapter, or an order issued as provided in this chapter
 25 is subject to a civil penalty of not more than \$1,000. Each

1 day upon which a violation occurs is a separate violation.

2 (2) A person who stores, treats, transports, or
 3 disposes of a hazardous waste in violation of this chapter,
 4 a rule adopted as authorized by this chapter, or an order
 5 issued as provided in this chapter is subject to a civil
 6 penalty of not more than \$25,000. Each day upon which a
 7 violation occurs is a separate violation."

-End-

STATE OF MONTANA

REQUEST NO. 562-77

FISCAL NOTE

Form BD-15

In compliance with a written request received 2-9, 19 77, there is hereby submitted a Fiscal Note for SB 200 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to authorize the Department of Health and Environmental Sciences to license solid waste management systems; authorize the Department to initiate and maintain actions to collect civil penalties and provide control over the storage, treatment, and disposal of hazardous wastes.

ASSUMPTIONS:

1. Cost increases as a result of the proposed legislation will be minimal.
2. Current staff and budget are sufficient to comply with the legislation.

FISCAL IMPACT – LOCAL:

This bill requires state licensing of solid waste management systems and may cause some expenditure impact on local entities through the elimination of the operation of unlicensed facilities.

FISCAL IMPACT – STATE

None.

Richard L. Zangger

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-21-77

Approved by Comm.
On Local Government

SENATE BILL NO. 200

INTRODUCED BY WARDEN, BLAYLOCK, HEALY, RASMUSSEN,
DEVINE, REGAN, TOWE, ROBERTS, FASBENDER, WATT, DUNKLE

BY REQUEST OF

THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TITLE 69,
CHAPTER 40; PROVIDING A SHORT TITLE FOR PURPOSES OF CITING
THE CHAPTER; AUTHORIZING THE DEPARTMENT OF HEALTH AND
ENVIRONMENTAL SCIENCES TO LICENSE SOLID WASTE MANAGEMENT
SYSTEMS; AUTHORIZING THE DEPARTMENT TO INITIATE AND MAINTAIN
ACTIONS TO COLLECT CIVIL PENALTIES; PROVIDING CONTROL OVER
THE STORAGE, TREATMENT, AND DISPOSAL OF HAZARDOUS WASTES;
AND AMENDING SECTIONS 69-4001, 69-4002, 69-4003, 69-4004,
69-4005, 69-4006, 69-4007, AND 69-4008, AND 69-4009, R.C.M.
1947."

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read as follows:

"69-4001. Legislative findings and policy. It is
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~~refuse--disposal--areas solid waste management systems and by~~
~~the improper and unregulated disposal of hazardous wastes.~~

It is declared the public policy of this state to control
~~refuse--disposal--areas~~ solid waste management systems to
protect the public health and safety and to conserve natural
resources whenever possible."

Section 2. There is a new R.C.M. section numbered
69-4001.1 that reads as follows:

69-4001.1. Short title. This chapter may be cited as
"The Montana Solid Waste Management Act".

Section 3. Section 69-4002, R.C.M. 1947, is amended to
read as follows:

"69-4002. Definitions. Unless the context requires
otherwise, in this chapter the following definitions apply:

- (1) ~~"Garbage"--means--putrescible--animal--and--vegetable~~
~~wastes--resulting--from--handling, preparation, cooking, and~~
~~consumption--of--food. "Solid waste" means all putrescible and~~
~~nonputrescible wastes including but not limited to garbage;~~
~~rubbish; refuse; hazardous wastes; ashes; sludge from sewage~~
~~treatment plants; water supply treatment plants; or air~~
~~pollution control facilities; ~~septic--tank--and--cesspool~~~~
~~pumpingat construction and demolition wastes; dead animals,~~
~~including offal; discarded home and industrial appliances;~~
~~and wood wastes PRODUCTS OR WOOD BY-PRODUCTS and inert~~
~~materials. "Solid waste" does not mean municipal sewage,~~
~~industrial wastewater effluents, or mining wastes regulated~~
~~under the mining and reclamation laws administered by the~~

1 ~~department of state lands, SLASH AND FOREST DEBBIS REGULATED~~
 2 ~~UNDEK LAWS ADMINISTERED BY THE DEPARTMENT OF NATURAL~~
 3 ~~RESOURCES AND CONSERVATION, OR MARKETABLE WOOD BY-PRODUCTS.~~

4 (2) ~~"Refuse" means putrescible and nonputrescible~~
 5 ~~solid wastes (except body wastes), including garbage,~~
 6 ~~rubbish, street cleanings, dead animals, yard clippings, and~~
 7 ~~solid market and solid industrial wastes. "Department" means~~
 8 ~~the department of health and environmental sciences,~~
 9 ~~provided for in Title 82A, chapter 6.~~

10 (3) ~~"Rubbish" means nonputrescible solid wastes,~~
 11 ~~consisting of both combustible and noncombustible wastes,~~
 12 ~~such as paper, cardboard, abandoned automobiles, tin cans,~~
 13 ~~woody, glass, bedding, crockery, and similar materials.~~
 14 ~~"Board" means the board of health and environmental~~
 15 ~~sciences, provided for in 82A-605.~~

16 (4) ~~"Department" means the department of health and~~
 17 ~~environmental sciences, provided for in Title 82A, chapter~~
 18 ~~6. "Person" means an individual, firm, partnership, company,~~
 19 ~~association, corporation, city, town, local governmental~~
 20 ~~entity, or any other governmental or private entity whether~~
 21 ~~organized for profit or not.~~

22 (5) ~~"Board" means the board of health and~~
 23 ~~environmental sciences, provided for in section 82A-605.~~
 24 ~~"Dispose" or "disposal" means the discharge, injection,~~
 25 ~~deposit, dumping, spilling, leaking, or placing of any~~

1 ~~substance SOLID WASTE OR HAZARDOUS WASTE into or onto the~~
 2 ~~land so that the substance SOLID WASTE OR HAZARDOUS WASTE or~~
 3 ~~any constituent of it may enter the environment or be~~
 4 ~~emitted into the air or discharged into any waters,~~
 5 ~~including groundwaters.~~

6 (6) ~~"Hazardous waste" means any waste or combination~~
 7 ~~of wastes of a solid, liquid, contained gaseous, or~~
 8 ~~semi-solid form which may cause or contribute to an increase~~
 9 ~~in mortality or an increase in serious illness, taking into~~
 10 ~~account the toxicity of the waste, its persistence and~~
 11 ~~degradability in nature, its potential for assimilation or~~
 12 ~~concentration in tissue, and other factors that may~~
 13 ~~otherwise cause or contribute to adverse acute or chronic~~
 14 ~~effects on the health of persons or other living organisms.~~
 15 ~~Hazardous wastes include but are not limited to those which~~
 16 ~~are toxic, radioactive, corrosive, flammable, irritants,~~
 17 ~~strong sensitizers, or which generate pressure through~~
 18 ~~decomposition, heat, or other means.~~

19 (7) ~~"Storage" means the actual or intended containment~~
 20 ~~of wastes, either on a temporary basis or for a period of~~
 21 ~~years.~~

22 (8) ~~"Transport" means the movement of wastes from the~~
 23 ~~point of generation to any intermediate points and finally~~
 24 ~~to the point of ultimate storage or disposal.~~

25 (9) ~~"Treatment" means a method, technique, or process,~~

1 including neutralization, designed to change the physical,
2 chemical, or biological character or composition of any
3 solid waste so as to neutralize the waste or so as to render
4 it nonhazardous, safer for transport, amenable for recovery,
5 amenable for storage, or reduced in volume.

6 (10) "Hazardous waste management" means the management
7 of the storage, transport, treatment, recycling, recovery,
8 or disposal of hazardous wastes.

9 (11) "Resource recovery" means the recovery of material
10 or energy from solid waste.

11 (12) "Resource recovery system" means a solid waste
12 management system which provides for the collection,
13 separation, recycling, or recovery of solid wastes,
14 including disposal of nonrecoverable waste residues.

15 (13) "Resource recovery facility" means a facility at
16 which solid waste is processed for the purpose of
17 extracting, converting to energy, or otherwise separating
18 and preparing solid waste for reuse.

19 (14) "Solid waste management system" means a system
20 which controls the storage, treatment, recycling, recovery,
21 or disposal of solid waste."

22 Section 4. Section 69-4003, R.C.M. 1947, is amended to
23 read as follows:

24 "69-4003. ~~Bumping-in-an-unticensed-area-is Unapproved~~
25 disposal prohibited. No person, partnership, company or

1 ~~corporation shall hereafter may dispose of any garbage~~
2 ~~rubbish or refuse solid waste or transport hazardous waste~~
3 ~~in any place except as permitted under this act chapter."~~

4 Section 5. Section 69-4004, R.C.M. 1947, is amended to
5 read as follows:

6 "69-4004. License required. ~~Each year each person,~~
7 ~~partnership, company or corporation desiring to operate a~~
8 ~~refuse disposal area shall obtain a license for operating~~
9 ~~same from the local county or district board of health~~
10 ~~having jurisdiction. To obtain a license to operate a~~
11 ~~disposal area, application to the local county or district~~
12 ~~board of health having jurisdiction, must be made on forms~~
13 ~~provided by it. The application shall contain the name and~~
14 ~~residence of the applicant, the location of the proposed~~
15 ~~disposal area and such other information as the department~~
16 ~~may by regulation require. There shall be paid to the~~
17 ~~local county or district board of health with each~~
18 ~~application for such license or for renewal of such license~~
19 ~~an annual license fee of twenty five dollars (\$25). This fee~~
20 ~~is to be deposited in the general fund of the county in~~
21 ~~which the refuse disposal area is to be located. (1) Except~~
22 ~~as provided in 69-4008, no person may dispose of solid waste~~
23 ~~or operate a solid waste OR HAZARDOUS WASTE, TRANSPORT~~
24 ~~HAZARDOUS WASTE, management system without a license from~~
25 ~~the department. The department shall provide application~~

1 forms for a license as provided in this chapter. The
 2 application shall contain the name and business address of
 3 the applicant, the location of the proposed solid waste
 4 management system, a plan of operation and maintenance, and
 5 such other information as the department may by rule
 6 require.

7 ~~(2) The department shall seek the advice and~~
 8 ~~recommendations of the appropriate local board of health~~
 9 ~~before issuing a license pursuant to this section. Before~~
 10 ~~making a decision on a license application, the department~~
 11 ~~shall inspect the proposed site in order to determine if the~~
 12 ~~requirements of this chapter and rules adopted under it can~~
 13 ~~be satisfied. WHEN THE DEPARTMENT RECEIVES AN APPLICATION~~
 14 FOR A LICENSE PURSUANT TO THE PROVISIONS OF THIS CHAPTER,
 15 THE LOCAL HEALTH OFFICER IN THE COUNTY WHERE THE SOLID WASTE
 16 MANAGEMENT SYSTEM WILL BE LOCATED SHALL BE NOTIFIED IN
 17 WRITING OF THE APPLICATION WITHIN 15 DAYS AFTER THE
 18 DEPARTMENT HAS RECEIVED THE APPLICATION. IF THE DEPARTMENT
 19 DECIDES TO ISSUE A LICENSE PURSUANT TO THE PROVISIONS OF
 20 THIS CHAPTER, THE DEPARTMENT SHALL NOTIFY THE LOCAL HEALTH
 21 OFFICER IN WRITING. A LICENSE ISSUED BY THE DEPARTMENT UNDER
 22 THIS SECTION SHALL NOT BE VALID UNTIL SIGNED BY THE LOCAL
 23 HEALTH OFFICER HAVING JURISDICTION IN THE COUNTY IN WHICH
 24 THE SOLID WASTE MANAGEMENT SYSTEM WILL BE OPERATED. THE
 25 LOCAL HEALTH OFFICER SHALL, WITHIN 15 DAYS AFTER THE

1 DEPARTMENT HAS NOTIFIED THE LOCAL HEALTH OFFICER OF ITS
 2 DECISION TO ISSUE A LICENSE UNDER THIS CHAPTER, MAKE A FINAL
 3 DECISION ON WHETHER THE LICENSE WILL BE VALIDATED. THE
 4 LOCAL HEALTH OFFICER MAY ONLY REFUSE TO VALIDATE A LICENSE
 5 ISSUED UNDER THIS CHAPTER UPON A FINDING THAT THE
 6 REQUIREMENTS OF THIS CHAPTER AND THE RULES IMPLEMENTING THIS
 7 CHAPTER CANNOT BE SATISFIED. IF THE LOCAL HEALTH OFFICER
 8 REFUSES TO VALIDATE THE LICENSE, HE SHALL NOTIFY THE
 9 APPLICANT, THE DEPARTMENT AND ANY OTHER INTERESTED PERSON IN
 10 WRITING. THE APPLICANT OR ANY PERSON AGGRIEVED BY THE
 11 DECISION OF THE LOCAL HEALTH OFFICER NOT TO VALIDATE A
 12 LICENSE MAY APPEAL THE DECISION TO THE BOARD OF HEALTH AND
 13 ENVIRONMENTAL SCIENCES WITHIN 30 DAYS AFTER RECEIVING
 14 WRITTEN NOTICE OF THE LOCAL HEALTH OFFICER'S DECISION. THE
 15 HEARING BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL
 16 SCIENCES SHALL BE HELD PURSUANT TO THE CONTESTED CASE
 17 PROVISIONS OF THE MONTANA ADMINISTRATIVE PROCEDURES ACT."

18 Section 6. Section 69-4005, R.C.M. 1947, is amended to
 19 read as follows:

20 "69-4005. Department--to--approve--disposal--area State
 21 hazardous waste disposal facility. Upon--receipt--of--the
 22 application--the--local, county or district board of health
 23 having jurisdiction shall notify the department who will
 24 then cause to be made an inspection of the proposed site and
 25 determine if the proposed operation can comply with this act

1 ~~and rules and regulations adopted pursuant thereto. The~~
 2 ~~department shall also inspect and approve plans which have~~
 3 ~~been drawn up by the applicant for the creation of a refuse~~
 4 ~~disposal area. When the department reports favorably upon~~
 5 ~~the application, the local county or district board of~~
 6 ~~health having jurisdiction may issue a license to the~~
 7 ~~applicant. All licenses shall expire one year after~~
 8 ~~issuance, but may be renewed upon payment of an annual fee~~
 9 ~~of twenty five dollars (\$25). The department may establish,~~
 10 maintain, and operate state hazardous waste management
 11 facilities to provide for the treatment, storage, or
 12 disposal of hazardous wastes accepted by the department as a
 13 result of spills, embargoes, citizen assistance requests,
 14 and other similar occurrences OCCURRENCES. A state facility
 15 shall meet all the requirements for a hazardous waste
 16 disposal site required by this chapter.*

17 Section 7. Section 69-4006, R.C.M. 1947, is amended to
 18 read as follows:

19 "69-4006. Revocation of or denial refusal to renew of
 20 license. The local county or district board of health having
 21 jurisdiction department may deny or revoke or ~~refuse~~ to
 22 ~~renew any a license to operate a solid waste management~~
 23 ~~system after reasonable notice and hearing if it finds that~~
 24 ~~the disposal area is not operated in a sanitary manner as~~
 25 ~~set forth by this law and by the rules and regulations~~

1 ~~adopted under this law giving the applicant written notice~~
 2 ~~and an opportunity for a hearing before the board. The~~
 3 ~~decision to deny or revoke a license may be made only after~~
 4 ~~a finding that a solid waste management system cannot be~~
 5 ~~operated or is not being operated in compliance with this~~
 6 ~~chapter or a rule or order issued pursuant to this chapter.~~
 7 ~~The hearing held before the board on a denial or revocation~~
 8 ~~shall be held pursuant to the provisions of the Montana~~
 9 ~~Administrative Procedure Act.*~~

10 Section 8. Section 69-4007, R.C.M. 1947, is amended to
 11 read as follows:

12 "69-4007. ~~Rules and regulations inspections and~~
 13 ~~recommendations Powers and duties of department. The~~
 14 ~~department is authorized to promulgate rules and regulations~~
 15 ~~for the operation of refuse disposal areas. Said regulations~~
 16 ~~shall be prepared and published and shall contain sanitary~~
 17 ~~standards for disposal areas. The department shall cause~~
 18 ~~all licensed disposal areas to be inspected and recommended~~
 19 ~~to the local county or district board of health action~~
 20 ~~which may be taken to enforce the provisions of this act.~~
 21 (1) The department shall adopt rules governing solid waste
 22 management systems which shall include but not be limited
 23 to:

24 (a) requirements for the plan of operation and
 25 maintenance that must be submitted with an application under

1 this chapter:

2 (b) the classification of disposal sites according to
3 the physical capabilities of the site to contain the type of
4 solid waste to be disposed of;

5 (c) the procedures to be followed in the disposal,
6 treatment, or transport of solid wastes;

7 (d) the suitability of the site from a public health
8 standpoint when hydrology, geology, and climatology are
9 considered;

10 (e) procedures and requirements for the submission of
11 reports on the operation and maintenance of a solid waste
12 management system and the generation of hazardous wastes;
13 and

14 (f) any other factors relating to the sanitary
15 disposal or management of solid wastes.

16 (2) The department has continuing authority and
17 responsibility to inspect a solid waste management system
18 under the provisions of this chapter. Inspections may be
19 conducted only during reasonable hours and only after
20 presentation of appropriate credentials identifying the
21 inspector as a duly authorized employee of the department.

22 (3) The department may, through the attorney general
23 or appropriate county attorney, initiate and maintain in
24 district court enforcement actions, as provided in this
25 chapter, including actions to collect a civil penalty or to

1 enjoin the operation of a solid waste management system that
2 is in violation of this chapter or a rule adopted by the
3 department or order issued as provided in this chapter."

4 Section 9. Section 69-4008, R.C.M. 1947, is amended to
5 read as follows:

6 "69-4008. ~~landowner's~~ ~~rights~~ ~~preserved~~ ~~publicly~~
7 ~~operated disposal areas~~ Exclusion from chapter. (1) This act
8 chapter ~~shall~~ may not be construed to prohibit any a person
9 from disposing of his own garbage ~~or refuse~~ solid
10 waste, EXCEPT HAZARDOUS WASTE, upon his ~~own~~ land OWNED,
11 LEASED, OR COVERED BY EASEMENT OR PERMIT as long as such
12 disposal it does not create a nuisance or public health
13 hazard. ~~Any incorporated city, town, rural improvement~~
14 ~~district or county may establish a disposal area and operate~~
15 ~~same without paying the annual license fee, but must meet~~
16 ~~all other requirements of this act.~~

17 (2) A PERSON MAY DISPOSE OF HIS OWN HAZARDOUS WASTES
18 UPON LAND OWNED, LEASED, COVERED BY EASEMENT OR PERMIT,
19 AFTER COMPLYING WITH THE LICENSING REQUIREMENTS OF THIS
20 CHAPTER AND THE RULES THAT SHALL BE ADOPTED TO REGULATE THE
21 DISPOSAL OR TRANSPORT OF HAZARDOUS WASTES.

22 (3) THE LICENSING REQUIREMENTS OF THIS CHAPTER DO NOT
23 APPLY TO THE TRANSPORTATION OF MARKETABLE HAZARDOUS WASTES
24 TO A MANUFACTURING OR PROCESSING CENTER.

25 (4) IF IT IS DETERMINED THAT AN APPLICATION FOR A

1 CERTIFICATE UNDER THE MAJOR FACILITY SITING ACT, TITLE 70,
 2 CHAPTER 8, R.C.M. 1947, WILL RESULT IN THE GENERATION,
 3 TRANSPORT, STORAGE, OR DISPOSAL OF HAZARDOUS WASTES AS
 4 DEFINED IN THIS CHAPTER. THE DEPARTMENT SHALL CONDUCT ITS
 5 REVIEW UNDER THE PROVISIONS OF THIS CHAPTER CONCURRENTLY
 6 WITH THE STUDIES OF AIR AND WATER QUALITY CONDUCTED UNDER
 7 THE PROVISIONS OF THE MAJOR FACILITY SITING ACT. A DECISION
 8 TO GRANT OR DENY A LICENSE FOR THE TRANSPORT, STORAGE OR
 9 DISPOSAL OF HAZARDOUS WASTES UNDER THE PROVISIONS OF THIS
 10 CHAPTER SHALL BE APPEALABLE CONCURRENTLY WITH AND SUBJECT TO
 11 THE SAME PROCEDURES ESTABLISHED FOR THE APPEAL OF THE
 12 DEPARTMENT'S AIR AND WATER QUALITY CERTIFICATION DECISION
 13 UNDER THE MAJOR FACILITY SITING ACT. IF THE INITIAL LICENSE
 14 HAS BEEN GRANTED AS SPECIFIED IN THIS SUBSECTION, ALL
 15 RENEWALS OR MODIFICATIONS OF A LICENSE, OR ENFORCEMENT
 16 ACTIONS CONCERNING ALLEGED VIOLATIONS OF THE LICENSE AND THE
 17 PROVISIONS OF THIS CHAPTER SHALL BE CONDUCTED PURSUANT TO
 18 THE PROCEDURES AND ENFORCEMENT PROVISIONS ESTABLISHED IN
 19 THIS CHAPTER.

20 ~~(2)(5)~~ The exclusion contained in SUBSECTION (1) OF
 21 this section does not apply to
 22 ~~(a) disposal of hazardous wastes or~~
 23 ~~(b) after July 1, 1977, a division of land OF 5 ACRES~~
 24 ~~OR LESS MADE AFTER JULY 1, 1977 which falls within the~~
 25 ~~definition of subdivision in Title 69, chapter 50, or the~~

1 Montana Subdivision and Platting Act in Title 11, chapter
 2 38."

3 Section 10. Section 69-4009, R.C.M. 1947, is amended
 4 to read as follows:

5 "69-4009. Penalty for violations. ~~Any person violating~~
 6 ~~this act or regulations prescribed by the department under~~
 7 ~~this act shall be guilty of a misdemeanor and upon~~
 8 ~~conviction shall be fined not less than fifty dollars~~
 9 ~~(\$50) nor more than five hundred dollars (\$500). Each day~~
 10 ~~upon which a violation of this act occurs shall be~~
 11 ~~considered a separate offense. (1) A person who disposes of~~
 12 ~~solid waste or operates a solid waste management system in~~
 13 ~~violation of this chapter, a rule adopted as authorized by~~
 14 ~~this chapter, or an order issued as provided in this chapter~~
 15 ~~is subject to a civil penalty of not more than \$1,000. Each~~
 16 ~~day upon which a violation occurs is a separate violation.~~

17 (2) A person who stores, treats, transports, or
 18 disposes of a hazardous waste in violation of this chapter,
 19 a rule adopted as authorized by this chapter, or an order
 20 issued as provided in this chapter is subject to a civil
 21 penalty of not more than \$25,000. Each day upon which a
 22 violation occurs is a separate violation."

-End-

1 SENATE BILL NO. 200

2 INTRODUCED BY WARDEN, BLAYLOCK, HEALY, RASMUSSEN,
3 DEVINE, REGAN, TOWE, ROBERTS, FASBENDER, WATT, DUNKLE

4 BY REQUEST OF

5 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TITLE 69,
8 CHAPTER 40; PROVIDING A SHORT TITLE FOR PURPOSES OF CITING
9 THE CHAPTER; AUTHORIZING THE DEPARTMENT OF HEALTH AND
10 ENVIRONMENTAL SCIENCES TO LICENSE SOLID WASTE MANAGEMENT
11 SYSTEMS; AUTHORIZING THE DEPARTMENT TO INITIATE AND MAINTAIN
12 ACTIONS TO COLLECT CIVIL PENALTIES; PROVIDING CONTROL OVER
13 THE STORAGE, TREATMENT, AND DISPOSAL OF HAZARDOUS WASTES;
14 AND AMENDING SECTIONS 69-4001, 69-4002, 69-4003, 69-4004,
15 69-4005, 69-4006, 69-4007, AND 69-4008, AND 69-4009, R.C.M.
16 1947."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Section 69-4001, R.C.M. 1947, is amended to
20 read as follows:

21 "69-4001. Legislative findings and policy. It is
22 hereby found and declared that the health and welfare of
23 Montana citizens are being endangered by improperly operated
24 ~~refuse--disposal--areas solid waste management systems and by~~
25 ~~the improper and unregulated disposal of hazardous wastes.~~

1 It is declared the public policy of this state to control
2 ~~refuse--disposal--areas solid waste management systems to~~
3 protect the public health and safety ~~and to conserve natural~~
4 ~~resources whenever possible."~~

5 Section 2. There is a new R.C.M. section numbered
6 69-4001.1 that reads as follows:

7 69-4001.1. Short title. This chapter may be cited as
8 "The Montana Solid Waste Management Act".

9 Section 3. Section 69-4002, R.C.M. 1947, is amended to
10 read as follows:

11 "69-4002. Definitions. Unless the context requires
12 otherwise, in this chapter the following definitions apply:

13 (1) ~~"Garbage" means putrescible animal and vegetable~~
14 ~~wastes--resulting--from--handling, preparation, cooking, and~~
15 ~~consumption of food. "Solid waste" means all putrescible and~~
16 ~~nonputrescible wastes including but not limited to garbage;~~
17 ~~rubbish; refuse; hazardous wastes; ashes; sludge from sewage~~
18 ~~treatment plants, water supply treatment plants, or air~~
19 ~~pollution control facilities; ~~septic--tank--and--cesspool~~~~
20 ~~pumping construction and demolition wastes; dead animals,~~
21 ~~including offal; discarded home and industrial appliances;~~
22 ~~and wood wastes PRODUCTS OR WOOD BY-PRODUCTS and inert~~
23 ~~materials. "Solid waste" does not mean municipal sewage,~~
24 ~~industrial wastewater effluents, or mining wastes regulated~~
25 ~~under the mining and reclamation laws administered by the~~

1 ~~department of state lands, SLASH AND FOREST DEBRIS REGULATED~~
2 ~~UNDEE LAWS ADMINISTERED BY THE DEPARTMENT OF NATURAL~~
3 ~~RESOURCES AND CONSERVATION, OR MARKETABLE WOOD BY-PRODUCTS.~~

4 (2) ~~"Refuse" means putrescible and nonputrescible~~
5 ~~solid wastes (except body wastes) including garbage,~~
6 ~~rubbish, street cleanings, dead animals, yard clippings, and~~
7 ~~solid market and solid industrial wastes. "Department" means~~
8 ~~the department of health and environmental sciences,~~
9 ~~provided for in Title 82A, chapter 6.~~

10 (3) ~~"Rubbish" means nonputrescible solid wastes~~
11 ~~consisting of both combustible and noncombustible wastes~~
12 ~~such as papers, cardboard, abandoned automobiles, tin cans,~~
13 ~~woody, glass, bedding, crockery, and similar materials.~~
14 ~~"Board" means the board of health and environmental~~
15 ~~sciences, provided for in 82A-605.~~

16 (4) ~~"Department" means the department of health and~~
17 ~~environmental sciences, provided for in Title 82A, chapter~~
18 ~~6. "Person" means an individual, firm, partnership, company,~~
19 ~~association, corporation, city, town, local governmental~~
20 ~~entity, or any other governmental or private entity, whether~~
21 ~~organized for profit or not.~~

22 (5) ~~"Board" means the board of health and~~
23 ~~environmental sciences, provided for in section 82A-605.~~
24 ~~"Dispose" or "disposal" means the discharge, injection,~~
25 ~~deposit, dumping, spilling, leaking, or placing of any~~

1 ~~substance SOLID WASTE OR HAZARDOUS WASTE into or onto the~~
2 ~~land so that the substance SOLID WASTE OR HAZARDOUS WASTE or~~
3 ~~any constituent of it may enter the environment or be~~
4 ~~emitted into the air or discharged into any waters,~~
5 ~~including groundwaters.~~

6 (6) ~~"Hazardous waste" means any waste or combination~~
7 ~~of wastes of a solid, liquid, contained gaseous, or~~
8 ~~semi-solid form which may cause or contribute to an increase~~
9 ~~in mortality or an increase in serious illness, taking into~~
10 ~~account the toxicity of the waste, its persistence and~~
11 ~~degradability in nature, its potential for assimilation or~~
12 ~~concentration in tissue, and other factors that may~~
13 ~~otherwise cause or contribute to adverse acute or chronic~~
14 ~~effects on the health of persons or other living organisms.~~
15 ~~Hazardous wastes include but are not limited to those which~~
16 ~~are toxic, radioactive, corrosive, flammable, irritants,~~
17 ~~strong sensitizers, or which generate pressure through~~
18 ~~decomposition, heat, or other means, EXCLUDING BIOD CHIPS~~
19 ~~AND WOOD USED FOR MANUFACTURING OR FUEL PURPOSES.~~

20 (7) ~~"Storage" means the actual or intended containment~~
21 ~~of wastes, either on a temporary basis or for a period of~~
22 ~~years.~~

23 (8) ~~"Transport" means the movement of wastes from the~~
24 ~~point of generation to any intermediate points and finally~~
25 ~~to the point of ultimate storage or disposal.~~

1 (9) "Treatment" means a method, technique, or process,
 2 including neutralization, designed to change the physical,
 3 chemical, or biological character or composition of any
 4 solid waste so as to neutralize the waste or so as to render
 5 it nonhazardous, safer for transport, amenable for recovery,
 6 amenable for storage, or reduced in volume.

7 (10) "Hazardous waste management" means the management
 8 of the storage, transport, treatment, recycling, recovery,
 9 or disposal of hazardous wastes.

10 (11) "Resource recovery" means the recovery of material
 11 or energy from solid waste.

12 (12) "Resource recovery system" means a solid waste
 13 management system which provides for the collection,
 14 separation, recycling, or recovery of solid wastes,
 15 including disposal of nonrecoverable waste residues.

16 (13) "Resource recovery facility" means a facility at
 17 which solid waste is processed for the purpose of
 18 extracting, converting to energy, or otherwise separating
 19 and preparing solid waste for reuse.

20 (14) "Solid waste management system" means a system
 21 which controls the storage, treatment, recycling, recovery,
 22 or disposal of solid waste."

23 Section 4. Section 69-4003, R.C.M. 1947, is amended to
 24 read as follows:

25 "69-4003. ~~Burning in an unlicensed area is Unapproved~~

1 ~~disposal prohibited. No person--partnership--company--or~~
 2 ~~corporation--shall--hereafter may dispose of any--garbage~~
 3 ~~rubbish--or--refuse solid waste or transport hazardous waste~~
 4 ~~in--any--place except as permitted under this act chapter."~~

5 Section 5. Section 69-4004, R.C.M. 1947, is amended to
 6 read as follows:

7 "69-4004. License required. Each--year--each-person--or
 8 ~~partnership--company--or--corporation--desiring--to--operate--a~~
 9 ~~refuse--disposal--area--shall--obtain--a--license--for--operating~~
 10 ~~same--from--the--locality--county--or--district--board--of--health~~
 11 ~~having--jurisdiction--to--obtain--a--license--to--operate--a~~
 12 ~~disposal--area--application--to--the--locality--county--or--district~~
 13 ~~board--of--health--having--jurisdiction--must--be--made--on--forms~~
 14 ~~provided--by--it--The--application--shall--contain--the--name--and~~
 15 ~~residence--of--the--applicant--the--location--of--the--proposed~~
 16 ~~disposal--area--and--such--other--information--as--the--department~~
 17 ~~may--by--regulation--require--There--shall--be--paid--to--the~~
 18 ~~locality--county--or--district--board--of--health--with--each~~
 19 ~~application--for--such--license--or--for--renewal--of--such--license--a~~
 20 ~~an--annual--license--fee--of--twenty--five--dollars--(\$25)--This--fee~~
 21 ~~is--to--be--deposited--in--the--general--fund--of--the--county--in~~
 22 ~~which--the--refuse--disposal--area--is--to--be--located--(1) Except~~
 23 ~~as provided in 69-4003, no person may dispose of solid waste~~
 24 ~~or operate a solid waste OR HAZARDOUS WASTE, TRANSPORT~~
 25 ~~HAZARDOUS WASTE, management system without a license from~~

1 the department. The department shall provide application
 2 forms for a license as provided in this chapter. The
 3 application shall contain the name and business address of
 4 the applicant, the location of the proposed solid waste
 5 management system, a plan of operation and maintenance, and
 6 such other information as the department may by rule
 7 require.

8 ~~(2) The department shall seek the advice and~~
 9 ~~recommendations of the appropriate local board of health~~
 10 ~~before issuing a license pursuant to this section. Before~~
 11 ~~making a decision on a license application, the department~~
 12 ~~shall inspect the proposed site in order to determine if the~~
 13 ~~requirements of this chapter and rules adopted under it can~~
 14 ~~be satisfied.~~ WHEN THE DEPARTMENT RECEIVES AN APPLICATION
 15 FOR A LICENSE PURSUANT TO THE PROVISIONS OF THIS CHAPTER,
 16 THE LOCAL HEALTH OFFICER IN THE COUNTY WHERE THE SOLID WASTE
 17 MANAGEMENT SYSTEM WILL BE LOCATED SHALL BE NOTIFIED IN
 18 WRITING OF THE APPLICATION WITHIN 15 DAYS AFTER THE
 19 DEPARTMENT HAS RECEIVED THE APPLICATION. IF THE DEPARTMENT
 20 DECIDES TO ISSUE A LICENSE PURSUANT TO THE PROVISIONS OF
 21 THIS CHAPTER, THE DEPARTMENT SHALL NOTIFY THE LOCAL HEALTH
 22 OFFICER IN WRITING. A LICENSE ISSUED BY THE DEPARTMENT UNDER
 23 THIS SECTION SHALL NOT BE VALID UNTIL SIGNED BY THE LOCAL
 24 HEALTH OFFICER HAVING JURISDICTION IN THE COUNTY IN WHICH
 25 THE SOLID WASTE MANAGEMENT SYSTEM WILL BE OPERATED. THE

1 LOCAL HEALTH OFFICER SHALL, WITHIN 15 DAYS AFTER THE
 2 DEPARTMENT HAS NOTIFIED THE LOCAL HEALTH OFFICER OF ITS
 3 DECISION TO ISSUE A LICENSE UNDER THIS CHAPTER, MAKE A FINAL
 4 DECISION ON WHETHER THE LICENSE WILL BE VALIDATED. THE
 5 LOCAL HEALTH OFFICER MAY ONLY REFUSE TO VALIDATE A LICENSE
 6 ISSUED UNDER THIS CHAPTER UPON A FINDING THAT THE
 7 REQUIREMENTS OF THIS CHAPTER AND THE RULES IMPLEMENTING THIS
 8 CHAPTER CANNOT BE SATISFIED. IF THE LOCAL HEALTH OFFICER
 9 REFUSES TO VALIDATE THE LICENSE, HE SHALL NOTIFY THE
 10 APPLICANT, THE DEPARTMENT AND ANY OTHER INTERESTED PERSON IN
 11 WRITING. THE APPLICANT OR ANY PERSON AGGRIEVED BY THE
 12 DECISION OF THE LOCAL HEALTH OFFICER NOT TO VALIDATE A
 13 LICENSE MAY APPEAL THE DECISION TO THE BOARD OF HEALTH AND
 14 ENVIRONMENTAL SCIENCES WITHIN 30 DAYS AFTER RECEIVING
 15 WRITTEN NOTICE OF THE LOCAL HEALTH OFFICER'S DECISION. THE
 16 HEARING BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL
 17 SCIENCES SHALL BE HELD PURSUANT TO THE CONTESTED CASE
 18 PROVISIONS OF THE MONTANA ADMINISTRATIVE PROCEDURES ACT."

19 Section 6. Section 69-4005, R.C.M. 1947, is amended to
 20 read as follows:

21 "69-4005. Department to approve--disposal--area State
 22 hazardous waste disposal facility. Upon receipt of the
 23 application--the local county or district board of health
 24 having jurisdiction shall notify the department who will
 25 then cause to be made an inspection of the proposed site and

1 determine if the proposed operation can comply with this act
 2 and rules and regulations adopted pursuant thereto. The
 3 department shall also inspect and approve plans which have
 4 been drawn up by the applicant for the creation of a refuse
 5 disposal area when the department reports favorably upon
 6 the application. The local, county, or district board of
 7 health having jurisdiction may issue a license to the
 8 applicant. All licenses shall expire one year after
 9 issuance, but may be renewed upon payment of an annual fee
 10 of twenty-five dollars (\$25). The department may establish,
 11 maintain, and operate state hazardous waste management
 12 facilities to provide for the treatment, storage, or
 13 disposal of hazardous wastes accepted by the department as a
 14 result of spills, embargoes, citizen assistance requests,
 15 and other similar occurrences OCCURRENCES. A state facility
 16 shall meet all the requirements for a hazardous waste
 17 disposal site required by this chapter."

15 Section 7. Section 69-4006, R.C.M. 1947, is amended to
 16 read as follows:

17 "69-4006. Revocation of or denial refusal to renew of
 18 license. The local, county, or district board of health having
 19 jurisdiction department may deny or revoke or refuse to
 20 renew any a license to operate a solid waste management
 21 system after reasonable notice and hearing if it finds that
 22 the disposal area is not operated in a sanitary manner as

1 set forth by this law and by the rules and regulations
 2 adopted under this law giving the applicant written notice
 3 and an opportunity for a hearing before the board. The
 4 decision to deny or revoke a license may be made only after
 5 a finding that a solid waste management system cannot be
 6 operated or is not being operated in compliance with this
 7 chapter or a rule or order issued pursuant to this chapter.
 8 The hearing held before the board on a denial or revocation
 9 shall be held pursuant to the provisions of the Montana
 10 Administrative Procedure Act."

11 Section 8. Section 69-4007, R.C.M. 1947, is amended to
 12 read as follows:

13 "69-4007. Rules and regulations inspections and
 14 recommendations Powers and duties of department. The
 15 department is authorized to promulgate rules and regulations
 16 for the operation of refuse disposal areas. Said regulations
 17 shall be prepared and published and shall contain sanitary
 18 standards for disposal areas. The department shall cause
 19 all licensed disposal areas to be inspected and recommended
 20 to the local, county, or district board of health action
 21 which may be taken to enforce the provisions of this act.
 22 (1) The department shall adopt rules governing solid waste
 23 management systems which shall include but not be limited
 24 to:
 25 (a) requirements for the plan of operation and

1 maintenance that must be submitted with an application under
2 this chapter;

3 (b) the classification of disposal sites according to
4 the physical capabilities of the site to contain the type of
5 solid waste to be disposed of;

6 (c) the procedures to be followed in the disposal,
7 treatment, or transport of solid wastes;

8 (d) the suitability of the site from a public health
9 standpoint when hydrology, geology, and climatology are
10 considered;

11 (e) procedures and requirements for the submission of
12 reports on the operation and maintenance of a solid waste
13 management system and the generation of hazardous wastes;
14 and

15 (f) any other factors relating to the sanitary
16 disposal or management of solid wastes.

17 (2) The department has continuing authority and
18 responsibility to inspect a solid waste management system
19 under the provisions of this chapter. Inspections may be
20 conducted only during reasonable hours and only after
21 presentation of appropriate credentials identifying the
22 inspector as a duly authorized employee of the department.

23 (3) The department may, through the attorney general
24 or appropriate county attorney, initiate and maintain in
25 district court enforcement actions, as provided in this

1 chapter, including actions to collect a civil penalty or to
2 enjoin the operation of a solid waste management system that
3 is in violation of this chapter or a rule adopted by the
4 department or order issued as provided in this chapter."

5 Section 9. Section 69-4008, R.C.M. 1947, is amended to
6 read as follows:

7 "69-4008. ~~Landowner's rights preserved~~ publicly
8 ~~operated disposal areas~~ Exclusion from chapter. (1) This act
9 ~~chapter shall~~ may not be construed to prohibit any a person
10 from disposing of his own garbage-rubbish-or--refuse solid
11 waste, EXCEPT HAZARDOUS WASTE, upon his own land OWNED,
12 LEASED, OR COVERED BY EASEMENT OR PERMIT as long as such
13 disposal it does not create a nuisance or public health
14 hazard. Any--incorporated--city--town--rural--improvement
15 district-or-county-may-establish-a-disposal-area-and-operate
16 same--without-paying--the-annual-license-fee-but-must-meet
17 all-other-requirements-of-this-act

18 (2) A PERSON MAY DISPOSE OF HIS OWN HAZARDOUS WASTES
19 UPON LAND OWNED, LEASED, COVERED BY EASEMENT OR PERMIT,
20 AFTER COMPLYING WITH THE LICENSING REQUIREMENTS OF THIS
21 CHAPTER AND THE RULES THAT SHALL BE ADOPTED TO REGULATE THE
22 DISPOSAL OR TRANSPORT OF HAZARDOUS WASTES.

23 (3) THE LICENSING REQUIREMENTS OF THIS CHAPTER DO NOT
24 APPLY TO THE TRANSPORTATION OF MARKETABLE HAZARDOUS WASTES
25 TO A MANUFACTURING OR PROCESSING CENTER.

1 (4) IF IT IS DETERMINED THAT AN APPLICATION FOR A
 2 CERTIFICATE UNDER THE MAJOR FACILITY SITING ACT, TITLE 70,
 3 CHAPTER 8, R.C.M., 1947, WILL RESULT IN THE GENERATION,
 4 TRANSPORT, STORAGE, OR DISPOSAL OF HAZARDOUS WASTES AS
 5 DEFINED IN THIS CHAPTER, THE DEPARTMENT SHALL CONDUCT ITS
 6 REVIEW UNDER THE PROVISIONS OF THIS CHAPTER CONCURRENTLY
 7 WITH THE STUDIES OF AIR AND WATER QUALITY CONDUCTED UNDER
 8 THE PROVISIONS OF THE MAJOR FACILITY SITING ACT. A DECISION
 9 TO GRANT OR DENY A LICENSE FOR THE TRANSPORT, STORAGE OR
 10 DISPOSAL OF HAZARDOUS WASTES UNDER THE PROVISIONS OF THIS
 11 CHAPTER SHALL BE APPEALABLE CONCURRENTLY WITH AND SUBJECT TO
 12 THE SAME PROCEDURES ESTABLISHED FOR THE APPEAL OF THE
 13 DEPARTMENT'S AIR AND WATER QUALITY CERTIFICATION DECISION
 14 UNDER THE MAJOR FACILITY SITING ACT. IF THE INITIAL LICENSE
 15 HAS BEEN GRANTED AS SPECIFIED IN THIS SUBSECTION, ALL
 16 RENEWALS OR MODIFICATIONS OF A LICENSE, OR ENFORCEMENT
 17 ACTIONS CONCERNING ALLEGED VIOLATIONS OF THE LICENSE AND THE
 18 PROVISIONS OF THIS CHAPTER SHALL BE CONDUCTED PURSUANT TO
 19 THE PROCEDURES AND ENFORCEMENT PROVISIONS ESTABLISHED IN
 20 THIS CHAPTER.

21 ~~that~~ (2) The exclusion contained in SUBSECTION (1) of
 22 this section does not apply to
 23 ~~(a) disposal of hazardous waste or~~
 24 ~~(b) after July 1, 1977, a division of land of 2 ACRES~~
 25 ~~or less made after July 1, 1977 which falls within the~~

1 definition of subdivision in Title 69, chapter 50, or the
 2 Montana Subdivision and Platting Act in Title 11, chapter
 3 28."

4 Section 10. Section 69-4009, R.C.M. 1947, is amended
 5 to read as follows:

6 69-4009. Penalty for violations. Any person violating
 7 this act or regulations prescribed by the department under
 8 this act shall be guilty of a misdemeanor and upon
 9 conviction shall be fined not less than fifty dollars
 10 (\$50), nor more than five hundred dollars (\$500). Each day
 11 upon which a violation of this act occurs shall be
 12 considered a separate offense. (1) A person who disposes of
 13 solid waste or operates a solid waste management system in
 14 violation of this chapter, a rule adopted as authorized by
 15 this chapter, or an order issued as provided in this chapter
 16 is subject to a civil penalty of not more than \$1,000. Each
 17 day upon which a violation occurs is a separate violation.

18 (2) A person who stores, treats, transports, or
 19 disposes of a hazardous waste in violation of this chapter,
 20 a rule adopted as authorized by this chapter, or an order
 21 issued as provided in this chapter is subject to a civil
 22 penalty of not more than \$25,000. Each day upon which a
 23 violation occurs is a separate violation."

-End-

HOUSE OF REPRESENTATIVES

April 6, 1977

HOUSE COMMITTEE ON NATURAL RESOURCES AMENDMENTS TO SB 200

1. Amend page 6, section 5, line 23.

Following: "waste"

Insert: "or hazardous waste,"

2. Amend page 6, section 5, line 24.

Following: line 23

Strike: "or"

3. Amend page 6, section 5, lines 24 and 25.

Following: "solid waste"

Strike: "OR HAZARDOUS WASTE, TRANSPORT HAZARDOUS WASTE,"

Following: "system"

Insert: "or transport hazardous waste"

4. Amend page 10, section 7, line 2.

Following: "applicant"

Insert: "and the local health officer"

5. Amend page 11, section 8, lines 12 and 13.

Following: "of a"

Strike: "solid waste management system"

Insert: "hazardous waste disposal site, the transport of hazardous waste"

6. Amend page 12, section 8, line 1.

Following: "collect a"

Strike: "civil"

Insert: "criminal"

7. Amend page 14, section 10, lines 12 through 17.

Following: "(1)"

Strike: lines 12 through 17 in their entirety

Insert: "Any person violating this act or regulations prescribed by the department under this act, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$50, nor more than \$500. Each day upon which a violation of this act occurs shall be considered a separate offense."

AS AMENDED BE CONCURRED IN

SENATE BILL NO. 200

INTRODUCED BY WARDEN, BLAYLOCK, HEALY, RASMUSSEN,
DEVINE, REGAN, TOME, ROBERTS, FASBENDER, WATT, DUNKLE

BY REQUEST OF

THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TITLE 69,
CHAPTER 40; PROVIDING A SHORT TITLE FOR PURPOSES OF CITING
THE CHAPTER; AUTHORIZING THE DEPARTMENT OF HEALTH AND
ENVIRONMENTAL SCIENCES TO LICENSE SOLID WASTE MANAGEMENT
SYSTEMS; AUTHORIZING THE DEPARTMENT TO INITIATE AND MAINTAIN
ACTIONS TO COLLECT CIVIL PENALTIES; PROVIDING CONTROL OVER
THE STORAGE, TREATMENT, AND DISPOSAL OF HAZARDOUS WASTES;
AND AMENDING SECTIONS 69-4001, 69-4002, 69-4003, 69-4004,
69-4005, 69-4006, 69-4007, AND 69-4008, AND ~~69-4009~~, R.C.M.
1947."

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

Section 1. Section 69-4001, R.C.M. 1947, is amended to
read as follows:

"69-4001. Legislative findings and policy. It is
hereby found and declared that the health and welfare of
Montana citizens are being endangered by improperly operated
~~refuse-disposal-areas solid waste management systems and by~~
~~the improper and unregulated disposal of hazardous wastes.~~

It is declared the public policy of this state to control
~~refuse--disposal--areas~~ solid waste management systems to
protect the public health and safety and to conserve natural
resources whenever possible."

Section 2. There is a new R.C.M. section numbered
69-4001.1 that reads as follows:

69-4001.1. Short title. This chapter may be cited as
"The Montana Solid Waste Management Act".

Section 3. Section 69-4002, R.C.M. 1947, is amended to
read as follows:

"69-4002. Definitions. Unless the context requires
otherwise, in this chapter the following definitions apply:

(1) ~~"Garbage" means putrescible animal and vegetable~~
~~wastes resulting from handling, preparation, cooking, and~~
~~consumption of food; "Solid waste" means all putrescible and~~
nonputrescible wastes including but not limited to garbage;
rubbish; refuse; hazardous wastes; ashes; sludge from sewage
treatment plants, water supply treatment plants, or air
pollution control facilities; ~~septic tank and cesspool~~
pumping; construction and demolition wastes; dead animals;
including offal; discarded home and industrial appliances;
and wood wastes PRODUCTS OR WOOD BY-PRODUCTS and inert
materials. "Solid waste" does not mean municipal sewage,
industrial wastewater effluents, or mining wastes regulated
under the mining and reclamation laws administered by the

1 department of state lands, SLASH AND FOREST DEBRIS REGULATED
 2 UNDER LAWS ADMINISTERED BY THE DEPARTMENT OF NATURAL
 3 RESOURCES AND CONSERVATION, OR MARKETABLE WOOD BY-PRODUCTS.

4 (2) ~~"Refuse" means putrescible and nonputrescible~~
 5 ~~solid wastes (except body wastes), including garbage,~~
 6 ~~rubbish, street cleanings, dead animals, yard clippings, and~~
 7 ~~solid market and solid industrial wastes. "Department" means~~
 8 ~~the department of health and environmental sciences,~~
 9 ~~provided for in Title 82A, chapter 6.~~

10 (3) ~~"Rubbish" means nonputrescible solid wastes,~~
 11 ~~consisting of both combustible and noncombustible wastes,~~
 12 ~~such as paper, cardboard, abandoned automobiles, tin cans,~~
 13 ~~woody, glassy, bedding, crockery, and similar materials.~~
 14 ~~"Board" means the board of health and environmental~~
 15 ~~sciences, provided for in 82A-605.~~

16 (4) ~~"Department" means the department of health and~~
 17 ~~environmental sciences, provided for in Title 82A, chapter~~
 18 ~~6. "Person" means an individual, firm, partnership, company,~~
 19 ~~association, corporation, city, town, local governmental~~
 20 ~~entity, or any other governmental or private entity whether~~
 21 ~~organized for profit or not.~~

22 (5) ~~"Board" means the board of health and~~
 23 ~~environmental sciences, provided for in section 82A-605.~~
 24 ~~"Dispose" or "disposal" means the discharge, injection,~~
 25 ~~deposit, dumping, spilling, leaking, or placing of any~~

1 ~~substance SOLID WASTE OR HAZARDOUS WASTE into or onto the~~
 2 ~~land so that the substance SOLID WASTE OR HAZARDOUS WASTE or~~
 3 ~~any constituent of it may enter the environment or be~~
 4 ~~emitted into the air or discharged into any waters,~~
 5 ~~including groundwaters.~~

6 (6) ~~"Hazardous waste" means any waste or combination~~
 7 ~~of wastes of a solid, liquid, contained gaseous, or~~
 8 ~~semi-solid form which may cause or contribute to an increase~~
 9 ~~in mortality or an increase in serious illness, taking into~~
 10 ~~account the toxicity of the waste, its persistence and~~
 11 ~~degradability in nature, its potential for assimilation or~~
 12 ~~concentration in tissue, and other factors that may~~
 13 ~~otherwise cause or contribute to adverse acute or chronic~~
 14 ~~effects on the health of persons or other living organisms.~~
 15 ~~Hazardous wastes include but are not limited to those which~~
 16 ~~are toxic, radioactive, corrosive, flammable, irritants,~~
 17 ~~strong sensitizers, or which generate pressure through~~
 18 ~~decomposition, heat, or other means, EXCLUDING WOOD CHIPS~~
 19 ~~AND WOOD USED FOR MANUFACTURING OR FUEL PURPOSES.~~

20 (7) ~~"Storage" means the actual or intended containment~~
 21 ~~of wastes, either on a temporary basis or for a period of~~
 22 ~~years.~~

23 (8) ~~"Transport" means the movement of wastes from the~~
 24 ~~point of generation to any intermediate points and finally~~
 25 ~~to the point of ultimate storage or disposal.~~

1 (9) "Treatment" means a method, technique, or process,
 2 including neutralization, designed to change the physical,
 3 chemical, or biological character or composition of any
 4 solid waste so as to neutralize the waste or so as to render
 5 it nonhazardous, safer for transport, amenable for recovery,
 6 amenable for storage, or reduced in volume.

7 (10) "Hazardous waste management" means the management
 8 of the storage, transport, treatment, recycling, recovery,
 9 or disposal of hazardous wastes.

10 (11) "Resource recovery" means the recovery of material
 11 or energy from solid waste.

12 (12) "Resource recovery system" means a solid waste
 13 management system which provides for the collection,
 14 separation, recycling, or recovery of solid wastes,
 15 including disposal of nonrecoverable waste residues.

16 (13) "Resource recovery facility" means a facility at
 17 which solid waste is processed for the purpose of
 18 extracting, converting to energy, or otherwise separating
 19 and preparing solid waste for reuse.

20 (14) "Solid waste management system" means a system
 21 which controls the storage, treatment, recycling, recovery,
 22 or disposal of solid waste."

23 Section 4. Section 69-4003, R.C.M. 1947, is amended to
 24 read as follows:

25 "69-4003. ~~Dumping in an unlicensed area is Unapproved~~

1 ~~disposal prohibited. No person, partnership, company, or~~
 2 ~~corporation shall hereafter may dispose of any garbage,~~
 3 ~~rubbish or refuse solid waste or transport hazardous waste~~
 4 ~~in any place except as permitted under this act chapter."~~

5 Section 5. Section 69-4004, R.C.M. 1947, is amended to
 6 read as follows:

7 "69-4004. License required. ~~Each year each person,~~
 8 ~~partnership, company or corporation desiring to operate a~~
 9 ~~refuse disposal area shall obtain a license for operating~~
 10 ~~same from the local, county or district board of health~~
 11 ~~having jurisdiction. To obtain a license to operate a~~
 12 ~~disposal area, application to the local, county or district~~
 13 ~~board of health having jurisdiction must be made on forms~~
 14 ~~provided by it. The application shall contain the name and~~
 15 ~~residence of the applicant, the location of the proposed~~
 16 ~~disposal area and such other information as the department~~
 17 ~~may by regulation require. There shall be paid to the~~
 18 ~~local, county or district board of health with each~~
 19 ~~application for such license or for renewal of such license~~
 20 ~~an annual license fee of twenty-five dollars (\$25). This fee~~
 21 ~~is to be deposited in the general fund of the county in~~
 22 ~~which the refuse disposal area is to be located. (1) Except~~
 23 ~~as provided in 69-4008, no person may dispose of solid waste~~
 24 ~~OR HAZARDOUS WASTE, or operate a solid waste OR HAZARDOUS~~
 25 ~~WASTE, TRANSPORT HAZARDOUS WASTE, management system, OR~~

1 TRANSPORT HAZARDOUS WASTE without a license from the
 2 department. The department shall provide application forms
 3 for a license as provided in this chapter. The application
 4 shall contain the name and business address of the
 5 applicant, the location of the proposed solid waste
 6 management system, a plan of operation and maintenance, and
 7 such other information as the department may by rule
 8 require.

9 ~~(2) The department shall seek the advice and~~
 10 ~~recommendations of the appropriate local board of health~~
 11 ~~before issuing a license pursuant to this section. Before~~
 12 ~~making a decision on a license application, the department~~
 13 ~~shall inspect the proposed site in order to determine if the~~
 14 ~~requirements of this chapter and rules adopted under it can~~
 15 ~~be satisfied.~~ WHEN THE DEPARTMENT RECEIVES AN APPLICATION
 16 FOR A LICENSE PURSUANT TO THE PROVISIONS OF THIS CHAPTER,
 17 THE LOCAL HEALTH OFFICER IN THE COUNTY WHERE THE SOLID WASTE
 18 MANAGEMENT SYSTEM WILL BE LOCATED SHALL BE NOTIFIED IN
 19 WRITING OF THE APPLICATION WITHIN 15 DAYS AFTER THE
 20 DEPARTMENT HAS RECEIVED THE APPLICATION. IF THE DEPARTMENT
 21 DECIDES TO ISSUE A LICENSE PURSUANT TO THE PROVISIONS OF
 22 THIS CHAPTER, THE DEPARTMENT SHALL NOTIFY THE LOCAL HEALTH
 23 OFFICER IN WRITING. A LICENSE ISSUED BY THE DEPARTMENT UNDER
 24 THIS SECTION SHALL NOT BE VALID UNTIL SIGNED BY THE LOCAL
 25 HEALTH OFFICER HAVING JURISDICTION IN THE COUNTY IN WHICH

1 THE SOLID WASTE MANAGEMENT SYSTEM WILL BE OPERATED. THE
 2 LOCAL HEALTH OFFICER SHALL, WITHIN 15 DAYS AFTER THE
 3 DEPARTMENT HAS NOTIFIED THE LOCAL HEALTH OFFICER OF ITS
 4 DECISION TO ISSUE A LICENSE UNDER THIS CHAPTER, MAKE A FINAL
 5 DECISION ON WHETHER THE LICENSE WILL BE VALIDATED. THE
 6 LOCAL HEALTH OFFICER MAY ONLY REFUSE TO VALIDATE A LICENSE
 7 ISSUED UNDER THIS CHAPTER UPON A FINDING THAT THE
 8 REQUIREMENTS OF THIS CHAPTER AND THE RULES IMPLEMENTING THIS
 9 CHAPTER CANNOT BE SATISFIED. IF THE LOCAL HEALTH OFFICER
 10 REFUSES TO VALIDATE THE LICENSE, HE SHALL NOTIFY THE
 11 APPLICANT, THE DEPARTMENT AND ANY OTHER INTERESTED PERSON IN
 12 WRITING. THE APPLICANT OR ANY PERSON AGGRIEVED BY THE
 13 DECISION OF THE LOCAL HEALTH OFFICER NOT TO VALIDATE A
 14 LICENSE MAY APPEAL THE DECISION TO THE BOARD OF HEALTH AND
 15 ENVIRONMENTAL SCIENCES WITHIN 30 DAYS AFTER RECEIVING
 16 WRITTEN NOTICE OF THE LOCAL HEALTH OFFICER'S DECISION. THE
 17 HEARING BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL
 18 SCIENCES SHALL BE HELD PURSUANT TO THE CONTESTED CASE
 19 PROVISIONS OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT."

20 Section 6. Section 69-4005, R.C.M. 1947, is amended to
 21 read as follows:

22 "69-4005. Department--to--approve--disposal--area State
 23 hazardous waste disposal facility. Upon--receipt--of--the
 24 applications--the--local--county--or--district--board--of--health
 25 having-jurisdiction-shall-notify-the-department-who-will

~~then cause to be made an inspection of the proposed site and~~
~~determine if the proposed operation can comply with this act~~
~~and rules and regulations adopted pursuant thereto. The~~
~~department shall also inspect and approve plans which have~~
~~been drawn up by the applicant for the creation of a refuse~~
~~disposal area. When the department reports favorably upon~~
~~the application, the local, county or district board of~~
~~health having jurisdiction may issue a license to the~~
~~applicant. All licenses shall expire one year after~~
~~issuance, but may be renewed upon payment of an annual fee~~
~~of twenty-five dollars (\$25). The department may establish,~~
~~maintain, and operate state hazardous waste management~~
~~facilities to provide for the treatment, storage, or~~
~~disposal of hazardous wastes accepted by the department as a~~
~~result of spills, embargoes, citizen assistance requests,~~
~~and other similar occurrences OCCURRENCES. A state facility~~
~~shall meet all the requirements for a hazardous waste~~
~~disposal site required by this chapter."~~

Section 7. Section 69-4006, R.C.M. 1947, is amended to read as follows:

"69-4006. Revocation of or denial ~~refusal to renew of~~
~~license. The local, county or district board of health having~~
~~jurisdiction department may deny or revoke or ~~refuse to~~
~~renew any a license to operate a solid waste management~~
~~system after reasonable notice and hearing if it finds that~~~~

~~the disposal area is not operated in a sanitary manner as~~
~~set forth by this law and by the rules and regulations~~
~~adopted under this law giving the applicant AND THE LOCAL~~
~~HEALTH OFFICER written notice and an opportunity for a~~
~~hearing before the board. The decision to deny or revoke a~~
~~license may be made only after a finding that a solid waste~~
~~management system cannot be operated or is not being~~
~~operated in compliance with this chapter or a rule or order~~
~~issued pursuant to this chapter. The hearing held before the~~
~~board on a denial or revocation shall be held pursuant to~~
~~the provisions of the Montana Administrative Procedure Act."~~

Section 8. Section 69-4007, R.C.M. 1947, is amended to read as follows:

"69-4007. ~~Rules and regulations inspections and~~
~~recommendations powers and duties of department. The~~
~~department is authorized to promulgate rules and regulations~~
~~for the operation of refuse disposal areas. Said regulations~~
~~shall be prepared and published and shall contain sanitary~~
~~standards for disposal areas. The department shall cause~~
~~all licensed disposal areas to be inspected and recommended~~
~~to the local, county or district board of health action~~
~~which may be taken to enforce the provisions of this act.~~
~~(1) The department shall adopt rules governing solid waste~~
~~management systems which shall include but not be limited~~
~~to:~~

1 (a) requirements for the plan of operation and
 2 maintenance that must be submitted with an application under
 3 this chapter;

4 (b) the classification of disposal sites according to
 5 the physical capabilities of the site to contain the type of
 6 solid waste to be disposed of;

7 (c) the procedures to be followed in the disposal,
 8 treatment, or transport of solid wastes;

9 (d) the suitability of the site from a public health
 10 standpoint when hydrology, geology, and climatology are
 11 considered;

12 (e) procedures and requirements for the submission of
 13 reports on the operation and maintenance of a ~~solid waste~~
 14 ~~management system~~ HAZARDOUS WASTE DISPOSAL SITE, THE
 15 TRANSPORT OF HAZARDOUS WASTE, and the generation of
 16 hazardous wastes; and

17 (f) any other factors relating to the sanitary
 18 disposal or management of solid wastes.

19 (2) The department has continuing authority and
 20 responsibility to inspect a solid waste management system
 21 under the provisions of this chapter. Inspections may be
 22 conducted only during reasonable hours and only after
 23 presentation of appropriate credentials identifying the
 24 inspector as a duly authorized employee of the department.

25 (3) The department may, through the attorney general

1 or appropriate county attorney, initiate and maintain in
 2 district court enforcement actions, as provided in this
 3 chapter, including actions to collect a ~~civil~~ CRIMINAL
 4 penalty or to enjoin the operation of a solid waste
 5 management system that is in violation of this chapter or a
 6 rule adopted by the department or order issued as provided
 7 in this chapter."

8 Section 9. Section 69-4008, R.C.M. 1947, is amended to
 9 read as follows:

10 ~~"69-4008. Landowner's rights preserved--publicly~~
 11 ~~operated disposal areas Exclusion from chapter. (1) This act~~
 12 ~~chapter shall~~ may not be construed to prohibit any a person
 13 from disposing of his own garbage, rubbish or refuse solid
 14 waste, EXCEPT HAZARDOUS WASTE, upon his--own land OWNED,
 15 LEASED, OR COVERED BY EASEMENT OR PERMIT as long as such
 16 disposal it does not create a nuisance or public health
 17 hazard. Any--incorporated--city--town--rural improvement
 18 district or county may establish a disposal area and operate
 19 same without paying the annual license fee, but must meet
 20 all other requirements of this act.

21 (2) A PERSON MAY DISPOSE OF HIS OWN HAZARDOUS WASTES
 22 UPON LAND OWNED, LEASED, COVERED BY EASEMENT OR PERMIT,
 23 AFTER COMPLYING WITH THE LICENSING REQUIREMENTS OF THIS
 24 CHAPTER AND THE RULES THAT SHALL BE ADOPTED TO REGULATE THE
 25 DISPOSAL OR TRANSPORT OF HAZARDOUS WASTES.

1 (3) THE LICENSING REQUIREMENTS OF THIS CHAPTER DO NOT
 2 APPLY TO THE TRANSPORTATION OF MARKETABLE HAZARDOUS WASTES
 3 TO A MANUFACTURING OR PROCESSING CENTER.

4 (4) IF IT IS DETERMINED THAT AN APPLICATION FOR A
 5 CERTIFICATE UNDER THE MAJOR FACILITY SITING ACT, TITLE 70,
 6 CHAPTER 8, R.C.M. 1947, WILL RESULT IN THE GENERATION,
 7 TRANSPORT, STORAGE, OR DISPOSAL OF HAZARDOUS WASTES AS
 8 DEFINED IN THIS CHAPTER, THE DEPARTMENT SHALL CONDUCT ITS
 9 REVIEW UNDER THE PROVISIONS OF THIS CHAPTER CONCURRENTLY
 10 WITH THE STUDIES OF AIR AND WATER QUALITY CONDUCTED UNDER
 11 THE PROVISIONS OF THE MAJOR FACILITY SITING ACT. A DECISION
 12 TO GRANT OR DENY A LICENSE FOR THE TRANSPORT, STORAGE OR
 13 DISPOSAL OF HAZARDOUS WASTES UNDER THE PROVISIONS OF THIS
 14 CHAPTER SHALL BE APPEALABLE CONCURRENTLY WITH AND SUBJECT TO
 15 THE SAME PROCEDURES ESTABLISHED FOR THE APPEAL OF THE
 16 DEPARTMENT'S AIR AND WATER QUALITY CERTIFICATION DECISION
 17 UNDER THE MAJOR FACILITY SITING ACT. IF THE INITIAL LICENSE
 18 HAS BEEN GRANTED AS SPECIFIED IN THIS SUBSECTION, ALL
 19 RENEWALS OR MODIFICATIONS OF A LICENSE, OR ENFORCEMENT
 20 ACTIONS CONCERNING ALLEGED VIOLATIONS OF THE LICENSE AND THE
 21 PROVISIONS OF THIS CHAPTER SHALL BE CONDUCTED PURSUANT TO
 22 THE PROCEDURES AND ENFORCEMENT PROVISIONS ESTABLISHED IN
 23 THIS CHAPTER.

24 ~~†2†~~(5) The exclusion contained in SUBSECTION (1) OF
 25 this section does not apply to*

1 ~~(a) disposal of hazardous wastes or~~
 2 ~~(b) after July 1, 1977, a division of land OF 5 ACRES~~
 3 OR LESS MADE AFTER JULY 1, 1977 which falls within the
 4 definition of subdivision in Title 69, chapter 50, or the
 5 Montana Subdivision and Platting Act in Title 11, chapter
 6 38."

7 Section 10. Section 69-4009, R.C.M. 1947, is amended
 8 to read as follows:

9 "69-4009. Penalty for violations. ~~Any person violating~~
 10 ~~this act or regulations prescribed by the department under~~
 11 ~~this act, shall be guilty of a misdemeanor and, upon~~
 12 ~~conviction, shall be fined not less than fifty dollars~~
 13 ~~(\$50) nor more than five hundred dollars (\$500). Each day~~
 14 ~~upon which a violation of this act occurs shall be~~
 15 ~~considered a separate offense. (1) A person who disposes of~~
 16 ~~solid waste or operates a solid waste management system in~~
 17 ~~violation of this chapter, a rule adopted as authorized by~~
 18 ~~this chapter or an order issued as provided in this chapter~~
 19 ~~is subject to a civil penalty of not more than \$1,000. Each~~
 20 ~~day upon which a violation occurs is a separate violation.~~
 21 ANY PERSON VIOLATING THIS ACT OR REGULATIONS PRESCRIBED BY
 22 THE DEPARTMENT UNDER THIS ACT, SHALL BE GUILTY OF A
 23 MISDEMEANOR AND, UPON CONVICTION, SHALL BE FINED NOT LESS
 24 THAN \$50, NOR MORE THAN \$500, EACH DAY UPON WHICH A
 25 VIOLATION OF THIS ACT OCCURS SHALL BE CONSIDERED A SEPARATE

1 DEFENSE.

2 (2) A person who stores, treats, transports, or
3 disposes of a hazardous waste in violation of this chapter,
4 a rule adopted as authorized by this chapter, or an order
5 issued as provided in this chapter is subject to a civil
6 penalty of not more than \$25,000. Each day upon which a
7 violation occurs is a separate violation."

-End-