

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairperson Bob Raney, on March 17, 1989, at 4:30 p.m.

ROLL CALL

Members Present: All members present except:

Members Excused: Rep. O'Keefe

Members Absent: None

Staff Present: Claudia Montagne, Secretary; Hugh Zackheim, Staff Researcher, Environmental Quality Council

Announcements/Discussion: REP. RANEY announced that REP. BARDANOUE, Chair of House Appropriations Committee, had asked the Natural Resources Committee to consider HB 760, and send him a message regarding the committee's recommendation on the bill.

REP. HANNAH, House District 86, and sponsor of HB 760, said the bill was concerned with the funding of a feasibility study for an off-stream storage site in the vicinity of Billings, namely Valley Creek. He said he was not convinced that Valley Creek was the very best project out there. However, he said, the resolution was important for several reasons. First, it made a statement that part of any comprehensive plan needed to include a major off-stream storage facility in the Billings vicinity. Second, it made a significant statement with respect to Pick-Sloane money, federal monies for water development. Third, in order to receive those monies, the state needed to put forth a good faith effort so that the Congressional Delegation could move forward on the federal level. He mentioned that Sen. Burns was on the Water/Energy Committee, and that such a resolution would be helpful to him in getting federal funding for water projects in the state of Montana.

REP. RANEY asked about the budget constraints, and the request in the bill for \$100,000. REP. HANNAH replied that if Appropriations could put \$3,000,000 in libraries, they could consider \$100,000 for a long-term development commitment. If the project did not take place, the money would revert.

REP. HANNAH suggested sending a recommendation that this was a worthy project, and that the state needed to encourage Congress to come forward with Pick-Sloane money.

REP. HARPER asked where the money would come from, and REP. HANNAH said \$90,000 would come from the general fund, and \$10,000 from the Renewable Resource Development Account.

REP. ROTH spoke in favor of the resolution. He said it would benefit industry, municipalities, recreationists, and agriculture.

REP. RANEY asked who would spend the money. REP. HANNAH said the money would be matched by the Bureau of Reclamation. He said there was a 1:5 match, and that the study would cost \$4,000,000 to \$5,000,000. At each step along the way, the project could be stopped if a fatal flaw were discovered.

REP. HARPER said the general fund would be stripped out of this bill by the Appropriations Committee, and asked if the bill would be worth anything with \$10,000. REP. HANNAH said yes. REP. HARPER added that because of the way in which the Renewable Resource Development projects were ranked, they might as well lobby members of the Long Range Planning Committee on the ranking order of the projects to ensure that this project got funded for \$10,000.

REP. GIACOMETTO disagreed with amending out the \$90,000 just because the committee thought Appropriations would take it out anyway. He said the Appropriations committee was the appropriate body to make that decision. He suggested the committee give a do pass recommendation to the bill.

Motion: REP. HARPER said he saw value in the bill, and moved a recommendation to the Appropriations Committee that the Natural Resources Committee found value in the bill, felt it was an important concept, and believed that if the bill could not be accepted with the full general fund amount, they believed the bill should be passed with the minimum, or \$10,000, in the Renewable Resource Development grant. REP. HANNAH seconded, and asked if the recommendation could read "with the \$10,000 RRD money plus whatever general fund money could be added". The committee agreed to this version of the motion.

Vote: The motion CARRIED, with Rep. Gilbert voting no.

DISPOSITION OF HB 143

Hearing 1/20/89

Motion: REP. GIACOMETTO moved HB 143 DO PASS.

Discussion: MR. ZACKHEIM passed out the REP. ADDY's amendments, EXHIBIT 1.

Amendments, Discussion, and Votes: REP. ADDY moved the amendments. He asked the committee to recall the

conversation on the bill at the previous executive action. He said if a corporation were required to be called a responsible person, people could set up a corporation and avoid financial responsibility by walking away from the corporation. With these amendments, the committee would assure that a natural persons' or corporations' word would literally be their bond.

REP. RANEY asked for clarification of the language. REP. ADDY said that a natural person would be someone who had a substantial portion of the stock in the corporation that is doing the drilling.

REP. HANNAH asked what the committee was trying to avoid happening. REP. ADDY said if a person owned a corporation, and the corporation incurred a debt, and the person did not want to pay it, the person would take all the assets out of the corporation and walk away from it. REP. HANNAH asked if this pierced the corporate veil, and REP. ADDY said yes it did. He said this would require a personal guarantee from the primary owners of the corporation if the corporation did not have \$250,000 in assets.

REP. GIACOMETTO said the same legal mess he was referring to was put there for a protection. He said this was not done anywhere else. He questioned putting this precedent in place, and supported the legal mess that was in place. REP. ADDY said that when a problem arose with one of these wells, it was an expensive, large problem. He said he wanted to make sure an individual or owner was sincere in giving a bond. He said the state did not want to tempt that individual to circumvent the law by some financial shenanigans and a walk-away.

REP. HANNAH asked if the state had a problem with people walking away from problems with wells. REP. ADDY said the problem was that they could not get bonds.

JEROME ANDERSON, Shell Oil, spoke on Rep. Addy's amendments. He said this provision defined what a responsible person was. If this were to go through, it would exempt corporations with assets of less than \$250,000 from that section of the bill that provided for the methodology to go after the responsible person. He said there were people in the drilling business with shallow wells, who did not have that amount of assets. There were also instances where there was not a single natural person with a primary ownership. He said he feared the amendments were confusing, and would exempt some people from being responsible parties.

REP. HARPER asked about the situation where there was no single natural person, and how this would affect the responsible party in that corporation. Mr. Anderson said all the owners would be held responsible.

- REP. BROOKE asked if the subcommittee had put in a "bleed 'em dry" clause, and Mr. Anderson said yes, which was intended to enable the Oil and Gas Commission to get all of the assets that any individual or corporation had.
- REP. HARPER asked if there was any way to give the board the authority to screen that, and if a bond could be required of those people. MR. ANDERSON said that under the bill, the whole thing started out with a drilling bond. The purpose of the bill was to provide a vehicle for drilling bonds to have some termination date. Under the bill, if a well was a dry hole and had to be plugged and abandoned, then the party that did the drilling would plug and abandon it. This party would then have the Oil and Gas Commission come in and check it and approve it, whereupon the drilling bond would be released. If the well were to become a commercial well, then it would be certified as such, the drilling bond would be released and production would begin. Mr. Anderson said the ultimate goal of the bill was to deal with problems with wells, once commercial, but abandoned down the line. The responsible party would be subject to action on the part of the Oil and Gas Commission to get the well cleaned up and pay those costs. He said he did not see much of this occurrence going on, and said everyone was thinking of situations in the state where drilling activities were conducted long before there were any regulations such as there are today.
- REP. ADDY again explained his amendment. He acknowledged that there was less of a likelihood of the situation up in the north country happening today, but that when someone undertakes such an activity as drilling, there still was a possibility. Without \$250,000 worth of assets, a bank would ask for a personal guarantee before extending a \$250,000 line of credit. In this situation the state of Montana was the bank, and the amendment allowed the state to get that personal guarantee.
- REP. RANEY asked if there was anyone out there drilling who was in this category; i.e., without \$250,000 worth of assets. Mr. Anderson said there were some people on an individual basis within a group who might have less than \$250,000 worth of assets. He added that the cost of cleaning up abandoned wells had fallen within the purview of the \$10,000 drilling bond. Ms Rickman, Oil and Gas Commission, said most of the high costs had been incurred on the clean-up of the old wells. Mr. Anderson said that with or without the amendment, the situation would be much better than it was at the present time if the bill were passed.

The motion on the amendments CARRIED on a roll call vote, 8-7.

Amendments, Discussion, and Vote: REP. GIACOMETTO moved the O'Keefe amendments (EXHIBIT 2). The motion CARRIED unanimously.

Recommendation and Vote: REP. GIACOMETTO moved the bill DO PASS AS AMENDED. The motion CARRIED unanimously.

DISPOSITION OF HB 676

Hearing 2/17/89

Motion: REP. ADDY moved the bill DO PASS.

Discussion: None

Amendments, Discussion, and Votes: Hugh Zackheim distributed the gray bill dated March 16, 1989 (EXHIBIT 3). He went through the bill, and said the amendments had been incorporated from the previous executive action. He said there was a definition for "contaminated" to answer the concern about the definition of infectious waste. He said a definition of "sharps" had been added. In answer to Rep. Giacometto's concern that there was no logical reason to separate non-institutional facilities from institutional facilities, the language was changed to say any person who generated less than 50 lbs per month could transport and store infectious waste according to OSHA requirements, but would have to comply with this act on treatment and disposal.

REP. GIACOMETTO asked where the 50 lb figure came from. MR. ZACKHEIM said in the federal Medical Waste Tracking Act, there was an exclusion for people who generated 50 lb of infectious waste or less a month. An example would be a dentist, or particularly small nursing homes or hospitals.

JIM AHRENS, of the Montana Hospital Association, said his organization preferred to see the exemption higher if possible.

REP. ROTH asked if a period of time for compliance would help, and Mr. Ahrens said yes. REP. RANEY commented that 18 months for compliance had already been provided.

REP. GIACOMETTO asked if the sponsor could give on the 50 lbs, and REP. RANEY said yes. Rep. Raney suggested 100 lbs, and asked the researcher how that would affect the bill. MR. ZACKHEIM said it would have implications for the fees and the fiscal note. It would also impact the language regarding being below the limit, and whether, in those cases, an individual or institution would have to comply with any state storage and transport regulations different from OSHA.

REP. HANNAH asked if there was a federal regulation on this subject, and what was their figure for pounds generated. MR. ZACKHEIM said there were federal guidelines. Mr.

Leiter said there were not any limits yet, but that said EPA was beginning to set these. He said the amount was 50 lbs.

REP. RANEY suggested that they make it 100 lbs until July 1, 1991, at which time it would come down to 50 lbs. Mr. Ahrens said the additional lead time and the higher limit would help the smaller hospitals in the state, 15 of which do not have incinerators. Rep. Raney said the other pound figures in the bill would have to be doubled to be consistent if this change were made. He said this would give the next legislature the opportunity to address the issue.

REP. HARPER registered a concern about the exemption given to mortuaries. REP. RANEY said that was his amendment, and that he had checked into the generation of infectious waste from morgues. He assured Rep. Harper that no infectious wastes were generated there.

REP. RANEY suggested leaving the changes in lbs and fees, without any increases or decreases set for 1991. The committee agreed.

REP. ROTH commented on the disparity between the two fee levels (\$2,000 and \$5,000 annually). He suggested an incremental increase in the fees as the poundage increased. REP. RANEY replied that a person operating at those levels would be in the business, and such an increase would not be substantial. He said there was no commercial infectious waste operation in the state at this time.

REP. ADDY made a motion to adopt the amendments as set forth in the gray bill with the day's amendments added. The motion CARRIED.

Recommendation and Vote: REP. ADDY moved the bill DO PASS AS AMENDED, and the motion carried with Rep. Giacometto, Rep. Gilbert, and Rep. Owens voting no.

DISPOSITION OF HB 752

Hearing 3/8/89

Motion: REP. HARPER made a motion that HB 752 DO PASS.

Discussion: None

Amendments, Discussion, and Votes: MR. ZACKHEIM distributed conceptual amendments suggested by Rep. Raney. REP. RANEY commented that there would be no fees for disposing of garbage within the region. He also called attention to the waiver of fees for intra-regional garbage disposal already in operation. He said that the major change was amendment 5. This closed the loophole in current state law which

would allow an out-of-state corporation to purchase or lease land in Montana and dispose of solid waste on that land without licensing or fees. Rep. Raney said it also provided for civil penalties (\$1,000 per day).

MR. ZACKHEIM went through the amendments. Rep. Raney said that with these amendments, the legislature would have something to start with, and would receive feed back from people affected by the law. The amendments also clarified that any current inter-regional transport (including from Yellowstone Park) would be eligible for a waiver.

REP. GIACOMETTO asked if this bill would prohibit waste from coming into the state, and if it would prohibit dumping. Rep. Raney said no. He said the loop hole closed was that a person or corporation would have to be licensed so that the state would know what they were dumping.

REP. HARPER moved the conceptual amendments, including the codification amendment, and the grandfathering of interstate disposal operations currently in practice. The motion CARRIED unanimously.

Recommendation and Vote: REP. ROTH moved DO PASS AS AMENDED. The motion CARRIED, with Rep. Gilbert and Rep. Giacometto voting no.

DISPOSITION OF HB 757

Hearing 3/10/89

Motion: REP. GIACOMETTO moved the bill DO PASS.

Discussion: None

Amendments, Discussion, and Votes: REP. GIACOMETTO moved the amendments.

REP. COHEN said the subcommittee had worked long and hard the past two days, and had arrived at general agreement with all the interested parties including agricultural organization. They had said that although it would be tough on them, they thought it was necessary and that they could go with it. He went through the amendments to the bill that provided some protection for groundwater in agricultural areas of the state.

REP. COHEN said there were no substantive changes in the bill. Instead, what they proposed were clean-up measures. Rep. Giacometto said the Board of Health and Environmental Sciences (DHES) would be responsible for the development of standards, but that they would start from the EPA standards. The Department of Agriculture (DOA) would be responsible for the development of agricultural chemical groundwater management plans, which would allow for prevention as well as enforcement. The bill also set up an educational program

and overall plan for the state to ensure the use of best management practices (BMP's) to protect the groundwater.

There was a discussion regarding the zone of contamination and the point of detection. GARY GINGERY said this was a difficult point to deal with. He said that when a person got a "detect", he/she could not always determine the original source of the problem. The thinking of the subcommittee was that if the point of detection was taken, additional monitoring in a larger area would trigger a management plan. He said he had difficulty defining zone, as in zone of contamination. Rep. Cohen said that once a chemical had been detected, the department was supposed to move forward with additional monitoring to find out the extent of contamination. He said to keep in mind that part of the purpose of the bill was to provide compliance with the Clean Water Act's Nonpoint Source Pollution requirements.

MR. ZACKHEIM said the "point of detection" was a knowable item, whereas "zone" was not. He suggested language stating "when an agricultural chemical had been determined to have migrated in the groundwater from the point of original detection".

REP. COHEN continued through the bill, with specific sections needing language and grammar clarification. In the section dealing with commercial fertilizer contamination, they added the word "residue" to indicate that the bill applied to component parts or compounds of fertilizers. Another section provided protection to the buyer of agricultural land by requiring the seller to provide written notice about any obligations under the plan. The department was to be sent a copy of the notification, for the purpose of contacting the appropriate party with any changes in the management plan.

REP. COHEN said the document represented the unanimous recommendations of the subcommittee for amendments to the bill.

REP. GIACOMETTO's motion on the amendments CARRIED.

Recommendation and Vote: REP. GIACOMETTO moved the bill DO PASS AS AMENDED. The motion CARRIED unanimously.

DISPOSITION OF HB 552

Hearing 2/13/89

Motion: REP. RANEY moved the bill DO PASS.

Discussion: None

HOUSE COMMITTEE ON NATURAL RESOURCES

March 17, 1989

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Amendments, Discussion, and Votes: REP. RANEY moved the Harper amendments. Rep. Harper said the amendments coordinated the bill and made it work together with the appropriation. The motion CARRIED unanimously.

Recommendation and Vote: REP. RANEY moved DO PASS AS AMENDED. The motion CARRIED unanimously.

SB 223

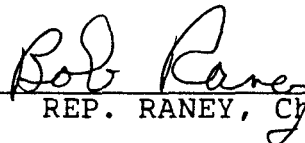
REP. HANNAH asked to distribute some suggested amendments (EXHIBIT 5) to the committee on SB 223. He said he had been working with Van Jamison of DNRC. Mr. Jamison had said there was one issue they had talked about with industry as a potential problem was the timing of the need decision and the environmental decision. He said currently they must be made at the same time, so that industry was faced with the situation of being turned down on basis of need, after spending sums of money and time on the environmental analysis unnecessarily. The trade off of doing the need decision separate from the environmental decision would be the decision of industry to extend the time frame of the project.

REP. HANNAH said that the industrial and environmental communities continue to operate at loggerheads, rather than trying to deal with minor problems or adjustments necessary to make the laws in place work. He saw this amendment as an example of addressing the actual problems and a start towards drawing those two parties together.

REP. HANNAH asked the committee to consider these amendments and to come back at a later date for action on the amendments and the bill.

ADJOURNMENT

Adjournment At: 6:45 p.m.



REP. RANEY, Chairperson

BR/cm

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DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1989

Date 3-17-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Raney, Chairman	✓		
Rep. Ben Cohen, Vice-Chairman	✓		
Rep. Kelly Addy	✓		
Rep. Vivian Brooke	✓		
Rep. Hal Harper	✓		
Rep. Mike Kadas	✓		
Rep. Mary McDonough	✓		
Rep. Janet Moore	✓		
Rep. Mark O'Keefe			✓
Rep. Robert Clark	✓		
Rep. Leo Giacometto	✓		
Rep. Bob Gilbert	✓		
Rep. Tom Hannah	✓		
Rep. Lum Owens	✓		
Rep. Rande Roth	✓		
Rep. Clyde Smith	✓		

STANDING COMMITTEE REPORT

March 18, 1989

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Mr. Speaker: We, the committee on Natural Resources report that House Bill 143 (first reading copy -- white) do pass as amended .

Signed: Bob Raney
Bob Raney, Chairman

And, that such amendments read:

1. Title, line 10.
Following: "82-10-402,"
Insert: "82-11-101,"

2. Page 1.
Following: line 11
Insert: " STATEMENT OF INTENT

It is the intent of the legislature to create an oil and gas production damage mitigation account to be administered by the board of oil and gas conservation for the purpose of properly plugging and abandoning oil and gas wells when a responsible person cannot be found or when the responsible person does not have sufficient financial resources. The board shall adopt rules to help it define "sufficient financial resources", shall require a responsible person to pay the costs of plugging and abandoning to the extent of his available resources, and shall pursue full cost recovery for funds spent from the account through the procedures provided in [section 9] or other lawful means. The board may adopt rules to administer instituting a lien on the person's personal and real property to cover the cost of plugging and abandoning.

The legislature intends that the board use the account for reclamation related to land, water, or wildlife resources disturbed by abandoned oil and gas wells, injection wells, sumps, and seismographic shot holes.

It is also the intent to remove producing wells completed after June 30, 1989, from drilling bonds and to limit the liability of the bond or its equivalent to the period between issuance of the bond and either proper plugging and abandoning of a dry hole or completion of a producing well. The board shall adopt forms for the

producer to indicate that a well has been completed and shall, upon receipt of the information and payment required under [section 7], release and absolve the owner of the well from the bond required under 82-11-123.

It is further the intent of the legislature that the board of oil and gas conservation respond promptly to emergency situations that may arise."

3. Page 2, line 8.

Following: "(ii)"

Insert: "beginning in fiscal year 1992,"

Strike: "\$250,000"

Insert: "\$50,000"

4. Page 5, line 21.

Strike: "which"

Insert: "that"

5. Page 5, line 24.

Strike: "list shall"

Insert: "record must"

6. Page 6, line 3.

Strike: "the preceding"

Following: "subsection"

Insert: "(1)"

7. Page 6, line 4.

Following: "determine"

Insert: "and list"

8. Page 6, lines 12 and 13.

Strike: "under" on line 12 through "subsection" on line 13

Insert: "or when the person does not have sufficient financial resources to pay for complete reclamation"

9. Page 6, lines 17 and 18.

Strike: "established" on line 17 through "available" on line 18

Insert: "in a manner consistent with the requirements for the use of the account provided in [section 6] and [section 9]"

10. Page 9, line 8.

Strike: "as required "

Insert: "for the purposes of using the oil and gas production damage mitigation account established"

11. Page 11, line 7.

Following: "the"

Insert: "owner notifies the"

Strike: "is" through "[section 7]"

12. Page 11, line 9.

Strike: "is" through "provisions"

Insert: "meets the requirements"

13. Page 12, line 6.

Strike: "1989"

Insert: "1991"

14. Page 12, line 8.

Strike: "\$250,000"

Insert: "\$50,000"

15. Page 12, line 13.

Strike: "\$500,000"

Insert: "\$200,000"

16. Page 12, line 15.

Strike: "\$500,000"

Insert: "\$200,000"

17. Page 12, line 17.

Strike: "\$500,000"

Insert: "\$200,000"

Strike: "\$250,000"

Insert: "\$50,000"

18. Page 12.

Following: line 19

Insert: "(3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and gas production damage mitigation account:

(a) all funds received by the board pursuant to 82-11-136; and

(b) all fees received by the board from owners of producing wells pursuant to [section 7]."

Renumber: subsequent subsections

19. Page 12, line 25 through line 1, page 13.

Following: "abandoned"

Strike: ", " on line 25 through "quantities," on line 1

20. Page 13, line 2.

Following: "located"

Insert: "or the responsible person does not have sufficient funds to pay the costs. The responsible person shall, however, pay costs to the extent of his available resources and is subsequently liable to fully reimburse the account or shall

be subject to a lien on property as provided in [section 9]
for costs expended from the account to properly plug the
well and to mitigate any damage caused by the well."

21. Page 13, line 11.

Strike: "application of"

Insert: "receipt of notification by"

22. Page 13, line 12.

Strike: "in"

Insert: "on"

Following: "board"

Insert: ", payment by the owner of \$125,"

Strike: "upon providing"

Following: "proof"

Insert: "from the owner"

23. Page 14, line 5.

Strike: "-- priority"

24. Page 14, lines 7 and 8.

Following: "account"

Strike: ", " on line 7 through "[section 6(3)]" on line 8

Insert: "under [section 6(4)]"

25. Page 14, line 9.

Following: "year"

Insert: ", "

26. Page 14, lines 11 and 12.

Following: "person," on line 11

Strike: "as" on line 11 through "[section 4]," on line 12

27. Page 14, lines 14 and 15.

Following: "person," on line 14

Strike: "as" on line 14 through "[section 4]," on line 15

Following: "not"

Insert: "fully"

28. Page 14, lines 19 through 21.

Strike: "has" on line 19 through "may" on line 21

Insert: "must"

Following: "to" on line 21

Strike: "the"

Insert: "all"

29. Page 14, line 22.

Following: "the"

Insert: "responsible"

Strike: "as determined under [section 4]"

30. Page 14, lines 23 through 25.

Strike: "has" on line 23 through "[section 4]" on line 25

Insert: "is valid until paid in full or otherwise discharged.

The lien must be foreclosed in accordance with applicable laws governing foreclosure of mortgages and liens."

31. Page 14.

Following: line 25

Insert: "Section 10. Section 82-11-101, MCA, is amended to read:

"82-11-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Administrator" means the administrator of the division of oil and gas conservation.

(2) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

(3) "Class II injection well" means a well, as defined by the federal environmental protection agency or any successor agency, that injects fluids:

(a) that have been brought to the surface in connection with oil or natural gas production;

(b) for purposes of enhancing the ultimate recovery of oil or natural gas; or

(c) for purposes of storing liquid hydrocarbons.

(4) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(5) "Determinations" means those decisions delegated to the state by or under authority of the Natural Gas Policy Act of 1978 or any successor or similar legislation relating to oil and gas.

(6) "Enhanced recovery" means the increased recovery from a pool achieved by artificial means or by the application of energy extrinsic to the pool; such artificial means or application includes pressuring, cycling, pressure maintenance, or injection into the pool of any substance or form of energy as is contemplated in secondary recovery and tertiary programs but does not include the injection in a well of a substance or form of energy for the sole purpose of aiding in the lifting of fluids in the well or stimulating of the reservoir at or near the well by mechanical, chemical, thermal, or explosive means.

(7) "Field" means the general area underlaid by one or more pools.

(8) "Fluid" means any material or substance that flows or moves, whether in a semisolid, liquid, sludge, gas, or any other form or state.

(9) "Gas" means all natural gases and all other fluid hydrocarbons as produced at the wellhead and not defined as oil in subsection (10) of this section.

(10) "Oil" means crude petroleum oil and other hydrocarbons

regardless of gravity which are produced at the wellhead in liquid form by ordinary production methods and which are not the result of condensation of gas before or after it leaves the reservoir.

(11) "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he produces therefrom either for himself or others or for himself and others, and the term includes all persons holding such authority by or through him.

(12) "Person" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind and includes any agency or instrumentality of the state or any governmental subdivision thereof.

(13) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of any state waters that exceeds that permitted by state water quality standards or standards adopted by the board, including but not limited to the disposal, discharge, seepage, drainage, infiltration, flow, or injection of any liquid, gaseous, solid, or other substance into any state waters that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife. A disposal, discharge, seepage, drainage, infiltration, flow, or injection of fluid that is authorized under a rule, permit, or order of the board is not pollution under this chapter.

(14) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure which is completely separated from any other zone in the same structure is a pool, as that term is used in this chapter.

(15) "Producer" means the owner of a well or wells capable of producing oil or gas or both.

(16) "Responsible person" means a person who is determined by the board under 82-10-204 to have abandoned an oil or gas well, injection well, sump, or seismographic shot hole and who is:

- (a) a corporation, association, partnership, or other business organization with assets in excess of \$250,000; or
- (b) if the business organization does not have assets in excess of \$250,000, a natural person with primary ownership in the business organization.

~~(16)~~ (17) "State waters" means any body of water, either surface or underground.

~~(17)~~ (18) "Waste" means:

- (a) physical waste, as that term is generally understood in the oil and gas industry;
- (b) the inefficient, excessive, or improper use of or the

unnecessary dissipation of reservoir energy;

(c) the location, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes or tends to cause reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; and

(d) the inefficient storing of oil or gas. (The production of oil or gas from any pool or by any well to the full extent that the well or pool can be produced in accordance with methods designed to result in maximum ultimate recovery, as determined by the board, is not waste within the meaning of this definition.)"

Renumber: subsequent sections


STANDING COMMITTEE REPORT

March 23, 1989

Page 1 of 11

Mr. Speaker: We, the committee on Natural Resources report that HOUSE BILL 676 (first reading copy -- white), with statement of intent included, do pass as amended.

Signed: _____


Bob Raney, Chairman

And, that such amendments read:

1. Title, line 8.

Strike: "DISPOSAL"

Insert: "MANAGEMENT"

2. Title, line 11.

Strike: "DISPOSAL"

Insert: "MANAGEMENT"

3. Title, lines 14 and 15.

Strike: "THE"

Insert: "ADDITIONAL"

Strike: "TREATMENT, STORAGE, OR DISPOSAL"

Insert: "MANAGEMENT"

4. Title, line 18.

Following: "PROVIDING"

Insert: "APPLICABILITY DATES, A RETROACTIVE APPLICABILITY DATE
FOR THE INFECTIOUS WASTE MANAGEMENT FEE, AND"

5. Page 2.

Following: line 5

Insert: "As part of the regulations implementing the management standards provided in [section 5], the department shall consider the following specific requirements:

(1) Infectious waste, except for sharps, must be contained in disposable plastic bags or other appropriate containers that are impervious to moisture and have a strength sufficient to preclude ripping, tearing, or bursting under normal conditions of use. Bags must be securely tied to prevent leakage during storage, handling, or transport.

(2) Sharps subject to storage, transport, treatment, or disposal must be packaged in leakproof, rigid, puncture-resistant containers that are taped closed or tightly lidded to preclude loss of the contents.

(3) Locations where infectious waste is contained must be secured to deny access by unauthorized persons and must be marked with "biological hazard" or "biohazard" signs.

(4) Bags used for containment of infectious waste must be red or orange and clearly identified.

(5) Rigid containers of discarded sharps must be labeled as "biomedical waste" or placed in the bags used for other infectious waste."

6. Page 2.

Following: line 17

Insert: "The department shall adopt rules providing for a waiver of the per-pound interregional management fee for interregional management that results in an equivalent or reduced risk to Montana's public health, safety, welfare and environment when compared to the alternative of intraregional management. The fee waiver authorized by this rule is intended to ensure that any current and safe interregional management practices are not subject to undue expense. If a commercial facility does not manage any infectious waste for which the per-pound fee is assessed, the annual operating fee for that commercial facility must be determined pursuant to [section 8(1)(b)(iii)]."

7. Page 2, line 18.

Strike: "providing"

Insert: "implementing the provisions of [section 7] that provide"

8. Page 2, line 20.

Strike: "reduces the"

Insert: "results in an equivalent or reduced"

Following: "to"

Strike: "the"

Insert: "Montana's"

9. Page 2, line 21.

Following: "safety,"

Strike: "and"

Following: "welfare"

Strike: "and to the"

Insert: ", and"

10. Page 2, line 22.

Following: "The"

Insert: "fee"

11. Page 3, line 23.

Strike: "disposal"

Insert: "management"

12. Page 4, line 22.

Strike: "medical"

Insert: "health care"

Following: "accepts"

Insert: "infectious waste"

13. Page 4, lines 23 and 24.

Strike: "infectious" on line 23 through "region" on line 24

14. Page 4.

Following: line 24

Insert: "(4) "Commercial transporter" means a person who, in return for consideration, transports infectious waste to a management location.

(5) "Contaminated" means harboring a pathogen in a state that could transmit infection or disease.

(6) "Decontamination" or "to decontaminate" means a process of rendering noninfectious through steam sterilization, chemical treatment, or other sterilization procedures a container, implement, or other article contaminated by infectious waste."

Renumber: subsequent subsections

15. Page 5, lines 3 through 8.

Strike: "discharge" on line 3 through line 8 in its entirety

Insert: "final placement of infectious waste."

16. Page 5, line 10.

Strike: "sterile"

Insert: "noninfectious"

17. Page 5, line 18.

Strike: "isolation wastes;"

18. Page 5, line 22.

Strike: "contaminated sharp instruments and objects"

Insert: "sharps"

19. Page 5, line 23.

Following: "and"

Insert: "veterinary"

20. Page 5, line 24.

Strike: "a potential"

Insert: "suspected as a"

21. Page 5, line 24 through line 6, page 6.

Strike: "wastes" on page 5, line 24 through line 6, page 6 in its entirety

Insert: "wastes from humans or animals that are isolated to protect humans from communicable diseases; and wastes generated in connection with patient care that are known to be contaminated."

22. Page 6.

Following: line 11

Insert: "(13) "Management" or "to manage" means treatment, storage, or disposal, except that the term does not mean the disposal of infectious waste that has been rendered noninfectious.

(14) "Noninstitutional facility" means the office or clinic of a health care professional licensed under Title 37 that is not within a health care facility as defined in 50-5-101."

Renumber: subsequent subsections

23. Page 6, line 16.

Strike: "disposal"

Insert: "management"

24. Page 6, lines 18 through 20.

Strike: subsection (13) in its entirety

Insert: " (17) "Sharps" means any discarded health care article that may cause punctures or cuts, including but not limited to needles, intravenous tubing with needles attached, scalpel blades, glassware, and syringes that have been removed from their original sterile containers.

(18) "Steam sterilization" means a treatment method for infectious waste utilizing saturated steam within a pressure vessel (known as a steam sterilizer, autoclave, or retort) at time lengths and temperatures sufficient to kill infectious agents within the waste."

Renumber: subsequent subsections

25. Page 7, lines 5 through 7.

Strike: "so" on line 5 through "volume" on line 7

26. Page 7, line 14.

Strike: "Infectious"

Insert: "Except as provided in subsection (3), infectious"

27. Page 7, line 17.

Following: "segregation"

Insert: "by separate containment"
Following: "waste"
Insert: "containers"

28. Page 7, line 21.
Strike: "properly disinfected"
Insert: "decontaminated"

29. Page 8, line 6.
Following: "(B)"
Insert: "steam"

30. Page 8, line 7.
Strike: "or"

31. Page 8, line 8.
Following: "for"
Insert: "the noncommercial disposal of small quantities of"
Following: "waste"
Insert: "generated incidentally to a health care procedure"

32. Page 8, line 12.
Strike: "."
Insert: "; or (d) any other technique approved by department rule
that results in effectively treated infectious waste."

33. Page 8, line 20.
Strike: "disinfected"
Insert: "decontaminated"

34. Page 9, line 11.
Following: "parts"
Insert: "(other than teeth)"

35. Page 9.
Following: line 12
Insert: "(3) A person who generates less than 100 pounds of
infectious waste a month and that packages, labels, and
otherwise handles infectious waste in accordance with the
guidelines of the federal occupational safety and health
administration may store and transport infectious waste in
the same manner as noninfectious solid waste, but must
comply with treatment and disposal requirements and may not
subject infectious waste to compaction."
Renumber: subsequent subsection

36. Page 9, line 20.
Strike: "treats, stores, or disposes of"
Insert: "manages"

37. Page 9, line 21.

Strike: "a"

Insert: "an infectious waste management"

38. Page 10, lines 19 and 20.

Following: "an" on line 19

Insert: "initial permit"

Following: "application"

Strike: "for" on line 19 through "facility" on line 20

39. Page 11, lines 10 through 20.

Strike: "No" on line 10 through line 20 in its entirety

Insert: "A commercial transporter shall possess an infectious waste transport permit issued by the department."

40. Page 12, lines 18 through 20.

Strike: "or" on line 18 through "Montana" on line 20

41. Page 12, line 21.

Strike: "may"

Insert: "shall"

42. Page 12, line 23.

Strike: "reduces the"

Insert: "results in an equivalent or reduced"

Following: "to"

Strike: "the"

Insert: "Montana's"

Following: "safety,"

Strike: "and"

43. Page 12, line 24.

Following: "welfare"

Insert: ", "

Following: "and"

Strike: "to the"

44. Page 13, line 3.

Strike: "disposal"

Insert: "management"

45. Page 13, line 4.

Strike: "disposes of"

Insert: "manages"

46. Page 13, line 6.

Strike: "disposal"

Insert: "management"

47. Page 13, lines 11, 13, 16, 21, 23, and 25.

Strike: "disposes of"

Insert: "manages"

48. Page 13, lines 13 and 16.

Strike: "1,000"

Insert: "1,200"

49. Page 13, line 18.

Strike: "For"

Insert: "Except as provided for in subsection (c), for"

50. Page 13, line 19.

Strike: "disposes only of"

Insert: "manages only"

51. Page 14, line 1.

Strike: "10 cents"

Insert: "25 cents"

52. Page 14, line 2.

Strike: "disposed of"

Insert: "generated in a different region and managed at the facility, except as provided in subsection (1) (b) (iii)"

53. Page 14.

Following: line 2

Insert: "(iii) (A) The department shall waive the per-pound fee for specific sources of infectious waste transported across regional boundaries to a commercial management facility if the transport and management of that waste results in an equivalent or reduced risk to Montana's public health, safety, welfare, and environment when compared to the alternative of intraregional disposal.

(B) If a commercial facility manages only infectious waste for which a per-pound fee is not assessed, the annual fee for that commercial facility is \$2,000 if the facility manages less than 50,000 pounds of infectious waste and \$5,000 if the facility manages 50,000 pounds or more of infectious waste.

(c) For a commercial facility that manages a quantity of infectious waste no greater than the quantity managed at that facility during 1988, the annual fee is \$2,000.

(2) The infectious waste management fee must be paid no later than March 31 of the year following the calendar year for which the fee is assessed."

Renumber: subsequent subsection

March 23, 1989

Page 8

54. Page 14, line 9.

Strike: "disposal"

Insert: "management"

55. Page 14, line 20.

Following: "[sections 1 through 19]"

Insert: "and [section 20]"

56. Page 14, line 24.

Strike: "generated, treated, stored, or disposed of"

Insert: "managed"

57. Page 15, line 15.

Strike: "1"

Insert: "31"

58. Page 15, line 22.

Strike: "disposed of"

Insert: "managed"

59. Page 15, line 24.

Strike: "disposal"

Insert: "management"

60. Page 16, line 1.

Strike: "disposed of at"

Insert: "transported for management to"

61. Page 16, line 3.

Strike: "disposal"

Insert: "management"

Following: "transport"

Strike: "for that disposal"

62. Page 16, line 13.

Strike: "handling"

Insert: "management"

63. Page 16, line 19.

Strike: "1,000"

Insert: "50"

Strike: "year"

Insert: "month"

64. Page 16, line 24.

Strike: "handles 1,000"

Insert: "manages 50"

65. Page 16, line 25.

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Strike: "year"
Insert: "month"

66. Page 17, line 2.
Strike: "1,000"
Insert: "50"
Following: "waste"
Insert: "in any month"

67. Page 17.
Following: line 2
Insert: "(c) The appointment of the same individual as
infectious waste manager by two or more noninstitutional
facilities in the same building or complex does not cause
that building or complex to become a single facility."

68. Page 17, line 9.
Strike: "handling"
Insert: "management"

69. Page 17, line 13.
Strike: "disposal"
Insert: "management"

70. Page 17, line 14.
Strike: "disposal"
Insert: "management"

71. Page 18, line 16.
Following: "shall"
Insert: ", no later than June 30, 1990,"

72. Page 19, line 3.
Following: "an"
Insert: "initial permit"

73. Page 19, line 4.
Following: "commercial"
Strike: "treatment, storage, or disposal"
Following: "facility;"
Strike: "and"

74. Page 19, lines 5 through 9.
Strike: "a" on line 5
Following: "fee" on line 5
Strike: "reduction"
Insert: "reductions"
Following: "interregional transportation" on lines 5 and 6
Insert: "or management"

March 23, 1989
Page 10

Strike: "if" on line 6 through "transport." on line 9

Insert: "as provided for in [sections 7 and 8]; and

(7) establishing, for the purpose of determining the infectious waste management fee to which a facility is subject under [section 8], methods for determining or estimating the amount of infectious waste managed at a facility."

75. Page 19, line 11.

Strike: "treatment, storage, and disposal"

Insert: "management"

76. Page 19, lines 13 and 14.

Strike: "treatment" on line 13 through "disposal" on line 14

Insert: "management"

77. Page 19, line 17.

Strike: "for the commercial activity"

Insert: "pursuant to [section 6]"

78. Page 19, line 19.

Strike: "treatment, storage, or disposal"

Insert: "management"

79. Page 19, line 22.

Strike: "handled"

Insert: "managed"

80. Page 19, line 24.

Strike: "handled"

Insert: "managed"

81. Page 20, line 10.

Strike: "by certified mail"

82. Page 22, line 6.

Strike: "\$10,000"

Insert: "\$1,000"

83. Page 22, line 9.

Strike: "\$10,000"

Insert: "\$5,000"

84. Page 22, line 14.

Strike: "treats, stores, or disposes of hazardous"

Insert: "manages infectious"

85. Page 22, line 22.

Strike: "\$20,000"

March 23, 1989

Page 11

Insert: "\$10,000"

86. Page 25.

Following: line 6

Insert: " NEW SECTION. Section 24. Applicability dates --

retroactive applicability for infectious waste management fee. (1) The department may enforce the management standards provided for in [section 5] and adopted by rule under [section 14] only for violations occurring after June 30, 1990.

(2) Requirements for an infectious waste management permit and an infectious waste transport permit apply after June 30, 1990.

(3) The infectious waste management fee provided for in [section 8] applies retroactively, within the meaning of 1-2-109, to waste managed during 1989.

(4) The annual infectious waste transport fee provided for in [section 7] applies to transporters operating after June 30, 1990. The initial permit is valid from July 1, 1990, through December 31, 1990.

(5) The requirement for an infectious waste manager provided for in [section 10] applies after September 30, 1989, and the initial infectious waste management report must be submitted on or before March 31, 1990.

(6) [This act] does not apply to the normal operations of any mortuary as defined in 37-19-101 or any crematory as defined in 35-21-101 until July 1, 1991."

Renumber: subsequent section

STANDING COMMITTEE REPORT

March 23, 1989

Page 1 of 4

Mr. Speaker: We, the committee on Natural Resources report that HOUSE BILL 752 (first reading copy -- white), with statement of intent included, do pass as amended.

Signed: Bob Raney
Bob Raney, Chairman

And, that such amendments read:

1. Title, line 6.

Following: the first "SOLID WASTE"

Strike: ";

Insert: "TRANSPORTED BETWEEN REGIONS; PROVIDING FOR A WAIVER OF THE FEE WHEN THE INCINERATION OR DISPOSAL IS CONSISTENT WITH SPECIFIED CRITERIA; EXEMPTING EXISTING SOLID WASTE INCINERATION AND DISPOSAL FROM THE FEE;"

2. Title, line 8.

Following: "FEE;"

Insert: "PROVIDING A CIVIL PENALTY FOR VIOLATIONS OF SOLID WASTE DISPOSAL LAWS AND RULES;"

3. Title, line 11.

Following: "75-10-104"

Strike: "AND"

Insert: ";

Following: "75-10-105,"

Insert: "AND 75-10-214,"

Following: "PROVIDING"

Insert: "AN IMMEDIATE"

4. Title, line 12.

Strike: "DATES"

Insert: "DATE"

5. Page 1, line 19.

Following: "1]"

Insert: "and for the waiver of the fee when consistent with the criteria provided in [section 1(2)]"

6. Page 2, line 7.

Strike: "board"

Insert: "department"

7. Page 2, lines 8 and 9.

Strike: "have" on line 8 through "to" on line 9

Insert: "waive the fee for"

8. Page 2, line 12.

Strike: "the"

Insert: "Montana's"

9. Page 2, line 13.

Following: "safety,"

Strike: "and"

Following: "welfare"

Strike: "and the"

Insert: ", and"

10. Page 2, lines 15 through 20.

Strike: "Fee" on line 15 through line 20 in its entirety

Insert: "The incineration or disposal of solid waste at a
licensed facility in the manner and quantity incinerated or
disposed of before [the effective date of this act] is
exempt from the solid waste management fee."

11. Page 3, line 8.

Strike: "subsection"

Insert: "subsections"

Following: "(2)"

Insert: "and (3)"

12. Page 3, line 13.

Following: "fee"

Insert: "of \$1 for each ton of solid waste generated in a
different region and incinerated or disposed of at the
facility."

13. Page 3, line 14 through line 11, page 4.

Strike: Page 3, line 14 through line 11, page 4 in its entirety

Insert: "(2) The fee provided in subsection (1) must be waived
if the department"

14. Page 4, line 14.

Strike: "the"

Insert: "Montana's"

Following: "safety,"

Strike: "and"

15. Page 4, line 15.

Following: "welfare"

Insert: ", "

Following: "and"

Strike: "the"

16. Page 4, lines 17 through 25.

Strike: subsection (b) in its entirety

Insert: "(3) The incineration or disposal of solid waste at a licensed facility in the manner and quantity incinerated or disposed of before [the effective date of this act] is exempt from the solid waste management fee."

Renumber: subsequent section

17. Page 5, line 14.

Following: "2"

Strike: "and"

Insert: ", "

Following: "this part"

Insert: ", and [section 5]"

18. Page 6.

Following: line 3

Insert: "(4) This section does not relieve an owner or operator of a facility that incinerates 70 tons or less of solid waste a day from the obligation to obtain any permit otherwise required under this chapter or rules implementing this chapter.

NEW SECTION. Section 6. Civil penalties. (1) A person who violates any provision of this part, a rule adopted under this part, or a license provision is subject to a civil penalty not to exceed \$1,000. Each day of violation constitutes a separate violation.

(2) The department may institute and maintain in the name of the state any enforcement proceedings under this section. Upon request of the department, the attorney general or the county attorney of the county where the violation occurred shall petition the district court to impose, assess, and recover the civil penalty."

Renumber: subsequent sections

19. Page 9, lines 1 through 3.

Strike: "recommendations" on line 1 through "interregional"

Insert: "a waiver of"

20. Page 10.

Following: line 8

Insert: "Section 9. Section 75-10-214, MCA, is amended to read: "75-10-214. Exclusions -- exceptions to exclusions. (1)

This part may not be construed to prohibit a person from disposing of his own solid waste generated in Montana upon land owned or leased by that person or covered by easement or permit as long as it does not create a nuisance or public health hazard.

(2) The exclusion contained in subsection (1) of this section does not apply to a division of land of 5 acres or less made after July 1, 1977, which falls within the definition of subdivision in Title 76, chapter 4, part 1, or the Montana Subdivision and Platting Act in Title 76, chapter 3. ""

Renumber: subsequent sections

21. Page 10.

Following: line 21

Insert: "(3) [Section 6] is intended to be codified as an integral part of Title 75, chapter 10, part 2, and the provisions of Title 75, chapter 10, part 2, apply to [section 6]."

22. Page 11, lines 3 through 6.

Strike: "dates" on line 3 through "are" on line 6

Insert: "date. [This act] is"

STANDING COMMITTEE REPORT

March 20, 1989

Page 1 of 6

Mr. Speaker: We, the committee on Natural Resources report that HOUSE BILL 757 (first reading copy -- white), with statement of intent included, do pass as amended.

Signed: Bob Raney
Bob Raney, Chairman

And, that such amendments read:

1. Page 2, line 15 through line 23, page 4.
Strike: page 2, line 15 through line 23, page 4 in its entirety
2. Page 5, line 11 through line 5, page 6.
Strike: page 5, line 11 through line 5, page 6 in its entirety
3. Page 8, lines 6 through 11.
Strike: subsection (7) in its entirety
Renumber: subsequent subsections
4. Page 9, lines 7 through 9.
Following: "advisory" on line 7
Strike: ", "
Insert: "or a"
Following: "no"
Strike: "observable effect"
Insert: "adverse response"
Following: "level"
Strike: ", " on line 7 through "level" on line 9
5. Page 10, line 1.
Strike: "aquifer"
Insert: "aquiifer"
6. Page 10, line 20.
Following: "that"
Insert: ", when exceeded,"
Following: "presents a"
Insert: "potential"
7. Page 11, lines 9 and 10.

Strike: "that" on line 9 through "control" on line 10

8. Page 11, lines 13 through 15.

Following: "in ground water"

Strike: ", " on line 13 through "water" on line 15

9. Page 11, line 18.

Strike: "and"

Insert: ", "

Following: "use"

Insert: ", and the use of alternative agricultural methods"

10. Page 12, line 4.

Strike: "conducting"

Insert: "promoting"

11. Page 15, line 16.

Strike: "may"

Insert: "shall"

12. Page 16, line 14.

Strike: "(7)"

Insert: "(4)"

13. Page 16, line 16.

Following: "justified."

Insert: "Promulgated federal standards must receive preference."

Strike: "subsection (7)"

Insert: "subsections (3) and (4)"

14. Page 17, lines 8 through 25.

Strike: subsections (3) and (4) in their entirety

Re-number: subsequent subsections

15. Page 18, line 2.

Strike: "and"

Insert: "or"

16. Page 18, line 10.

Strike: "60"

Insert: "15"

17. Page 18, lines 19 and 20.

Strike: "and" on line 19 through "EPA" on line 20

18. Page 18, line 21.

Following: "EPA"

Insert: "establishes or"

19. Page 18, lines 23 through 25.

Strike: "In" on line 23 through "the" on line 25

Insert: "The"

Strike: "base" on line 25

Insert: "consider the following in adopting"

20. Page 19, line 1.

Strike: "it adopts"

Following: "subsection"

Strike: "(5) or (6) on"

Insert: "(3) or (4)"

21. Page 19, line 2.

Following: "(a)"

Insert: "effects on"

22. Page 19, line 16.

Strike: "may"

Insert: "shall"

23. Page 19, line 20.

Strike: "entering"

Insert: "to enter"

24. Page 19, line 23.

Strike: "and ground water"

25. Page 19.

Following: line 23

Insert: "(2) Any person who receives a chemical analysis indicating the presence of an agricultural chemical in ground water shall notify the department of health and environmental sciences."

Renumber: subsequent subsection

26. Page 20, line 9.

Strike: "to ground water users"

27. Page 20, line 10.

Following: "to"

Strike: "the"

Insert: "ground water"

28. Page 20, line 11.

Strike: "the"

Insert: "any"

29. Page 21, lines 1 through 18.

Strike: "to" on line 1 through "time" on line 18

30. Page 22, lines 8 and 9.
Following: "application" on line 8
Strike: "or" through "through" on line 9
Insert: "; (b)"
31. Page 22, line 13.
Strike: "(b)"
Insert: "(c)"
32. Page 22, lines 15 through 25.
Strike: subsection (6) in its entirety
33. Page 23, line 2.
Strike: "may"
Insert: "shall"
34. Page 23, line 4.
Following: "management plan"
Insert: "to achieve the policies of [section 3]"
Following: "This plan"
Strike: "may"
Insert: "must"
35. Page 23, line 6.
Following: "practices."
Insert: "Prior to publication of the plan, the department shall
provide a 30-day period for the department of health and
environmental sciences to prepare and submit comments on the
plan."
36. Page 23, line 7.
Strike: "(10)"
Insert: "(11)"
37. Page 23, lines 10 through 13.
Following: "area" on line 10
Strike: "." on line 10 through "criteria" on line 13
38. Page 23.
Following: line 20
Insert: "(c) when agricultural chemicals have been determined
to have migrated in the ground water from the point of
detection;"
Re-number: subsequent subsections
39. Page 24, line 7.
Following: "(3)"
Insert: "Any person using an agricultural chemical that is

addressed by a specific agricultural chemical ground water management plan in the geographical region that is addressed by the plan must comply with the plan."
Following: "may"
Insert: "specifically"

40. Page 24, lines 8 through 11
Strike: lines 8 through 11 in their entirety
Insert: "who are under the plan and may inform any person about the plan."

41. Page 24.
Following: line 11
Insert: "(4) The department shall prioritize preparation of specific agricultural chemical ground water management plans in consideration of the specific circumstances of each area and within available resources."
Renumber: subsequent subsections

42. Page 24, lines 15 and 16.
Strike: "as" on line 15 through "water" on line 16

43. Page 24, line 23; page 24, line 25; and page 25, line 2 (twice).
Strike: "board"
Insert: "department of health and environmental sciences"

44. Page 26, line 10.
Following: "rules;"
Strike: "and"

45. Page 26, line 11.
Following: "requirements"
Insert: "; and (k) alternative soil fertility practices"

46. Page 26, line 14.
Strike: "beneficial uses"
Insert: "benefits of appropriate use"

47. Page 26, line 22.
Strike: "is not required to"
Insert: "may"
Strike: "or"
Insert: "and"

48. Page 26, line 24 through line 7, page 27.
Strike: "until" on line 24 through "section" on line 7
Insert: "if the department and the department of health and environmental sciences determine that residues from

commercial fertilizer are present in the ground water"

49. Page 27.

Following: line 22

Insert: "(14) A person who sells agricultural land that is subject to the provisions of a specific agricultural chemical ground water management plan shall provide the buyer with written notice about his obligations under the plan and shall forward a copy of the notice to the department. The department is not responsible for enforcement of this subsection."

50. Page 28, line 1.

Following: "16.20.603,"

Insert: "16.20.1003,"

51. Page 28, line 2.

Following: "define"

Insert: "a specific agricultural chemical management plan prepared pursuant to [section 12] as"

52. Page 28, line 3.

Strike: "to include"

Insert: "for"

53. Page 28, lines 5 through 7.

Strike: "that" on line 5 through "[section 12]" on line 7

54. Page 30, lines 6 through 13.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

55. Page 32, lines 4 through 8.

Strike: subsection (5) in its entirety

56. Page 33, line 21.

Strike: "may" through "violator"

Insert: "shall coordinate actions when a violator is subject"

STANDING COMMITTEE REPORT

March 18, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 552 (first reading copy -- white) do pass as amended .

Signed: _____

Bob Raney, Chairman

And, that such amendments read:

1. Title, line 11.

Following: "ACCOUNT"

Insert: "; TO APPROPRIATE \$50,000 FROM THE ACCOUNT TO THE
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES"

2. Page 16, line 15.

Following: "(1)"

Insert: "(a)"

3. Page 16, line 18.

Following: "1991"

Strike: ", "

Insert: ". (b) There is appropriated \$50,000 from the account
to the department of health and environmental sciences"

4. Page 16, lines 19 and 20.

Strike: "by" on line 19 through "sciences" on line 20

5. Page 17, line 8.

Strike: "[Section 19] is"

Insert: "[Sections 18 and 19] are"

6. Page 17, line 9.

Strike: "18"

Insert: "17"

Amendments to House Bill No. 143
Introduced Copy

Requested by Rep. Addy
For the House Committee on Natural Resources

Prepared by H. Zackheim
February 28, 1989

1. Title, line 10.

Following: "82-10-402,"

Insert: "82-11-101,"

2. Page 6.

Following: line 24

Insert: "Section 4. Section 82-11-101, MCA, is amended to read:

"82-11-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Administrator" means the administrator of the division of oil and gas conservation.

(2) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

(3) "Class II injection well" means a well, as defined by the federal environmental protection agency or any successor agency, that injects fluids:

(a) that have been brought to the surface in connection with oil or natural gas production;

(b) for purposes of enhancing the ultimate recovery of oil or natural gas; or

(c) for purposes of storing liquid hydrocarbons.

(4) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(5) "Determinations" means those decisions delegated to the state by or under authority of the Natural Gas Policy Act of 1978 or any successor or similar legislation relating to oil and gas.

(6) "Enhanced recovery" means the increased recovery from a pool achieved by artificial means or by the application of energy extrinsic to the pool; such artificial means or application includes pressuring, cycling, pressure maintenance, or injection into the pool of any substance or form of energy as is contemplated in secondary recovery and tertiary programs but does not include the injection in a well of a substance or form of energy for the sole purpose of aiding in the lifting of fluids in the well or stimulating of the reservoir at or near the well by mechanical, chemical, thermal, or explosive means.

(7) "Field" means the general area underlaid by one or more pools.

(8) "Fluid" means any material or substance that flows or moves, whether in a semisolid, liquid, sludge, gas, or any other form or state.

(9) "Gas" means all natural gases and all other fluid hydrocarbons as produced at the wellhead and not defined as oil in subsection (10) of this section.

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(10) "Oil" means crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form by ordinary production methods and which are not the result of condensation of gas before or after it leaves the reservoir.

(11) "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he produces therefrom either for himself or others or for himself and others, and the term includes all persons holding such authority by or through him.

(12) "Person" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind and includes any agency or instrumentality of the state or any governmental subdivision thereof.

(13) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of any state waters that exceeds that permitted by state water quality standards or standards adopted by the board, including but not limited to the disposal, discharge, seepage, drainage, infiltration, flow, or injection of any liquid, gaseous, solid, or other substance into any state waters that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife. A disposal, discharge, seepage, drainage, infiltration, flow, or injection of fluid that is authorized under a rule, permit, or order of the board is not pollution under this chapter.

(14) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure which is completely separated from any other zone in the same structure is a pool, as that term is used in this chapter.

(15) "Producer" means the owner of a well or wells capable of producing oil or gas or both.

(16) "Responsible person" means a person who is determined by the board under 82-10-204 to have abandoned an oil or gas well, injection well, sump, or seismographic shot hole and who is:

(a) a corporation, association, partnership, or other business organization with assets in excess of \$250,000; or

(b) if the business organization does not have assets in excess of \$250,000, a natural person with primary ownership in the business organization.

~~(16)~~ (17) "State waters" means any body of water, either surface or underground.

~~(17)~~ (18) "Waste" means:

(a) physical waste, as that term is generally understood in the oil and gas industry;

(b) the inefficient, excessive, or improper use of or the unnecessary dissipation of reservoir energy;

(c) the location, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes or tends to cause reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper

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operations or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; and

(d) the inefficient storing of oil or gas. (The production of oil or gas from any pool or by any well to the full extent that the well or pool can be produced in accordance with methods designed to result in maximum ultimate recovery, as determined by the board, is not waste within the meaning of this definition.)"

Renumber: subsequent sections

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Amendments to House Bill No. 143
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Requested by Rep. O'Keefe

Prepared by H. Zackheim
February 10, 1989

1. Page 1.

Following: line 11

Insert: " STATEMENT OF INTENT

It is the intent of the legislature to create an oil and gas production damage mitigation account to be administered by the board of oil and gas conservation for the purpose of properly plugging and abandoning oil and gas wells when a responsible party cannot be found or when the responsible party does not have sufficient financial resources. The board shall adopt rules to help it define "sufficient financial resources", shall require a responsible party to pay the costs of plugging and abandoning to the extent of his available resources, and shall pursue full cost recovery for funds spent from the account through the procedures provided in [section 9] or other lawful means. The board may adopt rules to administer instituting a lien on the party's personal and real property to cover the cost of plugging and abandoning.

The legislature intends that the board use the account for reclamation related to land, water, or wildlife resources disturbed by abandoned oil and gas wells, injection wells, sumps, and seismographic shot holes.

It is also the intent to remove producing wells completed after June 30, 1989, from drilling bonds and to limit the liability of the bond or its equivalent to the period between issuance of the bond and either proper plugging and abandoning of a dry hole or completion of a producing well. The board shall adopt forms for the producer to indicate that a well has been completed and shall, upon receipt of the information and payment required under [section 7], release and absolve the owner of the well from the bond required under 82-11-123.

It is further the intent of the legislature that the board of oil and gas conservation respond promptly to emergency situations that may arise."

2. Page 2, line 8.

Following: "(ii)"

Insert: "beginning in fiscal year 1992,"

Strike: "\$250,000"

Insert: "\$50,000"

3. Page 5, line 21.

Strike: "which"

Insert: "that"

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4. Page 5, line 24.

Strike: "list shall"

Insert: "record must"

5. Page 6, line 3.

Strike: "the preceding"

Following: "subsection"

Insert: "(1)"

6. Page 6, line 4.

Following: "determine"

Insert: "and list"

7. Page 6, lines 12 and 13.

Strike: "under" on line 12 through "subsection" on line 13

Insert: "or when the person does not have sufficient financial resources to pay for complete reclamation"

8. Page 6, lines 17 and 18.

Strike: "established" on line 17 through "available" on line 18

Insert: "in a manner consistent with the requirements for the use of the account provided in [section 6] and [section 9]"

9. Page 9, line 8.

Strike: "as required"

Insert: "for the purposes of using the oil and gas production damage mitigation account established"

10. Page 11, line 7.

Following: "the"

Insert: "owner notifies the"

Strike: "is" through "[section 7]"

11. Page 11, line 9.

Strike: "is" through "provisions"

Insert: "meets the requirements"

12. Page 12, line 6.

Strike: "1989"

Insert: "1991"

13. Page 12, line 8.

Strike: "\$250,000"

Insert: "\$50,000"

14. Page 12, line 13.

Strike: "\$500,000"

Insert: "\$200,000"

15. Page 12, line 15.

Strike: "\$500,000"

Insert: "\$200,000"

16. Page 12, line 17.

Strike: "\$500,000"

Insert: "\$200,000"

Strike: "\$250,000"

Insert: "\$50,000"

17. Page 12.

Following: line 19

Insert: "(3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and gas production damage mitigation account:

(a) all funds received by the board pursuant to 82-11-136; and

(b) all fees received by the board from owners of producing wells pursuant to [section 7]."

Renumber: subsequent subsections

18. Page 12, line 25 through line 1, page 13.

Following: "abandoned"

Strike: ", " on line 25 through "quantities," on line 1

19. Page 13, line 2.

Strike: "located"

Insert: "or the responsible person does not have sufficient funds to pay the costs. The responsible person shall, however, pay costs to the extent of his available resources and is subsequently liable to fully reimburse the account or shall be subject to a lien on property as provided in [section 9] for costs expended from the account to properly plug the well and to mitigate any damage caused by the well."

20. Page 13, line 11.

Strike: "application of"

Insert: "receipt of notification by"

21. Page 13, line 12.

Strike: "in"

Insert: "on"

Following: "board"

Insert: ", payment by the owner of \$125,"

Strike: "upon providing"

Following: "proof"

Insert: "from the owner"

22. Page 14, line 5.

Strike: "-- priority"

23. Page 14, lines 7 and 8.

Following: "account"

Strike: ", " on line 7 through "[section 6(3)]" on line 8

Insert: "under [section 6(4)]"

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24. Page 14, line 9.

Following: "year"

Insert: ", "

25. Page 14, lines 11 and 12.

Following: "person," on line 11

Strike: "as" on line 11 through "[section 4]," on line 12

26. Page 14, lines 14 and 15.

Following: "person," on line 14

Strike: "as" on line 14 through "[section 4]," on line 15

Following: "not"

Insert: "fully"

27. Page 14, lines 19 through 21.

Strike: "has" on line 19 through "may" on line 21

Insert: "must"

Following: "to" on line 21

Strike: "the"

Insert: "all"

28. Page 14, line 22.

Following: "the"

Insert: "responsible"

Strike: "as determined under [section 4]"

29. Page 14, lines 23 through 25.

Strike: "has" on line 23 through "[section 4]" on line 25

Insert: "is valid until paid in full or otherwise discharged.

The lien must be foreclosed in accordance with applicable laws governing foreclosure of mortgages and liens."

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3
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17 pages

1
2 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING MANAGEMENT
3 STANDARDS FOR INFECTIOUS WASTE; REQUIRING PERMITS FOR
4 COMMERCIAL INFECTIOUS WASTE MANAGEMENT FACILITIES AND
5 TRANSPORTERS; ESTABLISHING FEES AND PERMITS FOR INFECTIOUS
6 WASTE ~~DISPOSAL~~ MANAGEMENT AND TRANSPORT; CREATING AN
7 INFECTIOUS WASTE MANAGEMENT SPECIAL REVENUE ACCOUNT;
8 REQUIRING FACILITIES TO APPOINT AN INFECTIOUS WASTE MANAGER AND
9 TO SUBMIT REPORTS; ESTABLISHING INFECTIOUS WASTE ~~DISPOSAL~~
10 MANAGEMENT REGIONS; AUTHORIZING THE DEPARTMENT OF HEALTH AND
11 ENVIRONMENTAL SCIENCES TO CONDUCT INSPECTIONS, COLLECT
12 SAMPLES, AND EXAMINE RECORDS; ESTABLISHING A MORATORIUM ON
13 THE ADDITIONAL COMMERCIAL TREATMENT, STORAGE, OR ~~DISPOSAL~~
14 MANAGEMENT OF INFECTIOUS WASTE UNTIL REGULATIONS ARE ADOPTED;
15 PROVIDING ADDITIONAL AIR QUALITY PERMIT REQUIREMENTS FOR CERTAIN
16 COMMERCIAL FACILITIES THAT INCINERATE INFECTIOUS WASTE; AND
17 PROVIDING APPLICABILITY DATES, A RETROACTIVE APPLICABILITY DATE
18 FOR THE INFECTIOUS WASTE MANAGEMENT FEE, AND AN IMMEDIATE
19 EFFECTIVE DATE."

20
21 STATEMENT OF INTENT

22 It is the intent of the legislature than the department of health and
23 environmental sciences adopt enforceable regulations to implement the infectious
24 waste management standards provided in [section 5]. These regulations must be
25 designed to protect the public health, safety, and welfare and the environment
26 and must be developed in consideration of the best current technical information,
27 guidance from other states and the federal government, and the needs of
28 Montana's medical service community.

29 As part of the regulations implementing the management standards provided
30 in [section 5], the department shall consider the following specific requirements:

31 (1) Infectious waste, except for sharps, must be contained in disposable
32 plastic bags or other appropriate containers that are impervious to moisture and
33 have a strength sufficient to preclude ripping, tearing, or bursting under normal
34 conditions of use. The bags must be securely tied to prevent leakage during

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1 storage, handling, or transport.

2 (2) Sharps subject to storage, transport, treatment, or disposal must be
3 packaged in leakproof, rigid, puncture-resistant containers that are taped closed
4 or tightly lidded to preclude loss of the contents.

5 (3) Locations where infectious waste is contained must be secured to deny
6 access by unauthorized persons and must be marked with "biological hazard" or
7 "biohazard" signs.

8 (4) Bags used for containment of infectious waste must be red or orange
9 and clearly identified.

10 (5) Rigid containers of discarded sharps must be labeled as "biomedical
11 waste" or placed in the bags used for other infectious waste.

12 It is further the intent of the legislature that the department adopt necessary
13 rules related to infectious waste management permits, infectious waste transport
14 permits, collection of fees, financial assurance requirements, and public hearing
15 requirements.

16 The legislature intends that the rules ensure that permits for large-scale
17 incineration of infectious wastes not be issued until the department and the
18 public have the necessary information to understand environmental and public
19 health consequences and until these consequences constitute a negligible risk to
20 the public health, safety, and welfare and to the environment.

21 The department shall adopt rules providing for a waiver of the per-pound
22 interregional management fee for interregional management that results in an
23 equivalent or reduced risk to Montana's public health, safety, welfare, and
24 environment when compared to the alternative of intraregional management. The
25 fee waiver authorized by this rule is intended to ensure that any current and
26 safe interregional management practices are not subject to undue expense. If a
27 commercial facility does not manage any infectious waste for which the per-
28 pound fee is assessed, the annual operating fee for that commercial facility must
29 be determined pursuant to [section 8(1)(b)(iii)].

30 The department shall also adopt rules ~~providing~~ implementing the provisions
31 of [section 7] that provide a reduction in the fee for any interregional transport
32 of infectious waste that ~~reduces the results in an equivalent or reduced risk to~~
33 ~~the Montana's public health, safety, and welfare, and to the environment when~~
34 compared to the alternative of intraregional transport. The fee reduction is

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intended to ensure that any current and safe transport practices are not subject to undue expense.

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

NEW SECTION. **Section 1. Short title.** This act may be cited as the "Infectious Waste Management Act".

NEW SECTION. **Section 2. Policy and purpose.** (1) It is the policy of the state of Montana to manage the treatment, storage, transportation, and disposal of infectious waste in an efficient and effective manner, recognizing the needs of the medical service community, recipients of medical care, and persons whose health, safety, and property may be affected by exposure to infectious waste and its disposal residues. It is further the policy of the state of Montana to provide the governmental services necessary to ensure that Montana's land, air, and water resources are protected from contamination by infectious waste treatment, storage, transportation, and disposal.

(2) The purposes of [sections 1 through 19] are:

(a) to provide for the effective regulation of infectious waste management in Montana;

(b) to establish a waste management structure that encourages cooperative management of infectious waste within a geographic region;

(c) to provide fees to support state regulation and oversight of infectious waste disposal management;

(d) to apply fees most heavily on management systems that create environmental or public health hazards through long-range transportation of infectious waste and through the concentration of infectious waste at treatment, storage, or disposal sites;

(e) to ensure that Montanans are protected from potentially adverse air quality effects of infectious waste incineration; and

(f) to impose a moratorium on additional commercial treatment, storage, and disposal of infectious waste until the state of Montana has adopted infectious waste management regulations.

NEW SECTION. **Section 3. Definitions.** Unless the context requires otherwise, in [sections 1 through 19] the following definitions apply:

(1) "Account" means the infectious waste management account provided for

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1 in [section 9].

2 (2) "Board" means the board of health and environmental sciences provided
3 for in 2-15-2104.

4 (3) "Commercial facility" means a nonprofit or for-profit facility that in return
5 for consideration accepts infectious waste, other than that generated on its own
6 premises, for treatment, storage, or disposal. The term does not mean a hospital
7 or other ~~medical health care~~ facility that accepts infectious waste for treatment,
8 storage, or disposal ~~infectious waste that is generated within its region.~~

9 (4) "Commercial transporter" means a person who, in return for
10 consideration, transports infectious waste to a management location.

11 (5) "Contaminated" means harboring a pathogen in a state that could
12 transmit infection or disease.

13 (6) "Decontamination" or "to decontaminate" means a process of rendering
14 noninfectious through steam sterilization, chemical treatment, or other sterilization
15 procedures a container, implement, or other article contaminated by infectious
16 waste.

17 **RENUMBER FOLLOWING SUBSECTIONS**

18 (4) "Department" means the department of health and environmental
19 sciences provided for in Title 2, chapter 15, part 21.

20 (5) "Disposal" or "to dispose" means the ~~discharge, injection, deposit,~~
21 ~~dumping, spilling, leaking, or placement of any infectious waste into or onto the~~
22 ~~land or water so that the hazardous waste or any constituent of it may enter the~~
23 ~~environment or be emitted into the air or discharged into any water, including~~
24 ~~ground water~~ final placement of infectious waste.

25 (6) "Effectively treated" means processed in a manner to render the
26 infectious waste ~~sterile~~ noninfectious.

27 (7) "Facility" or "infectious waste management facility" means all contiguous
28 land and structures, other appurtenances, and improvements on the land used
29 for treatment, storage, or disposal of infectious waste. A facility may consist of
30 several treatment, storage, or disposal operational units.

31 (8) "Generate" means to produce infectious waste.

32 (9) "Infectious waste" means ~~isolation wastes;~~ cultures and stocks of
33 infectious agents and associated biologicals; human blood and blood products;
34 contaminated human body parts and bedding; pathological wastes; ~~contaminated~~

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~~sharp instruments and objects sharps; contaminated animal carcasses, animal body parts, and veterinary dressings that are a potential suspected as a source of human pathogens; wastes from surgeries or autopsies; miscellaneous laboratory wastes, including specimen containers, slides and cover slips, disposable gloves, aprons, and lab coats; dialysis unit wastes, such as tubing, filters, disposable sheets, towels, gloves, aprons, and lab coats; and contaminated equipment, such as equipment used in patient care, medical laboratories, and research and in the production and testing of certain pharmaceuticals. wastes from humans or animals that are isolated to protect humans from communicable diseases; and wastes generated in connection with patient care that are known to be contaminated.~~ Infectious waste includes any otherwise noninfectious waste that has been stored, bagged, or otherwise placed in direct contact with infectious waste. The term does not mean any of the wastes referred to in this subsection that have been treated in a manner that has rendered the waste sterile noninfectious.

(13) "Management" or "to manage" means treatment, storage, or disposal, except that the term does not mean the disposal of infectious waste that has been rendered noninfectious.

(14) "Noninstitutional facility" means the office or clinic of a health care professional licensed under Title 37 that is not within a health care facility as defined in 50-5-101.

RENUMBER FOLLOWING SUBSECTIONS

(10) "Permit" means an infectious waste management permit provided for in [section 6].

(11) "Person" means an individual, firm, partnership, company, commercial entity, corporation, or association.

(12) "Region" means an infectious waste ~~disposal~~ management region, as provided for in [section 13].

~~(13) "Sterilization" means a process to make an infectious waste free of living organisms, particularly microorganisms.~~

(17) "Sharps" means any discarded health care article that may cause punctures or cuts, including but not limited to needles, intravenous tubing with needles attached, scalpel blades, glassware, and syringes that have been removed from their original sterile containers.

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1 (18) "Steam sterilization" means a treatment method for infectious waste
2 utilizing saturated steam within a pressure vessel (known as a steam sterilizer,
3 autoclave, or retort) at time lengths and temperatures sufficient to kill infectious
4 agents within the waste.

5 **RENUMBER FOLLOWING SUBSECTIONS**

6 (14) "Storage" or "to store" means the actual or intended containment of
7 wastes, either on a temporary or a long-term basis.

8 (15) "Transportation" or "to transport" means the movement of infectious
9 waste from the point of generation to any intermediate points and finally to the
10 point of ultimate treatment or disposal.

11 (16) "Treatment" or "to treat" means the application of a method, technique,
12 or process, including incineration, designed to change the character of an
13 infectious waste so as to render it ~~sterile~~ noninfectious, safer for transportation
14 or storage, or reduced in volume.

15 NEW SECTION. Section 4. Prohibition. A person may not treat, store,
16 transport, or dispose of infectious waste in a manner inconsistent with the
17 provisions of [sections 1 through 19] or rules adopted under the provisions of
18 [sections 1 through 19].

19 NEW SECTION. Section 5. Management standards. (1) ~~Infectious~~ Except
20 as provided in subsection (3), infectious waste must be managed in compliance
21 with the following standards:

22 (a) Storage and containment must be characterized by:

23 (i) segregation by separate containment and identification of infectious waste
24 containers from point of generation through disposal;

25 (ii) use of containers that are secure, appropriately labeled and located,
26 made of materials suitable to prevent releases or punctures, and ~~properly~~
27 ~~disinfected~~ decontaminated if reusable;

28 (iii) handling that excludes compaction or other physical or mechanical
29 manipulation that provides an opportunity for release of infectious waste; and
30 (iv) compliance with time and temperature standards for storage conditions.

31 (b) (i) Treatment and disposal may be by the following methods only:

32 (A) incineration that provides complete combustion of the waste to
33 carbonized or mineralized ash;

34 (B) steam sterilization that will render the waste noninfectious; or

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1 (C) for the noncommercial disposal of small quantities of liquid or semiliquid
2 waste generated incidentally to a health care procedure, discharge to a sewer,
3 provided that secondary treatment is available, that federal, state, or local
4 regulations do not prohibit the discharge, and that aerosol formation does not
5 occur during the discharge; or

6 (D) any other technique approved by department rule that results in
7 effectively treated infectious waste.

8 (ii) Infectious waste or infectious waste incinerator ash that has been
9 effectively treated may be disposed of in a state-licensed landfill if the disposal
10 is in compliance with applicable federal, state, and local regulations.

11 (c) Transportation of infectious waste must include:

12 (i) use of containers that are secure, appropriately labeled and located,
13 made of materials suitable to prevent releases or punctures, and properly
14 disinfected decontaminated if reusable;

15 (ii) availability of decontamination and response procedures in the event of a
16 release;

17 (iii) compliance with time and temperature standards for residence on
18 vehicles or in loading or unloading areas;

19 (iv) identification of vehicles as carriers of infectious waste; and

20 (v) carrying of papers to accompany the infectious waste shipment that
21 describe the waste and identify the generator and the receiving facility.

22 (d) Workers involved in the generation, storage, treatment, transportation, or
23 disposal of infectious wastes must be provided with appropriate protective
24 clothing, equipment, information, and training to provide for their personal health
25 and safety and to ensure the protection of the public health, safety, and welfare
26 and the environment.

27 (2) Human fetuses and recognizable human body parts (other than teeth)
28 must be disposed of by incineration or interment.

29 {(3) A person who generates less than ¹⁰⁰50 pounds of infectious waste a
30 month and that packages, labels, and otherwise handles infectious waste in
31 accordance with the guidelines of the federal occupational safety and health
32 administration may store and transport infectious waste in the same manner as
33 noninfectious solid waste, but must comply with treatment and disposal
34 requirements and may not subject infectious waste to compaction.

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1 ~~(3)~~ (4) The department shall adopt specific requirements, under its
2 rulemaking authority in [section 14(1)], that apply to persons or facilities that
3 generate, treat, store, transport, dispose of, or work with infectious wastes to
4 achieve the management standards provided in this section.

5 NEW SECTION. Section 6. Permits for commercial facilities -- hearing. (1)
6 A commercial facility that ~~treats, stores, or disposes of~~ manages infectious waste
7 must possess ~~a~~ an infectious waste management permit issued by the
8 department.

9 (2) An application for a permit must be submitted on forms supplied by the
10 department and must include a complete description of the proposed operation
11 and physical facilities.

12 (3) In determining whether to issue a permit, the department shall consider:

13 (a) the capability of a facility to ensure that infectious waste management
14 will comply with the standards provided for in [section 5] and with the rules
15 adopted to implement the standards and will otherwise protect the public health,
16 safety, and welfare and the environment;

17 (b) whether the facility has the financial capability to conduct corrective
18 action for a release of infectious waste and to compensate third parties for
19 bodily injury and property damage resulting from a release; and

20 (c) for incinerators, the requirements of subsection (4).

21 (4) The department may not issue a permit to a facility to incinerate
22 infectious waste until the owner or operator and the department have satisfied
23 the conditions of [section 20], if applicable.

24 (5) The department shall conduct a public hearing on an initial permit
25 application ~~for a commercial treatment, storage, or disposal facility.~~

26 (6) (a) A permit is valid for 5 years and may be renewed as provided by
27 department rule.

28 (b) A proposed significant change in the quantity or method of treatment,
29 storage, or disposal of infectious waste at a permitted facility must be described
30 in an amended permit application submitted to the department for review. The
31 change may not be made without approval by the department.

32 (7) The department may modify, suspend, revoke, or terminate a permit for
33 failure to comply with the provisions of [sections 1 through 19], a rule adopted
34 under [sections 1 through 19], a permit condition, or an order of the department

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1 or board.

2 NEW SECTION. Section 7. Infectious waste transport permit -- fee. (1) No
3 later than June 30, 1990, the following persons shall possess an infectious waste
4 transport permit issued by the department:

5 (a) a person who, in return for consideration, engages in the transport of
6 infectious waste for treatment, storage, or disposal in Montana;

7 (b) a person who transports in any month more than 1,000 pounds of
8 infectious waste generated in Montana; or

9 (c) a person who transports in any month more than 5,000 pounds of
10 infectious waste from one state to another state through Montana. A commercial
11 transporter shall possess an infectious waste transport permit issued by the
12 department.

13 (2) In determining whether to issue an infectious waste transport permit, the
14 department shall consider:

15 (a) a transporter's knowledge of and ability to comply with standards and
16 requirements for infectious waste transportation;

17 (b) the suitability of vehicles and equipment to be used to transport
18 infectious wastes;

19 (c) the suitability of any terminals to be used for loading, unloading, or
20 temporary storage of infectious wastes; and

21 (d) the financial capability of the transporter to conduct corrective action for
22 a release of infectious waste and to compensate third parties for bodily injury
23 and property damage resulting from a release.

24 (3) An infectious waste transport permit is valid for 1 year and may be
25 renewed annually.

26 (4) (a) The department shall assess a fee of \$100 for an infectious waste
27 transport permit or permit renewal authorizing intraregional transport.

28 (b) (i) Except as provided in subsection (4)(b)(ii), the department shall
29 assess a fee of \$1,000 for an infectious waste transport permit or permit
30 renewal authorizing interregional transport ~~or transport of infectious waste from~~
31 ~~one state to another state through Montana.~~

32 (ii) The department ~~may~~ shall reduce the fee provided for in subsection
33 (4)(b)(i) to \$100 for interregional transport that ~~reduces the results in an~~
34 equivalent or reduced risk to the Montana's public health, safety, and welfare.

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1 and to the environment when compared to the alternative of intraregional
2 transport.

3 (5) All fees collected by the department must be deposited in the account
4 provided for in [section 9].

5 NEW SECTION. Section 8. Infectious waste ~~disposal~~ management fee. (1)

6 A person who operates any facility that ~~disposes of~~ manages infectious waste
7 must annually pay to the department an infectious waste ~~disposal~~ management
8 fee that is calculated based on the classification of the facility, the weight of the
9 infectious waste, and, for a commercial facility, the origin of the infectious waste,
10 as follows:

11 (a) For a noncommercial facility:

12 (i) that ~~disposes of~~ manages 5,000 pounds or more of infectious waste, the
13 annual fee is \$2,000;

14 (ii) that ~~disposes of~~ manages ¹²⁰⁰ 600 pounds or more but less than 5,000
15 pounds of infectious waste, the annual fee is \$250;

16 (iii) that ~~disposes of~~ manages ¹²⁰⁰ less than 600 pounds a year, there is
17 no fee.

18 (b) ~~For~~ Except as provided for in subsection (c), for a commercial facility:

19 (i) that ~~disposes only of~~ manages only infectious wastes generated within its
20 region and:

21 (A) that ~~disposes of~~ manages 50,000 pounds or more of infectious waste,
22 the annual fee is \$5,000;

23 (B) that ~~disposes of~~ manages less than 50,000 pounds of infectious waste,
24 the annual fee is \$2,000;

25 (ii) that ~~disposes of~~ manages infectious waste generated out of its region, the
26 annual fee is \$10,000 plus ~~10~~ 25 cents for each pound of infectious waste
27 ~~disposed of~~ generated in a different region and managed at the facility, except
28 as provided in subsection (1)(b)(iii).

29 (iii) (A) The department shall waive the per-pound fee for infectious waste
30 transported across regional boundaries to a commercial management facility if
31 the transport and management of that waste results in an equivalent or reduced
32 risk to Montana's public health, safety, welfare, and environment when compared
33 to the alternative of intraregional management. The fee waiver may apply only
34 to those specific waste streams meeting this criterion.

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1 (B) If a commercial facility manages only infectious waste for which a per-
2 pound fee is not assessed, the annual fee for that commercial facility is \$2,000
3 if the facility manages less than 50,000 pounds of infectious waste and \$5,000 if
4 the facility manages 50,000 pounds or more of infectious waste.

5 (c) For a commercial facility that manages a quantity of infectious waste no
6 greater than the quantity managed at that facility during 1988, the annual fee is
7 \$2,000.

8 (2) The infectious waste management fee must be paid no later than March
9 31 of the year following the calendar year for which the fee is assessed.

10 (2) (3) All fees collected by the department must be deposited in the
11 account provided for in [section 9].

12 NEW SECTION. Section 9. Infectious waste management account. (1)
13 There is an infectious waste management account in the state special revenue
14 fund provided for in 17-2-102.

15 (2) There must be deposited in the account:

- 16 (a) all revenue from the infectious waste ~~disposal~~ management fee;
17 (b) all revenue from the infectious waste transport permit fee;
18 (c) money appropriated to the account by the legislature;
19 (d) money that is received by the department in the form of gifts,
20 reimbursements, or appropriations from any source and that is intended to be
21 used for the purposes of the account.

22 (3) The account may be used by the department only for the administration
23 of [sections 1 through 19] and [section 20].

24 NEW SECTION. Section 10. Infectious waste manager. (1) The owner or
25 operator of each commercial or noncommercial facility where infectious wastes
26 are ~~generated, treated, stored, or disposed of~~ managed shall appoint an
27 infectious waste manager who is the individual for the department to contact on
28 all matters related to the management of infectious waste at the facility.

29 (2) The owner or operator shall submit to the department the name,
30 address, and telephone number of the infectious waste manager, along with any
31 other pertinent information requested by the department. The owner or operator
32 shall submit any change in this information to the department within 2 weeks of
33 the date of the change.

34 (3) The infectious waste manager shall provide the department with a

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1 suitable emergency procedure to ensure that an individual responsible for
2 infectious waste management at the facility may be contacted at all times.

3 NEW SECTION. Section 11. Reporting. (1) Except as provided in
4 subsection (4), an infectious waste manager shall annually submit to the
5 department on or before March ~~4~~ ³¹ a report on the infectious waste
6 management activities of the facility. The report must be submitted on a form
7 supplied by the department.

8 (2) The report must include:

9 (a) the quantity of infectious waste generated during the preceding calendar
10 year;

11 (b) the quantity of infectious waste ~~disposed of~~ managed at the facility
12 during the preceding year and the method of ~~disposal~~ management;

13 (c) the quantity of infectious waste that was generated at the facility and
14 ~~disposed of at~~ transported for management to a location other than the facility
15 and the location, method of ~~disposal~~ management, and method of transport for
16 ~~that disposal~~;

17 (d) the method and location of any storage of infectious waste;

18 (e) the current year's projected quantities of infectious waste generation,
19 treatment, storage, and disposal; and

20 (f) any other information requested by the department and necessary for the
21 administration of [sections 1 through 19].

22 (3) An infectious waste manager shall report to the department any
23 proposed ~~handling~~ management of quantities of infectious waste significantly in
24 excess of quantities indicated in the most current report. The proposal is subject
25 to department approval, as provided in [section 6].

26 (4) (a) The infectious waste manager of a facility that annually generates,
27 treats, stores, or disposes of less than ¹⁰⁰~~50~~ pounds of infectious waste a month
28 shall submit an initial notification to the department on a form supplied by the
29 department, but he is not required to submit annual reports.

30 (b) If, after providing an initial notification under subsection (4)(a), a facility
31 ~~handles~~ ¹⁰⁰~~manages~~ ⁵⁰ pounds or more of infectious waste in any month, the
32 manager shall submit an annual report for that year and for any subsequent
33 year in which the quantity exceeds ¹⁰⁰~~50~~ pounds of infectious waste in any month.

34 (c) The appointment of the same individual as infectious waste manager by

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1 two or more noninstitutional facilities in the same building or complex does not
2 cause that building or complex to become a single facility.

3 NEW SECTION. Section 12. Authority to inspect, collect samples, and
4 examine records. The department may:

5 (1) inspect facilities, vehicles, and equipment utilized in the management of
6 infectious wastes;

7 (2) collect samples of infectious waste or suspected infectious waste from
8 any facility, vehicle, equipment, or other location utilized in the ~~handling~~
9 management of infectious waste; and

10 (3) examine any records relating to infectious waste management.

11 NEW SECTION. Section 13. Infectious waste ~~disposal~~ management
12 regions. (1) There are six infectious waste ~~disposal~~ management regions, as
13 follows:

14 (a) eastern Montana, consisting of Phillips, Garfield, Rosebud, and Powder
15 River Counties and all Montana counties east of these counties;

16 (b) northern Montana, consisting of Blaine, Cascade, Chouteau, Glacier, Hill,
17 Liberty, Pondera, Teton, and Toole Counties;

18 (c) south central Montana, consisting of Bighorn, Carbon, Fergus, Golden
19 Valley, Judith Basin, Musselshell, Petroleum, Stillwater, Sweet Grass, Treasure,
20 Wheatland, and Yellowstone Counties;

21 (d) southwestern Montana, consisting of Beaverhead, Broadwater, Deer
22 Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, Madison, Meagher, Park,
23 Powell, and Silver Bow Counties;

24 (e) northwest Montana, consisting of Flathead, Lake, Lincoln, Mineral,
25 Missoula, Ravalli, and Sanders Counties; and

26 (f) all areas outside of Montana.

27 (2) The department shall assist and encourage public health officials,
28 persons involved in infectious waste management, and the medical service
29 community to coordinate their activities within each region in Montana to provide
30 for the safe, efficient, and effective management of infectious waste.

31 NEW SECTION. Section 14. Rulemaking. The department shall, no later
32 than June 30, 1990, adopt rules:

33 (1) establishing regulations to implement the infectious waste management
34 standards provided in [section 5];

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1 (2) providing procedures for application and renewal of infectious waste
2 management permits and infectious waste transport permits;

3 (3) providing recordkeeping requirements for persons and facilities
4 generating, treating, storing, transporting, or disposing of infectious wastes;

5 (4) establishing financial assurance requirements for commercial facilities
6 and permitted transporters;

7 (5) requiring a public hearing on ~~an a permit~~ application for a commercial
8 ~~treatment, storage, or disposal~~ facility; and

9 (6) providing ~~a fee reduction~~ reductions for interregional transportation ~~or~~
10 management of infectious waste ~~if such transportation results in a reduced risk~~
11 ~~to the public health, safety, and welfare and to the environment when compared~~
12 ~~to the alternative of intraregional transport. as provided for in [sections 7 and 8];~~
13 and

14 (7) establishing, for the purpose of determining the infectious waste
15 management fee to which a facility is subject under [section 8], methods for
16 determining or estimating the amount of infectious waste managed at a facility.

17 NEW SECTION. Section 15. Moratorium on additional commercial
18 ~~treatment, storage, and disposal~~ management of infectious waste. (1) Except as
19 provided in subsection (2), a person may not engage in the commercial
20 ~~treatment, storage, or disposal~~ management of infectious waste until the
21 department has adopted rules implementing the infectious waste management
22 standards provided in [section 5] and until the person has obtained a permit for
23 ~~the commercial activity pursuant to [section 6].~~

24 (2) A commercial facility that is engaging or has engaged in the ~~treatment,~~
25 ~~storage, or disposal~~ management of infectious waste on or before [the effective
26 date of this act] may continue its commercial activities if:

27 (a) the quantity of infectious waste ~~handled~~ managed during any month does
28 not exceed the maximum quantity of infectious waste handled at the facility
29 during any month in 1988;

30 (b) the owner or operator submits a completed permit application no later
31 than 60 days after the application form is made available by the department;
32 and

33 (c) the permit application is not denied by the department.

34 NEW SECTION. Section 16. Administrative enforcement. (1) When the

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1 department believes that a violation of [sections 1 through 19], a violation of a
2 rule adopted under [sections 1 through 19], or a violation of a permit provision
3 has occurred, it may serve written notice of the violation ~~by certified mail~~ on the
4 alleged violator or his agent. The notice must specify the provision of [sections
5 1 through 19], the rule, or the permit provision alleged to be violated and the
6 facts alleged to constitute a violation and may include an order to take
7 necessary corrective action within a reasonable period of time stated in the
8 order. The order becomes final unless, within 30 days after the notice is served,
9 the person named requests in writing a hearing before the board. On receipt of
10 the request, the board shall schedule a hearing. Service by mail is complete on
11 the date of mailing.

12 (2) If, after a hearing held under subsection (1), the board finds that a
13 violation has occurred, it shall either affirm or modify the department's order
14 previously issued. An order issued by the department or by the board may
15 prescribe the date by which the violation must cease and may prescribe time
16 limits for particular action. If, after hearing, the board finds no violation has
17 occurred, it shall rescind the department's order.

18 (3) Instead of issuing an order pursuant to subsection (1), the department
19 may either:

20 (a) require the alleged violator to appear before the board for a hearing at
21 a time and place specified in the notice and answer the charges; or

22 (b) initiate action under [section 17, 18, or 19].

23 (4) This section does not prevent the board or department from making
24 efforts to obtain voluntary compliance through a warning, a conference, or any
25 other appropriate means.

26 NEW SECTION. Section 17. Injunctions. The department may institute an
27 action for injunctive relief as provided in Title 27, chapter 19, to:

28 (1) immediately restrain a person from engaging in any unauthorized activity
29 that endangers or causes damage to the public health, safety, and welfare or to
30 the environment;

31 (2) enjoin a violation of [sections 1 through 19], a rule adopted under
32 [sections 1 through 19], an order of the department or board, or a permit
33 provision without the necessity of prior revocation of the permit; or

34 (3) require compliance with [sections 1 through 19], a rule adopted under

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1 [sections 1 through 19], an order of the department or board, or a permit
2 provision.

3 NEW SECTION. Section 18. Civil penalties. A person who violates any
4 provision of [sections 1 through 19], a rule adopted under [sections 1 through
5 19], an order of the department, or a permit condition is subject to a civil
6 penalty not to exceed ~~\$10,000~~ \$1,000. Each day of violation constitutes a
7 separate violation.

8 NEW SECTION. Section 19. Criminal penalties. (1) (a) A person is subject
9 to a fine not to exceed ~~\$10,000~~ \$5,000 for each violation or imprisonment not
10 to exceed 6 months, or both, if he:

11 (i) knowingly transports infectious waste to an unpermitted facility;

12 (ii) ~~treats, stores, or disposes of hazardous~~ manages infectious waste without
13 a permit; or

14 (iii) makes any false statement or representation in any application, label,
15 manifest, record, report, permit, or other document filed or maintained as
16 required by the provisions of [sections 1 through 19] or rules adopted under
17 [sections 1 through 19].

18 (b) A person convicted of a subsequent violation of this section is subject
19 to a fine not to exceed ~~\$20,000~~ \$10,000 for each violation or imprisonment not
20 to exceed 1 year, or both.

21 (c) Each day of violation constitutes a separate violation.

22 (2) Action under this section does not bar enforcement of [sections 1
23 through 19], rules adopted under [sections 1 through 19], orders of the
24 department or the board, permits by injunction, or other appropriate remedies.

25 (3) Fines collected under this section, except money collected in a justice's
26 court, must be deposited in the state general fund.

27 NEW SECTION. Section 20. Infectious waste incineration -- additional
28 permit requirements. (1) The owner or operator of a commercial facility, as
29 defined in [section 3], who proposes to incinerate in any month a quantity of
30 infectious waste exceeding the maximum quantity of infectious waste incinerated
31 at the facility in any month during 1988 shall apply to the department, pursuant
32 to 75-2-211, for a permit authorizing the incineration and consequent emissions.

33 (2) The department may not issue a permit to a facility described in
34 subsection (1) until:

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1 (a) the owner or operator has provided to the department's satisfaction:

2 (i) a characterization of emissions and ambient concentrations of air
3 pollutants, including hazardous air pollutants, from any existing incineration at the
4 facility; and

5 (ii) an estimate of emissions and ambient air concentrations, including
6 hazardous air pollutants, from the incineration of infectious waste as proposed in
7 the permit application; and

8 (b) the department has reached a determination that the projected emissions
9 and ambient concentrations will constitute a negligible risk to the public health,
10 safety, and welfare and to the environment.

11 (3) The department shall require the application of air pollution control
12 equipment, engineering, or procedures as necessary to satisfy the determination
13 required under subsection (2)(b). The equipment, engineering, or procedures
14 must provide particulate and gaseous emission reductions equivalent to or more
15 stringent than those achieved through the best available control technology, in
16 addition to any other controls necessary to satisfy the determination required
17 under subsection (2)(b).

18 NEW SECTION. Section 21. Codification instruction. [Section 20] is
19 intended to be codified as an integral part of Title 75, chapter 2, part 2, and the
20 provisions of Title 75, chapter 2, part 2, apply to [section 20].

21 NEW SECTION. Section 22. Severability. If a part of [this act] is invalid,
22 all valid parts that are severable from the invalid part remain in effect. If a part
23 of [this act] is invalid in one or more of its applications, the part remains in
24 effect in all valid applications that are severable from the invalid applications.

25 NEW SECTION. Section 23. Extension of authority. Any existing authority
26 to make rules on the subject of the provisions of [this act] is extended to the
27 provisions of [this act].

28 NEW SECTION. Section 24. Applicability dates -- retroactive applicability for
29 infectious waste management fee. (1) The department may enforce the
30 management standards provided for in [section 5] and adopted by rule under
31 [section 14] only for violations occurring after June 30, 1990.

32 (2) Requirements for an infectious waste management permit and an
33 infectious waste transport permit apply after June 30, 1990.

34 (3) The infectious waste management fee provided for in [section 8] applies

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1 retroactively, within the meaning of 1-2-109, to waste disposed during 1989.

2 (4) The annual infectious waste transport fee provided for in [section 7]
3 applies to transporters operating after June 30, 1989. The initial permit is valid
4 from July 1, 1990, through December 1, 1990.

5 (5) The requirement for an infectious waste manager provided for in [section
6 10] applies after September 30, 1989, and the initial infectious waste
7 management report must be submitted on or before March 31, 1990.

8 (6) [This act] does not apply to the normal operations of any mortuary as
9 defined in 37-19-101 or any crematory as defined in 35-21-101 until July 1, 1991.

10 NEW SECTION. Section 25. Effective date. [This act] is effective on
11 passage and approval.

12 -END-

13

EXHIBIT

4

DATE

3-17-89

HB

H1875

HOUSE BILL 752 -- CONCEPTUAL AMENDMENTS

REP. RANEY

HOUSE NATURAL RESOURCES COMMITTEE

MARCH 17, 1989

1. Remove fee for intraregional solid waste disposal
2. Keep fee for in inter-regional but provide waiver for inter-regional transport within state
3. Allow fees to also be used for the implementation of [section 5] for air quality review of any proposed new incinerator
4. Change board to department for fee waivers
5. Close the loophole in current law (75-10-214) that would allow an out-of-state corporation to purchase or lease land in Montana and dispose of out-of-state solid waste on that land and not be subject to licensing or fees
6. Provide civil penalties of up to \$1,000 for violations of 75-10, part 2.

Amendments to Senate Bill No. 223
Third Reading Copy (BLUE)

Requested by Representative Hannah
For the Committee on Natural Resources

Prepared by Valencia Lane
March 16, 1989

1. Title, line 6.

Following: "BY"

Strike: remainder of line 6 through line 14 in its entirety

Insert: "PROVIDING THAT THE BOARD OF NATURAL RESOURCES AND
CONSERVATION MAY HOLD PROCEEDINGS FOR FINDINGS NECESSARY FOR
DETERMINING NEED SEPARATELY FROM PROCEEDINGS FOR FINDINGS
NECESSARY FOR DETERMINING ENVIRONMENTAL COMPATIBILITY; AND
AMENDING SECTION 75-20-301, MCA."

2. Strike: everything after the enacting clause

Insert: "Section 1. Section 75-20-301, MCA, is amended to read:

"75-20-301. Decision of board -- findings necessary for
certification. (1) Within 60 days after submission of the
recommended decision by the hearing examiner, the board
shall make complete findings, issue an opinion, and render a
decision upon the record, either granting or denying the
application as filed or granting it upon such terms,
conditions, or modifications of the construction, operation,
or maintenance of the facility as the board considers
appropriate.

(2) The board may not grant a certificate either as
proposed by the applicant or as modified by the board unless
it shall find and determine:

(a) the basis of the need for the facility;
(b) the nature of the probable environmental impact;
(c) that the facility minimizes adverse environmental
impact, considering the state of available technology and
the nature and economics of the various alternatives;

(d) each of the criteria listed in 75-20-503;
(e) in the case of an electric, gas, or liquid
transmission line or aqueduct:

(i) what part, if any, of the line or aqueduct shall
be located underground;

(ii) that the facility is consistent with regional
plans for expansion of the appropriate grid of the utility
systems serving the state and interconnected utility
systems; and

(iii) that the facility will serve the interests of
utility system economy and reliability;

(f) that the location of the facility as proposed
conforms to applicable state and local laws and regulations
issued thereunder, except that the board may refuse to apply
any local law or regulation if it finds that, as applied to
the proposed facility, the law or regulation is unreasonably
restrictive in view of the existing technology, of factors

of cost or economics, or of the needs of consumers, whether located inside or outside of the directly affected government subdivisions;

(g) that the facility will serve the public interest, convenience, and necessity;

(h) that the department of health or board of health ~~have~~ has issued a decision, opinion, order, certification, or permit as required by 75-20-216(3); and

(i) that the use of public lands for location of the facility was evaluated and public lands were selected whenever their use is as economically practicable as the use of private lands and compatible with the environmental criteria listed in 75-20-503.

(3) In determining that the facility will serve the public interest, convenience, and necessity under subsection (2)(g) of this section, the board shall consider:

(a) the items listed in subsections (2)(a) and (2)(b) of this section;

(b) the benefits to the applicant and the state resulting from the proposed facility;

(c) the effects of the economic activity resulting from the proposed facility;

(d) the effects of the proposed facility on the public health, welfare, and safety;

(e) any other factors that it considers relevant.

(4) Considerations of need, public need, or public convenience and necessity and demonstration thereof by the applicant shall apply only to utility facilities.

(5) For a facility defined in 75-20-104(10)(a) proposed by utility applicants, the board may make the findings required to determine need separately from the findings required to determine environmental compatibility. The board may authorize separate proceedings for each set of findings."

NEW SECTION. Section 2. Extension of authority. Any existing authority of authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act]."

ROLL CALL VOTE

HOUSE NATURAL RESOURCES

COMMITTEE

DATE 3-17-89 BILL NO. HB 143 NUMBER 1

NAME	AYE	NAY
Rep. Hal Harper	✓	
Rep. Tom Hannah		✓
Rep. Mike Kadas	✓	
Rep. Mary McDonough	✓	
Rep. Lum Owens		✓
Rep. Vivian Brooke	✓	
Rep. Robert Clark		✓
Rep. Mark O'Keefe		
Rep. Leo Giacometto		✓
Rep. Bob Gilbert		✓
Rep. Kelly Addy	✓	
Rep. Clyde Smith		✓
Rep. Janet Moore	✓	
Rep. Rande Roth		✓
Rep. Ben Cohen, Vice-Chairman	✓	
Rep. Bob Raney, Chairman	✓	

TALLY

8 7

Charles Montagne
Secretary

Bob Raney
Chairman

MOTION: To move Addy Amendment HB 143 -
