

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Thomas F. Keating, on April 5, 1989, at
1:00 p.m., Room 405, in the State Capitol.

ROLL CALL

Members Present: Senators: Thomas Keating, Larry Tveit,
Fred Van Valkenburg, Loren Jenkins, Lawrence Stimatz,
Pete Story, Cecil Weeding, Dorothy Eck and Jerry Noble.

Members Excused: Senators: Darryl Meyer, Bill Yellowtail
and Elmer Severson

Members Absent: None

Staff Present: Bob Thompson and Helen McDonald

Announcements/Discussion: None

HEARING ON HB 757

Presentation and Opening Statement by Sponsor:

Representative Leo Giacometto, District #24, sponsored this bill establishing an agricultural chemical ground water protection program administered by the Department of Agriculture and the Department of Health and Environmental Sciences. He noted that this measure has had a lot of amendments. It has been worked into the water quality act with approval of the Departments of Agriculture and Health and Environmental Sciences. As it now stands, the governor's office supports the bill.

List of Testifying Proponents and What Group they Represent:

Pam Langley, Mont. Agriculture Business, Mont. Farmers
Union, Mont. Grain Elevator Assn.
Everett Snortland, Mont. Department of Agriculture
John Semple, Montana Aviation Trades Association
Chuck Merja, Mont. Grain Growers Assn.
Lorna Frank, Farm Bureau
Nancy Matheson, Alternative Energy Resources
Organization
Chris Kaufman, Montana Environmental Information Center

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Pam Langley submitted written testimony. (Exhibit #2)

Everett Snortland submitted written testimony. (Exhibit #3)

John Semple submitted written testimony. (Exhibit #1)

Chuck Merja submitted written testimony. (Exhibit #4)

Lorna Frank submitted written testimony. (Exhibit #5)

Nancy Matheson said the goal of her organization, which is made up primarily of farmers and ranchers, is the long-term survivability of Montana agriculture. She thinks this bill will help protect Montana's agriculture and the public's health.

Chris Kaufman urges support of this bill as amended.

Questions From Committee Members:

Senator Noble said that on page 38, lines 4 through 9, it seemed like a lot of violations. He asked Representative Giacometto if that was the right way?

Representative Giacometto said it was his understanding that under the Water Quality Act similar language has already been used to enforce violations and require clean-up. He said the law has to have teeth to make sure that these violations don't happen in the future.

Senator Van Valkenburg noted that on page 38, line 2, the mental state for violating this act is written as "intentional". In most of Montana's criminal statutes, the language used is "purposefully or knowingly". Is there a reason why this bill says "intentionally" rather than using "purposefully or knowingly"?

Representative Giacometto said he wasn't familiar with the exact wording in the Water Quality Act. He didn't think there was an intent to change existing law, whether "purposefully or knowingly" or "intentionally" was used.

John Arrigo, Water Quality Bureau, Department of Health & Environmental Sciences said the Montana Water Quality Act refers to criminal penalties and uses the language "willfully and negligently".

Senator Eck asked if every chemical sold in the state is registered?

John Arrigo said pesticides used in Montana must be registered with the State Department of Agriculture. Also, chemicals that the Environmental Protection Agency (EPA) has identified a set of chemicals as having a high probability of soaking into the soil and contaminating ground water must be registered. The EPA has identified chemicals to give guidance on what might be considered toxic if they were consumed.

Senator Eck asked what kind of process DHES has for developing its standards.

John Arrigo said the department does not have a toxicologist or a medical staff to develop these numbers on its own. However, in addition to EPA there are other states such as California and Arizona that have developed their own numbers and existing publications can help Montana.

Representative Giacommeto said under the law any chemical used in the state must be registered with the department. This bill will set the standards to make sure that if there is contamination in the water, the department will know what the health standards are to make sure that the water is safe.

Senator Eck asked if chemicals are registered now with the Department of Agriculture.

Representative Giacommeto said anything in this bill that has to do with scientific standards or regulations goes to DHES and that is why there is dual responsibility between the Department of Agriculture and the Department of Health and Environmental Sciences?

Senator Noble asked what the incidence of violation is in using wrong chemicals?

Representative Giacommeto said there aren't any known problems. Sometimes a chemical is used over a long period of time or sometimes too much chemical was put on and the departments want to make sure that the groundwater isn't polluted. This bill is really a preventive measure.

Senator Eck asked if the bill would apply to chemicals used for households.

Representative Giacommeto said the bill wasn't intended for household use. But if it was found out that groundwater was

being polluted by dandelion killers, then this information should be put out to the public.

Senator Keating said somewhere it was quoted that there are about 5,000 chemicals registered in the state. He presumes that these chemicals have been used over a period of time and yet there haven't been any cases of groundwater contamination to cause a panic or crisis. Usually people try to avoid government regulation and yet everybody is in here now supporting state control and regulation in a situation where there doesn't seem to be a problem.

Ms. Langley said the state doesn't know for sure what's out there. She wants the farmers and ranchers to act responsibly with chemicals. There has not been much monitoring done.

Senator Keating said he knows that farmers use chemicals in fertilizers and pesticides. His industry is a principal provider of the material that goes into agricultural products. When a salesman comes around to sell agriculture products, haven't the products been tested and proved to be non-toxic? Doesn't the federal government drug administration or EPA have to pass on these things as safe for human consumption? If Montana establishes that same sort of thing, aren't the standards being duplicated?

Mr. Snortland said the department would implement EPA's rules and regulations. This is a preventive maintenance program and certain chemicals would not be allowed for use in Montana. He thinks provisions in the 1990 farm bill will state that in order to receive program benefits a conservation plan and plan pesticide use plan will be required.

Senator Keating the agriculture department detected endrin and put a stop to it. They must have had legislative authority some place to do that.

Ralph Peck, Department of Agriculture, said all chemicals sold in Montana are registered. The department uses EPA information to register a product in Montana and use of that product is enforced based on the label requirements as provided by EPA.

Senator Keating asked if the department informs or educates users of chemicals?

Mr. Peck said there is a continuing education program plus the department's licensing system. Licensing applicators is part of that process. Chemical companies also provide education.

Senator Keating said there has been a lot of water monitoring and hydrology studies during of these previous programs. Have the water samples been tested for agriculture chemicals as well as mining chemicals and, if so, what has been detected?

John Arrigo said the Water Quality Bureau generally monitors water quality in association with the potential source of pollution. So, if there is a mine where the department thinks there might be a problem, the bureau will work with state lands and make sure the mine company checks for pollution. If it is a gasoline leak, then the responsible party checks for petroleum constituents. The Department of Agriculture has been screening for pesticides for the last three or four years.

Senator Keating said the water used by most the citizens in Billings for watering lawns and sprinkling systems is charged by irrigation in the valley. If there wasn't irrigation, there wouldn't be any water for watering lawns. Senator Keating knows his neighbors have sent samples in to be tested and he has never ever heard of any chemical pollutant being discovered.

John Arrigo said his department hasn't looked for any particular agricultural problem. Most people check for bacteria or lead but there are a lot of different chemicals. The tests are expensive and the normal well owner doesn't check for different chemicals. The department doesn't have a regular program to do that.

Senator Keating said the department's emphasis is on source testing.

John Arrigo said there is some funding for testing. The department tries to identify the areas where there might be a problem.

Senator Keating asked if fees that are charged for registering and permitting, will the revenue go to the state.

Representative Giacometto said with the passage of this bill, there will have to be an amendment to HB 100 (the general government appropriation bill) to allow spending.

Closing by Sponsor: Representative Giacometto said chemicals have been detected in samples of water taken across the state. This bill has been brought in by the agriculture community working with the state departments. The water referred to in this bill is the

same water our children and livestock are drinking. He wants to make sure Montana's environment is protected and problems are not caused in the future.

The hearing is closed on HB 757.

HEARING ON HB 676

Presentation and Opening Statement by Sponsor:

Representative Bob Raney introduced this bill because firms who manage infectious waste outside Montana have discovered that Montana does not have laws or rules concerning infectious waste management or disposal. (Exhibit #6) Disposing of waste in Montana could be profitable for out-of-state firms.

After getting phone calls from people in his community Representative Raney set out to stop the importation of waste into Montana. He discovered this couldn't be done because garbage, including infectious waste, has commercial value and, therefore, falls under the federal interstate commerce laws. Anything Montana does along the line of infectious waste or solid waste management comes under interstate commerce laws. There is a provision in the bill that divides Montana into six waste regions and the seventh region is outside of Montana. By setting up regulations and mandatory management within these regions, the state can overcome the Interstate Commerce clause. This idea was modeled after the state of West Virginia, which has already successfully defended the waste regions before the courts. The purpose of the law is to set management standards for infectious waste. For the next two years crematories and mortuaries have been exempted from the bill. Representative Raney said the state will be looking at the way waste is generated, how it is contained and stored at the site, and how it is transported. This measure will require air quality permitting of any new incineration of waste. Representative Raney submitted amendments. (Exhibit #8)

List of Testifying Proponents and What Group they Represent:

Sue Winegartner, Montana Solid Waste
Marc Montgomery, Livingston Resident
Dan Porter, CAP
Stockton White, CAP
Chris Kaufman, Mont. Environmental Information Center.
Jim Ahern, Montana Hospital Association
Max Bauer, Browning Ferris Industries
Jim Leiter, Dept. of Health & Environmental Sciences

Roger Tippy, Montana Dental Association
Bonnie Tippy, Montana Funeral Directors
Roger Kiesling, Montana Dental Association
Martin Skinner, M.D., Montana Medical Association

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Sue Winegartner submitted a State Infectious Waste Regulatory Programs pamphlet. (Exhibit #7) Montana is only one of four states that does not have regulations on disposal of medical wastes.

Marc Montgomery said 13,000 residents of Livingston signed a petition saying they were against the burning of infectious Waste in Livingston's incinerator. The residents realized that they would not be able to ban burning of infectious waste because of interstate commerce laws. Mr. Montgomery thinks Representative Raney's bill should pass because there will be some regulation. The incinerator in Livingston does not have emission controls and, therefore, what is burned goes up the stack and out into the air.

Dan Porter surveyed people who live around the incinerator in Livingston. The incinerator is located in a residential section of town and people are very concerned about burning in the incinerator without emission controls.

Stockton White said it is very important for Montana to pass a law to stop infectious waste from being shipped in from other states. Mr. White doesn't want Montana and Livingston to become a dumping ground for other parts of the country.

Chris Kaufman said because so many states have regulations regarding waste disposal management, it encourages others to look at Montana as a place to dump their waste. It is possible that the management of waste could be a viable industry for Montana. If it is, the state needs to be prepared with regulations and have a department that has enough people to manage a program that could deal with disposal of infectious waste. One part of this bill is to get a handle on the stuff coming in from out of state and the other part is to begin to establish practices in Montana for those people who generate and dispose of infectious waste.

Jim Ahern said the hospital industry is primarily affected by this bill. The industry hasn't entered into the matter

lightly because of the public's perception of infectious waste. Mr. Ahern thinks the reality is not as bad as the perception. The fact is that most hospital wastes called "infectious waste" are probably no more hazardous than ordinary household garbage. Studies have proved that. Hospitals deal with very serious problems and with all types of infections, but specialists say that a lot of infection is taken care of just by exposure to air. The association first wanted to find out how many hospital have incinerators. He is very concerned about hospital and health care costs because no matter what regulatory system is set up, somebody has to pay for it, either the taxpayer or the hospitals. Mr. Ahern found out that hospitals have managed infectious waste for a long time. He found out through a survey that 14 hospitals do not have incinerators, so they will have to buy incinerators if there is a total landfill ban. The small hospitals in the state are in bad financial shape and it would be difficult for them to buy an incinerator. The hospital association has asked for an exemption for a couple of years and maybe at that time, the hospitals can come into compliance.

Max Bauer supported this bill. In Montana his firm has a little over 100 employees that handle this stuff every day. Infectious waste just doesn't belong in regular waste. His firm (Browning Ferris Industries) is also one of the largest medical waste handlers in world. His firm has been approached by a lot of facilities in Montana. But without rules it's hard to provide a service or provide adequate facilities. Until this type of legislation is in place you won't see anything provided for this type of waste. Finally, Mr. Bauer noted his firm has had pretty good response from people voluntarily wanting this medical waste handled in a satisfactory manner.

Jim Leiter said because Montana doesn't have infectious waste regulations these wastes are handled the same way as banana peels. Because Montana is one out of four states without regulations it is certainly an attractive option for people who are trying to avoid the high cost of disposing this kind of waste in other states.

Roger Tippy handed out amendments that the dentists want added to this bill. (Exhibit #9)

Dr. Roger Keisling agrees with many remarks stated previously and thinks Montana needs some regulations. He is very cautious about the section Mr. Tippy outlined because of the effects on everyday practice. In the past 10 years the dental environment has changed dramatically.

Bonnie Tippy said the Montana funeral directors could be

heavily impacted by this bill. The bill reads (on page 6) that "commercial facility means a nonprofit or for-profit facility that in return for consideration accepts infectious waste, other than that generated on its own premises, for treatment, storage, or disposal." Funeral directors accept human bodies in mortuaries for disposal of what could be termed an "infectious waste". These bodies sometimes come from out-of-state so funeral directors could be very heavily impacted by this bill. She would like the funeral directors to have a permanent exemption from this act.

Dr. Martin Skinner runs the disease control programs for Montana and Wyoming and also represents the Montana Medical Association. Practitioners of medicine would be impacted by the disposal of certain wastes from their offices. He uses hard containers for sharp objects. Other things that are potentially hazardous are disposed of in sealed bags. Dr. Skinner pointed out that from a public health standpoint, Montana needs something like this bill very much.

Questions From Committee Members:

Senator Noble asked what autoclaving means?

Jim Ahern answered it's a steam sterilization process to render instruments noninfectious, or it can be used to render infectious waste noninfectious.

Senator Noble asked why farmers and ranchers are excluded under this bill?

Representative Raney said they are not a commercial or non-commercial facility.

Senator Eck said she heard that one of the reasons hospital costs are so high is that everything is thrown away rather than washed. She wondered whether there would be a possibility of cutting down on the amount of waste by sterilizing it or are there other regulations that require that they get rid of this stuff?

Jim Ahern said a person in the hospital generates 10 to 15 pounds of waste material a day. A few years ago needles and syringes were sterilized. Now a lot of that goes into a landfill.

Senator VanValkenburg asked Representative Raney about his position in regard to the dentists' amendment?

Representative Raney said it's fine with him.

Senator Jenkins said it sounded like St. Peter's Hospital was throwing waste out of the back door.

Jim Leiter said the waste found outside the hospital was normal hospital waste, not infectious waste. The waste was probably put into a trash bag and dragged out by a dog or kid. The bag was torn open and strewn along the street.

Senator Story asked why mortuaries were exempted?

Representative Raney said in other states blood has to be contained and hauled off to a facility that treats sewage. In rural Montana this waste is just going out to the drain fields, which may or may not be proper. So instead of exempting them permanently, he thought they should come back next session and show why they should be exempted permanently.

Closing by Sponsor: Representative Raney closed by saying he definitely tried not to create any serious problems for Montana's medical community. However, this measure says that medical waste must be managed correctly.

HEARING ON HB 752

Presentation and Opening Statement by Sponsor:

Representative Raney sponsored this bill because he wanted to severely restrict the importation of garbage into Montana. All this bill currently does is put a \$1.00 fee on every ton of garbage imported into Montana that is not now under some form of contract. Currently, some garbage comes into Montana from Idaho. An air quality permit is also required for the burning of anything over 70 tons capacity per day.

Currently a Montanan or a Montana corporation can dispose of solid waste on his own property if he generates the waste. Under this bill, residents can continue to dispose of waste on their private property but that waste must have been generated in Montana. Any waste generated outside the state will be regulated.

List of Testifying Proponents and What Group they Represent:

Chris Kaufman, Montana Environmental Information Center
Kim Wilson, Sierra Club

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Chris Kaufman liked this bill better when it included more fees and regulated dumping in Montana. She thinks the bill is a start. The fees generated when waste comes in from out of state will get some money from out-of-state people and will help regulate the disposal of waste.

Kim Wilson supports this measure because it addresses some problems in Montana associated with the importation of waste. This bill is a timely response to that growing problem.

Questions From Committee Members: Senator Eck asked if this bill prohibits waste coming from another state, or does it just charge a fee?

Representative Raney said the fee will be \$1.00 a ton and, if large amounts are brought in, it will provide money for the department to employ a person to make sure that the importers comply with Montana's rules and regulations.

Senator Story expressed concern that the incinerator at Livingston should not accept any more out-of-state waste. He wants to have a moratorium in the bill until the new rules are in place.

Representative Raney said an infectious waste moratorium is in HB 676. Yellowstone Park currently sends refuse to Livingston. He doesn't want any new permits issued until the rules are in place.

Senator Keating asked the reason for the immediate effective date on this bill and HB 676.

Representative Raney said that was necessary to provide time to write the rules and regulations.

Closing by Sponsor: Representative Raney closed.

Hearing is closed on HB 752.

ADJOURNMENT

Adjournment At: 2:45 p.m.



THOMAS F. KEATING, Chairman

TFK/hmc

senmin.405

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1989

Date 4-2-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	✓		
Senator Fred VanValkenburg	✓		
Senator Loren Jenkins	✓		
Senator Darryl Meyer		✓	
Senator Lawrence Stimatz	✓		
Senator Pete Story	✓		
Senator Bill Yellowtail		✓	
Senator Elmer Severson		✓	
Senator Cecil Weeding	✓		
Senator Dorothy Eck	✓		
Senator Jerry Noble	✓		

Each day attach to minutes.

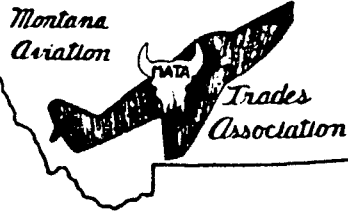
EXHIBIT NO. # 14-5-89

2507 Roberts

BILL NO. HB757

Helena, Mt. 59601

(406) 443-7487



Statement of
John Semple
Executive Secretary
Montana Aviation Trades Association

Before the
Natural Resources Committee
of the
Montana Senate
April 5, 1989

Mr. Chairman:

The Montana Aviation Trades Association (MATA) extends its' sincere appreciation to you and the committee members for providing this association with an opportunity to make comment on H.B. 757, titled Ag Chemical Groundwater Protection Act.

During a normal year this Montana industry (Aerial Application) will apply seed, fertilizer, and crop protection chemicals to an acreage value in excess of 3,600,000 acres (30,000 acres each x 120 registered applicators, average). Some acreages will have repetitive applications, increasing the total of acreages treated. Precision and a high regard for safety are paramount, as agricultural aviation has the lowest accident and fatality record of any segment of general aviation. This is according to statistics compiled by the Federal Aviation Administration. We believe the industries' success in safety of flight transfers to pesticide use safety via our national association's (NAAA) operation SAFE program and ever improving state conducted certification and training programs.

On this basis and for the record, MATA supports HB 757. The concept of best management practices and/or specific area management plans allows for effective chemical crop protection along side groundwater protection.

1 of 2

The purpose of Montana Aviation Trades Association is to foster promote and protect the commercial aviation industry in the State of Montana



Ex. #1
4-5-89

2507 Roberts

Helena, Mt. 59601

(406) 443-7487

Specifically, mixing/loading sites and the possibilities of secondary confinement, two areas of great concern to aerial applicators, will cost the industry relatively large sums under this bill. This shows our willingness to help protect a vital natural resource, groundwater.

Other areas of the act, including monitoring, research, education, groundwater classification and standards provide for a common sense approach to management of agricultural chemicals to prevent their entry into groundwater. The programs in this bill will be supported scientifically, including the determination of sample validity, the methods of analysis, and the use histories of the chemicals in question. This permits an interpretation of the significance of positive detections to human health by considering both the degree and extent of contamination and the risks of exposure, on a case-by-case basis. Using numerical standards, as developed by EPA and Health at the federal level, provides a mechanism for local health and regulatory officials to inform the public.

MATA agrees with the purposes of this bill, that being to protect groundwater, and to provide for education and management practices. To allow for the proper use of agricultural chemicals, which are valuable and necessary tools for agricultural production and disease control, assures our industry of reasonable operating parameters. This ultimately translates into an affordable, plentiful, and nourishing food supply.

MATA thanks the chairman and the committee members for your interest in our comments regarding HB 757. Rather than taking valuable time from you with additional testimony, I am available for answers to any specific questions the committee may have about aerial application, MATA, and HB 757.

2 of 2

The purpose of Montana Aviation Trades Association is to foster promote and protect the commercial aviation industry in the State of Montana

EXHIBIT NO. # 2

DATE 4-5-89

BILL NO. HB 757

Langley

HB 757 "MONTANA AGRICULTURAL CHEMICAL GROUNDWATER PROTECTION ACT"

1. HB757 is based on EPA's "Agricultural Chemicals in Groundwater: Proposed Pesticide Strategy." The basis of the strategy:
 - +States should have primary role. The management plan strategies should be developed at the state level.
 - +Federal role should be development of health-based standards as well as technical assistance to the states.
 - +Differential protection with the groundwater classification system developed by the states.
 - +Emphasis on prevention as opposed to correction--due to the cost and technology required for cleanup.

2. HB757 fits EPA strategy into existing Montana Water Quality Act
 - +HB757 is tailored to compliance with the Water Quality Act. The reasonable land, soil and conservation practices provided for in the Water Quality Act are defined as the specific ag chemical management plans promulgated by rule [Section 13]
 - +HB757 provides that the standards dictated by the Water Quality Act be the federal health-based standards (MCL's or health advisories) established by EPA, except when no standard exists or EPA has not considered new data. This is current DHES practice. [Section 9]
 - +Emphasis in both EPA strategy and Water Quality Act is prevention--and HB757 provides same emphasis. Prevention is through education and general management plans. [Sections 9 and 12]

3. HB757 has been developed over past year in close consultation with the Montana Department of Agriculture and Montana Department of Health and Environmental Sciences.
 - +Goal is a groundwater protection program that will work.
 - +Laws in other states were examined and aspects from several states incorporated in HB757.
 - +Expertise of both departments went into drafting HB757 and result is a program where each has its appropriate roles while jointly administering the program.

4. HB757 is revenue neutral for the State of Montana
 - +Revenue comes from an increase in the registrant fees paid by companies to register products in the state.

5. HB757 is now a consensus bill supported by both the major agricultural groups and environmentalists.
 - +Ag groups supported HB757 while environmentalists opposed it in the House Natural Resources hearing.
 - +After nine hours of scrutiny and amendments in subcommittee, HB757 opponents agreed to support it; major ag groups remain in support--Montana Grain Growers, Montana Farmers Union, Montana Farm Bureau.
 - +HB757 passed the House 96-1 on second reading and 97-2 on third reading.

MONTANA DEPARTMENT OF AGRICULTURE

Snortland

TESTIMONY
ON
HOUSE BILL 757SENATE NATURAL RESOURCES COMMITTEE
Wednesday April 5, 1989

Chairman, Senator Tom Keating:

House Bill 757 establishes the basic foundation to develop a sound and realistic program to prevent the introduction of agricultural chemicals into Montana's groundwater. The bill as structured establishes cooperative educational and preventive programs to protect groundwater. It also establishes various compliance mechanisms to minimize or prevent further introduction of an agricultural chemical into groundwater.

The bill also establishes how state agencies and the university system would work together to maximize expertise and programs in carrying out the responsibilities required in this bill. The issues associated with agricultural chemicals and groundwater, chemicals, soils, climate, geology and water, requires the cooperation and knowledge of various state agencies, the university and federal agencies. This act will require active participation of the public when management plans, educational programs and related activities are being developed, implemented and evaluated.

This bill will allow Montana to plan and develop a sound program to address groundwater contamination, instead of reacting to a crises situation when human health, agricultural crops, livestock or the environment are threatened or damaged. We will require technical and financial assistance from EPA to carry out the duties of the bill. It is my current understanding that beginning in fiscal year 1990 EPA will have some funds to assist states in developing and implementing groundwater programs.

The farmers and ranchers of this state would normally be the first individuals impacted by chemicals in groundwater, therefore it is in their best interest to implement preventive measures to protect their drinking water and water used for crop and livestock production. The general public also has the responsibility to properly use and dispose of chemicals used around and in their homes.

The bill provides the basic framework for Montana to develop a realistic program in the 1990's which may have to be revisited in terms of the program and funding as we learn more about agricultural chemicals and groundwater.

Testimony of the Montana Grain Growers Association 4-5-89

on HB757

BILL NO. HB 757

Merja

Mr. Chairman, members of the committee, my name is Charles Merja. I am a small grains producer from Sun River and the Secretary of the Montana Grain Growers Association. We support HB757, the Montana Agricultural Chemical Ground Water Protection Act. It is a practical and responsible solution to maintaining the quality of our water in Montana.

The bill is an effort by farmers, the chemical industry, applicators, environmental concerns, and regulatory agencies, to come to grips with the problem or potential problem of groundwater contamination.

As farmers, we have a great deal at stake in seeing that ground water contamination is prevented. Water is an extremely important asset to agriculture. We want to protect that asset for us and future generations. We do not want to use chemicals nor do we want to apply chemicals in a way that will endanger our water.

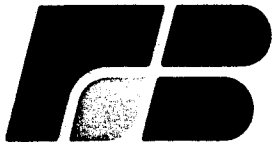
The chemicals we use in agriculture are also very important to us. They provide us with protection against weeds and insects that would otherwise devastate Montana crops. We want to protect our right to use those chemicals until we have other tools to replace them. We can only protect that right by being responsible in our use of chemicals. We cannot use chemicals that will harm our ground water. We cannot apply chemicals in ways that are dangerous to our environment. This bill will help us determine any chemicals or application methods or practices that are not safe.

EX #4
4-5-89
PS.2

The past few weeks, ag chemicals have dominated the news. Alar on apples and cyanide in grapes have turned the U.S. food industry upside down. While the U.S. has a food supply that is the envy of the world in quality and quantity, consumers have many concerns about the use of chemicals in the production and preservation of our food. We need to continually improve upon our system of regulating and monitoring pesticide use in agriculture so that these concerns and fears are satisfied. It is important for our industry to adopt standards and procedures that protect our environment. We in agriculture are proud of our food products and do not want front page coverage in Time and Newsweek for the wrong reason.

This bill will help keep Montana agriculture off the "front page". It will give farmers and other pesticide users, applicators, chemical companies, and the State of Montana the standards to protect our groundwater -- to determine if and when chemicals are detected in groundwater and a way to correct any conditions that are causing contamination.

We urge the passage of this legislation.



SENATE NATURAL RESOURCES

MONTANA FARM BUREAU FEDERATION

502 South 19th • Bozeman, Montana 59715

Phone: (406) 587-3153

EXHIBIT NO. # 5

4-5-89

LL NO. HB 757

BILL # HB 757 ; TESTIMONY BY: ~~Valerie Larson~~ Lorna Frank
DATE April 5, 1989 ; SUPPORT support ; OPPOSE _____

Mr. Chairman, members of the committee, for the record, my name is Lorna Frank ~~Valerie Larson~~, representing 3600 Farm Bureau members from throughout Montana.

Montana Farm Bureau has been involved with House Bill 757 since last fall. This bill is needed to protect our groundwater. It addresses monitoring, proper use of agricultural chemicals, sets ground water standards, and groundwater management plans.

We especially like the dual administrative authority between the Department of Health and Environmental Sciences and the Department of Agriculture.

This bill provides penalties for violators, and it protects those who follow label directions and ground water management plans.

This bill also provides education and training programs for the applicators and the general public. Farm Bureau has also implemented its' own educational program in conjunction with Dr. James Bauder, Extension Specialist with the Cooperative Extension Service. We are publishing articles written by Dr. Bauder about groundwater and it's protection in our monthly paper. We intend to put these articles in a book for later reference.

House Bill 757 sets up guidelines on a program that is needed now and in the future.

Farm Bureau supports House Bill 757 and urges this committee to concur as presented by the sponsor.

Thank you for your attention

SIGNED: Lorna Frank

HOUSE BILL 676 -- INFECTIOUS WASTE MANAGEMENT ACT HB 676

(THIRD READING COPY PLUS SPONSOR'S AMENDMENTS)

Raney

April 5, 1989

HOW THE BILL AFFECTS MONTANANS

All persons involved in infectious waste management will have to label, treat, store, transport, and dispose of infectious waste according to regulations similar to those governing infectious waste management in almost all other states. The Montana rules will not go into effect until July 1, 1990.

New commercial incinerators of infectious waste will have to obtain a permit, meet stringent air quality requirements, and pay a \$10,000 fee, plus 25 cents per pound of infectious waste incinerated. Existing operations (Livingston is the only commercial incinerator in Montana) are subject to a \$2,000 annual fee.

Other new commercial disposal facilities will be subject to a permit and a \$2,000 or \$5,000 annual fee, depending on the volume of infectious waste managed. No additional importation of infectious waste into Montana can occur until the state has its infectious waste management rules in place.

Large and medium-sized hospitals can continue to use on-site incinerators and autoclaves for disposal of infectious waste. After July 1, 1990, these hospitals will not be able to dispose of untreated infectious waste in landfills. Large hospitals (generating more than 5,000 pounds of infectious waste annually) will be subject to a \$2,000 annual fee; medium-sized hospitals (generating between 2,000 and 5,000 pounds) will be subject to a \$250 annual fee.

Small hospitals and medical clinics can continue to dispose of infectious waste through incineration, autoclaving, or at landfills according to current practice.

Doctors' and dentists' offices will be subject to existing federal OSHA guidelines for storing and transporting infectious waste and can dispose of their infectious waste at landfills until at least July 1, 1991.

Landfill operators and sanitation workers will now know when they are receiving infectious waste and will be able to take appropriate precautions for handling, location of disposal, and protection of the public from contact with the infectious wastes. Garbage haulers will also be protected from direct contact with infectious waste and from the kinds of injuries that have occurred in Montana when medical "sharps" have been improperly contained.

~~SENATE NATURAL RESOURCES~~
SENATE NATURAL RESOURCES

EXHIBIT NO. 7 PS 1 of 16

DATE 4-5-89

BILL NO. HB 676

State Infectious Waste Regulatory Programs

Foreword

The Council of State Governments is pleased to release *State Infectious Waste Regulatory Programs*. This report analyzes the results of a CSG 50-state survey which documents a dramatic change in state regulatory priorities in the area of infectious waste disposal. Overall, this report demonstrates the Council's ongoing commitment to becoming the integrated, regionally-based, national organization dedicated to delivering quality, value-added products and services.

Carl W. Stenberg
Executive Director

This report is a product of The Council of State Governments, Carl W. Stenberg, Executive Director. The Project Manager for this report is R. Steven Brown, Director of the Center for the Environment and Natural Resources, The Council of State Governments. The author is Sue Markland Moreland, President of The Markland Group, with the very able assistance of Andrew Hinson.

The information presented in this report was compiled through the use of a written questionnaire and followup telephone survey. The purpose of the report is to identify trends in a fast moving regulatory field. To find out the specific requirements of a state, the appropriate state agency should be contacted.

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C-108. Price \$20.00, \$14.00 for state officials.

STATE INFECTIOUS WASTE REGULATORY PROGRAMS

Heightened public awareness of AIDS and its transmission by blood, blood products or bodily fluids has raised the question of how infectious wastes are regulated by this nation's waste management programs. In January, 1988, the press reported solid waste haulers in Texas refused to handle designer garbage bags retailed by Neiman Marcus because these bags were red — the color used by hospitals for the disposal of infectious wastes. Other national press reported children playing with discarded needles found in an Indiana clinic's dumpster and hospital wastes washing up on the New Jersey shore. These events have served to focus public interest in this long-ignored portion of the solid waste stream.

No one can doubt that public demand for governmental attention to the generation, handling and disposal of infectious waste has changed dramatically in the last two years. State governments have proved to be the most responsive to this new environmental issue.

In most previous environmental regulatory programs, the federal government established baseline programs which state governments were expected to emulate. Infectious waste regulatory programs, however, are being created by state governments, which have taken the initiative. With no federal statutes or regulations to guide them and no federal money to support the creation of a new environmental regulatory program, states, regardless of size or location, are in the process of meeting the public's demand for protection. It is this clear state-generated initiative that this report describes.

In 1976, the Resource Conservation and Recovery Act (RCRA) defined hazardous waste to be a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or *infectious characteristics* may cause [illness or pose substantial present or potential hazard to human health and the environment]. In 1978, the U.S. Environmental Protection Agency proposed its first set of hazardous regulations. A definition of and treatment methods for infectious wastes were included in the Agency's proposal. However, when the final rule was published on May 19, 1980, the Agency stated in the preamble that infectious waste regulations would be published when RCRA work on treatment, storage, and disposal standards was completed. Eight years and two reauthorizations of RCRA later, still no federal regulations have been promulgated.

With no federal baseline and no federal funds to develop state regulatory programs, state governments were slow to initiate a new regulatory program in a field overlooked by the public. When USEPA completed its final *Manual for Infectious Waste Management* in May of 1986, 28 states had no regulatory structure addressing infectious wastes.

This report analyzes the results of a Council of State Governments survey completed February 1, 1988, which documents a dramatic change in state regulatory agency priorities. A total of 50 states and the District of Columbia responded to CSG's survey either in writing or by telephone interview. Eight states (AR, FL, KY, MO, NJ, OK, IN, WA) provided responses from both their solid waste offices and their health departments. Of those states responding, 31 surveys were completed by the solid waste programs; while 11 states plus the District of Columbia submitted information from their health departments (usually the division responsible for licensing health care facilities). The responding state agencies follow:

“ . . . children playing with discarded needles, and hospital wastes washing up on the shore have served to form public interest in this long ignored portion of the solid waste stream.”

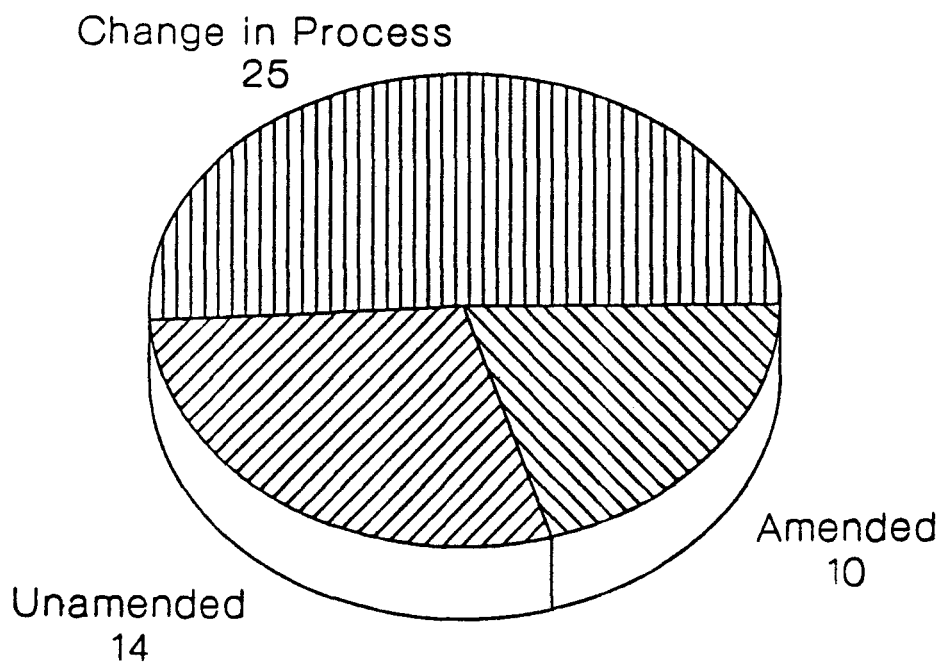
STATE AGENCIES RESPONDING

Solid Waste		Health Dept	Both
AL	NE	AZ	AR
AK	NH	CO	FL
CA	NM	HA	KY
CN	NY	MD	MO
DE	NC	MA	NJ
GA	OH	MS	OK
ID	OR	NV	TN
IL	PA	ND	
IN	SC	RI	
IO	SD	TX	
KS	UT	WV	
LA	VT		
ME	VA		
MI	WA		
MN	WS		
MT	WY	-	

A majority of states will be regulating infectious wastes in the near future.

In eleven states, new or amended infectious wastes statutes or regulations have been promulgated since USEPA published its 1986 Guidance. In addition to those states which have completed the passage of new laws or the promulgation of new regulations, 25 states have initiated processes that could result in changes to their requirements for infectious waste handling, transportation and disposal (Figure 1). Of these twenty-five, six states (ME, MA, MN, MO, NY, VT) are on the second round of modifications since the EPA guidance.

Figure 1
Changes in State Infectious Waste Regulations Since 1985



At this time only 11 states and the District of Columbia answer "No" to the question "Does your state regulate infectious wastes?" Of those eleven, only six (AL, MI, MT, NV, ND, WY) have no immediate plans to expand their regulations to include infectious waste. In summary, 88% of the states, compared to 57% of the states in 1986, are or will soon be regulating infectious wastes.

This push for change is nationwide in scope.

Large and small states are responding to both internal professional advice and public demand (Figure 1). Unlike usual regional upgrading efforts in environmental management, such as the recent interest of Northeastern states in ash disposal, the regulation of infectious waste has been led by diverse states (Pennsylvania, Tennessee, Missouri, Rhode Island, Virginia) scattered throughout the country.

The change is only beginning.

The status of this change is important. Citizen interest in a new regulatory initiative expresses itself in new state laws or in amended regulations to existing programs. To develop new regulatory initiatives a prescribed set of steps must occur. To pass a new state law requires time . . . although in some states, such as New York, the time from introduction of a legislative initiative addressing infectious waste regulation to final implementation can be quite fast. The NY state infectious waste legislation was introduced in the spring of 1987 and signed into law in early fall. The first round of rules are to be in place by early 1988. Introduction of bills, hearings, negotiations and final signature by the governor requires an entire legislative session in most states. In some states, particularly in the South, the legislature meets for only three to four months and only every other year. This schedule discourages rapid change.

Amendments to existing state "protection of public health and safety" directives also require time for the regulatory agency to review existing requirements, identify other states where more stringent requirements have been adopted, and to work with the public and the potential regulated community as drafts work their way into the state's Code.

Yet in spite of the need to follow a defined number of steps mandated by legislative process and state Administrative Procedure Acts, the change in states' infectious waste programs demonstrates a rapid response by states to a recent public demand. In the last two years, the public has become aware of potential risks from pathologic wastes and in the last year state health and environmental agencies have started the process of improving their infectious waste regulatory structure.

Of those 25 states in the process of change, 66% are discussing internal drafts and 27% have introduced a proposed rule (Figure 2). To identify the progress of each state in this new regulation development, the CSG survey provided six alternative stages — internal discussions or drafts, draft for external review, public information meetings, proposed rule, public hearings on the proposed rule, and new rule being printed — for those who had answered positively to an earlier question on whether their state was in the process of change. The concentration of states at the internal draft stage demonstrates the newness of the states' efforts.

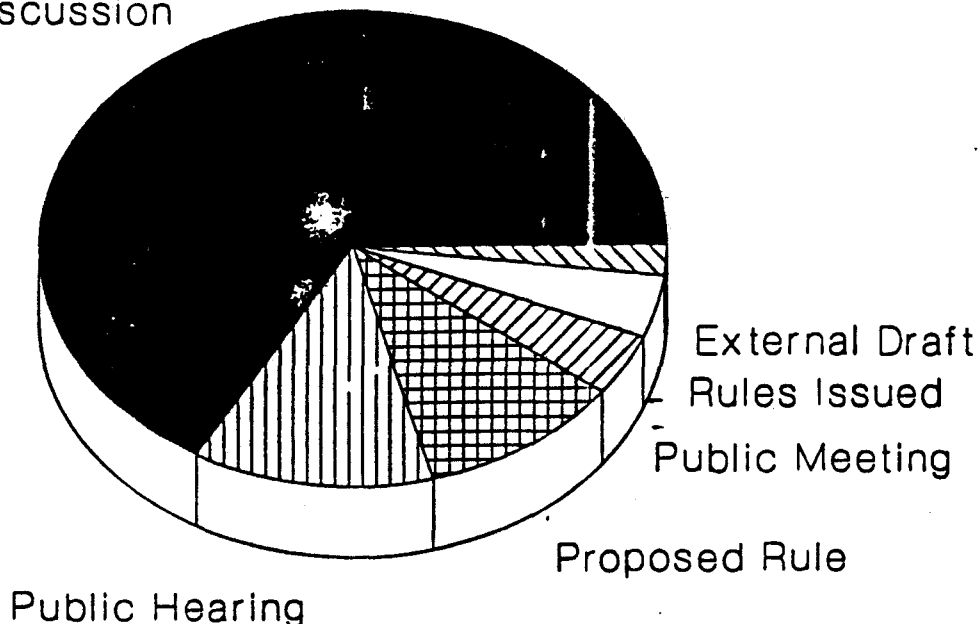
Evolving regulation is split between state environmental and public health agencies.

Infectious waste programs are not easily pigeon-holed in existing state regulatory structures. The CSG survey confirmed results in the 1986 USEPA Guidance which noted split jurisdiction in 11 states. The

"In 1988, 88% of the states, compared to 57% of the states in 1986, are or will soon be regulating infectious wastes."

Figure 2
Stages of State Changes

Draft/Discussion



lead agencies are either the solid waste management authority or the hospital licensure bureau or both. When asked which agency had the enforcement lead, most states responded that the solid waste office covered the off-site disposal of the waste, the air control board handled incinerators, and the hospital licensure office monitored on-site generation, treatment, and disposal of infectious wastes. In a dozen states, enforcement was delegated by the state health department of either the county health departments (7) or to the Joint Commission on Accreditation of Healthcare Organizations (5).

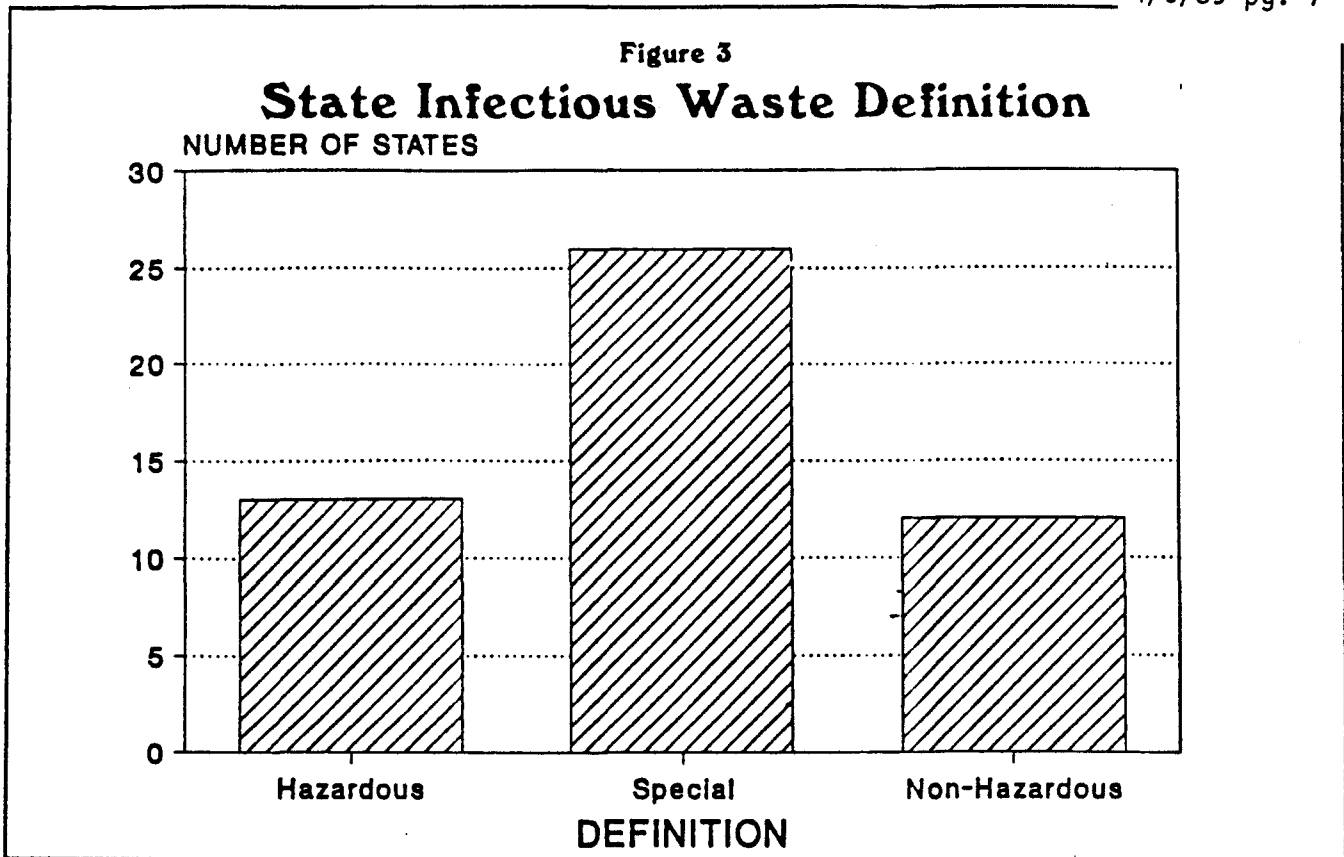
Access for inspections divided between state agencies.

Inspections of off-site treatment and disposal facilities and on-site storage operations mesh well with the other responsibilities of the state's solid waste department. Stack emissions from incineration are regulated by the state's air office. Yet on-site generation and handling of infectious waste usually occurs in health care facilities where the state Health Department maintains jurisdiction.

Because of this division in inspection responsibilities between two state agencies, there is question whether adequate cradle to grave monitoring can occur. The programs are still too new to identify any problems with enforcement.

Enforcement responsibilities are dependent on the lead agency.

Those programs under the offices of solid waste vary widely in enforcement strategies. For example, penalties for non-compliance range from civil fines of 0-\$500/offense (NM) to criminal penalties of \$50,000/offense or 20 years in jail (PA).



Programs located in the facilities licensure divisions of state health departments rely on licensure suspension as their primary enforcement tool. Health care facilities are expected to comply with guidelines covering best management practices to maintain their licenses. For that reason, guidelines in the infectious waste regulatory field could prove to be potent directives, though guidances, unlike regulations, do not have the power of law and can not be directly enforced.

Infectious Waste can be classified three different ways.

This waste stream was originally part of a state's hazardous waste program because wastes with infectious characteristics are included in USEPA's definition of hazardous wastes. In order to receive delegation for the federal hazardous waste program, states are required to adopt a regulatory program no less stringent than the federal government's. For that reason, the states initially incorporated USEPA's inclusion of infectious waste in their definition.

The current trend, however, is to delete infectious wastes from the states' hazardous waste programs and to create either a special wastes category or to include these wastes under the state's non-hazardous waste regulations (Figure 3).

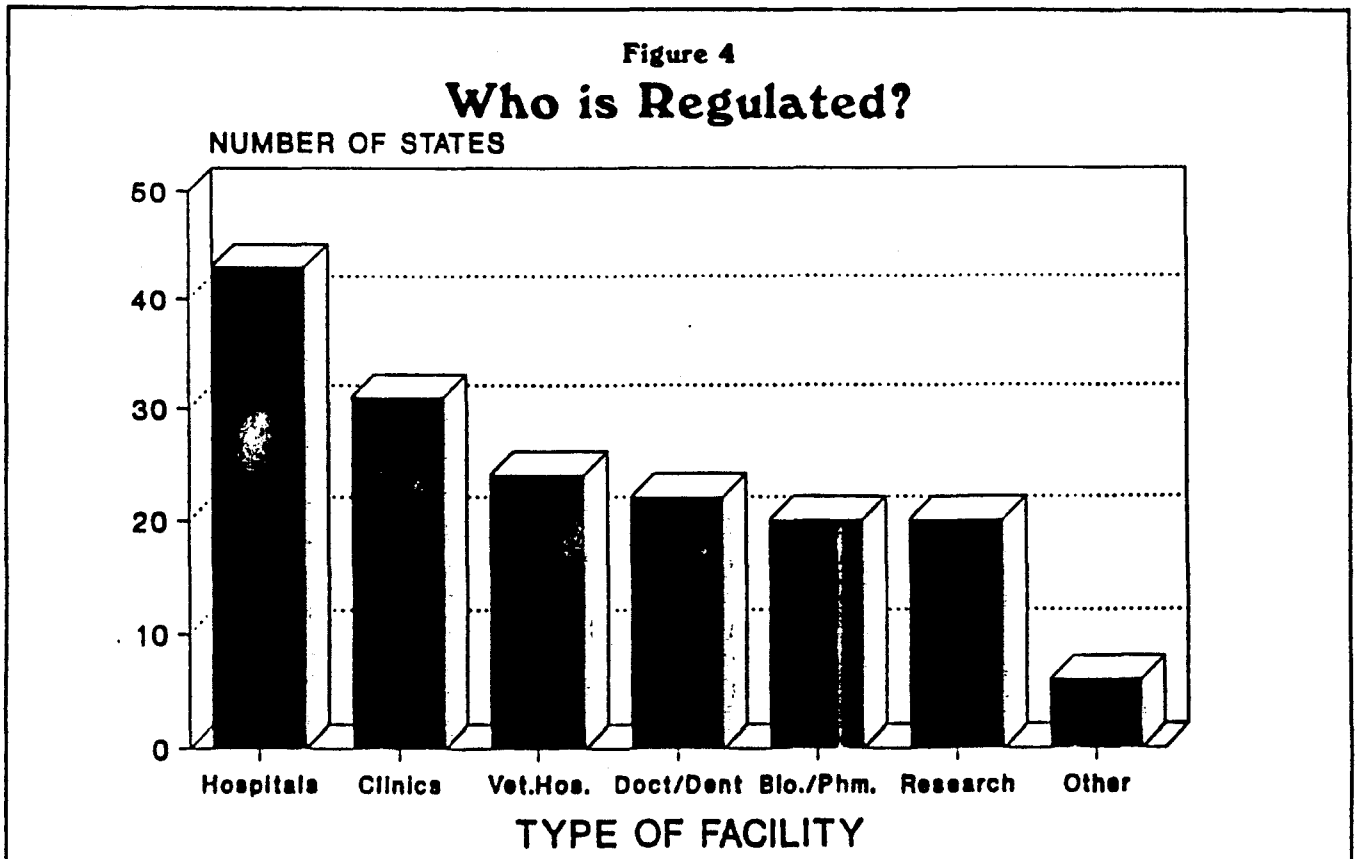
When states were asked why they had elected to regulate infectious wastes as special wastes instead of hazardous wastes, the most common answer focused on the difficulty in delisting a hazardous waste after it had been treated. Hazardous wastes, when treated, must be submitted to a rule making (or delisting) before the wastes are considered non-hazardous. This is a cumbersome, time consuming and case-by-case procedure which potentially applies to any generator or disposer who treats (incinerates, autoclaves, disinfects, etc.) infectious waste either on- or off-site.

Many of the states' infectious waste regulations emphasize treatment that sterilizes the waste. For example, New Jersey's hospital licensure requirements state that "infectious waste must be rendered non-infectious at the point of origin." Since treatment of infectious waste (based on best management practices guidelines) renders the waste non-infectious (no longer hazardous under the EPA definition), most state agencies are proposing to handle the treated waste as non-hazardous. Seventy-five percent of the states surveyed included infectious waste under special or non-hazardous waste programs. In USEPA's 1986 guidance, fifty-three percent of the states listed their hazardous waste program as the primary framework for dealing with infectious wastes.

The majority of states identify hospitals as the target generator for regulation.

State programs, both in place and under development, focus on hospitals as the primary generator of infectious wastes. Three-quarters of those states that cover hospitals also include clinics as generators (Figure 4). Doctors and dentists offices, along with animal care facilities, were addressed by approximately half of the states that listed hospitals as generators.

The choice of defining the regulated universe by characteristic or by listing, or in a few cases, by a combination of the two, dictates the scope of generators covered. In those states which use or are considering the use of characteristics to define infectious wastes, all potential generators would be regulated unless expressly exempted. In contrast, states which rely on listing can more easily specify wastes from specific generators (pathological wastes from hospitals, blood and blood products discharged by dialysis units).



Basing regulations on the class of generator, rather than the characteristics of the waste, can lead to some odd incongruities. For example, under Rhode Island's new regulations, wastes from animal research undertaken in a hospital may be regulated as infectious; but the same wastes generated at a university unaffiliated with a hospital would not be covered.

Emphasis on hospitals as generators may simply reflect anticipated volume. Five states, California, Indiana, Minnesota, Missouri, and Ohio, propose to or are currently recognizing small quantity generators as exempt from the state's policies or rules for infectious wastes. Nebraska has a unique statewide policy to exempt small townships from regulation.

Enforcement discretion may play a part in how this question was addressed. Law makers and the public have ranked risk from each of these sources differently, as evidenced by specific referrals to hospitals. Alabama and New Hampshire, for example, require incineration only of hospital infectious waste.

A third possibility is that this data may only reflect regulatory emphasis on hospitals (generators) for on-site handling of infectious wastes and a shift to monitoring the off-site treatment centers (TSDFs) for coverage of waste generated by offices and research centers.

Specifics of state changes demonstrate trend.

- Most states attempt to define infectious waste in their regulations (Table 1). Similar to hazardous waste regulation, states follow two approaches in defining the wastes covered by their infectious waste regulations. Some states utilize a definition based on the characteristics of infectious waste (an etiological agent of human illness), while some list wastes that are considered to be infectious (isolation wastes, cultures of organisms, blood and blood products, pathological wastes, etc). In the latter case, the majority have relied on USEPA's list in the Agency's Infectious Waste Guidance to define their program's universe.

- Permits are not the choice of infectious waste regulators. When they are required, the permit is issued by the state's environmental agency (either to the solid waste or air program or to both) and usually applies to an off-site disposal facility. Table 2 shows which states answered CSG's survey affirmatively about permits. There may be other states that require treatment, storage, or disposal (TSD) permits under their air, hazardous and solid waste laws which could apply to infectious wastes. For example, the District of Columbia, Hawaii, Iowa, Kentucky, Maine, and Washington regulate infectious wastes as hazardous wastes. In these states' hazardous waste programs TSD permits may be required.

- On-site handling of infectious wastes is usually governed by state health department guidances. The Joint Commission for Accreditation of Healthcare Organizations, the Center for Disease Control, the U.S. Environmental Protection Agency, the Occupational Safety and Health Administration, and the National Institutes of Health periodically issue recommendations for biosafety that have been used by state health departments to develop these guidances.

- Thirty-one states single out packaging/labeling requirements to be included in their infectious waste rules (Table 3). Packaging is a key to minimizing waste generator and handler exposure. Rigid containers, double bagging, and labeling requirements are elements that are already required in 14 states and may be required in 17 additional states (Table 3).

In the last year, waste haulers (and their associations) have focused on the protection from SHARPS as the key infectious waste issue in their industry. Changes in the state programs reflect this worker safety issue by recognizing the need for containing needles, scalpels,

"Permits are not the choice of infectious waste regulators."

and broken glass contaminated with pathogens in unbreakable, puncture-proof vessels.

• Storage facility specifications, including the length of time wastes can be maintained on-site, are likely improvements as states modify their programs. Seven states (CA, MA, NH, OR, PA, RI, TN) currently have specific storage requirements for infectious wastes. Twice that many are considering including such elements in their upgraded regulations (Table 3).

• Transportation and record keeping requirements have been included or are being examined by 3/5 of the states. These include designating non-compacting trucks as the only acceptable transport vehicle, requiring labeling of the transport truck, delineating procedures to clean the vehicle after use and specifying types of shipping papers required. If reports are addressed, the trend is to require the generator to maintain records on-site, not to submit manifests to the state regulatory agencies.

• A clear majority (72%) name incineration as a recommended treatment under existing or proposed regulations (Table 4). In a handful of states (AL, AK, CO, NH, TN) incineration is required. Of those states that recommend incineration, 23 are considering establishing performance standards. State air control agencies may have standards set that are not specific for infectious waste feedstocks, but still cover the incinerator's performance.

When asked about recommended methods for treatment and disposal, 56% of those responding have already, or are considering, requiring pretreatment before land disposal (Table 5). As was mentioned earlier, many states no longer define waste as infectious once appropriate treatment has been done.

Twenty-seven states, or 53%, recommend steam sterilization for treatment of infectious wastes. Fourteen of the 27 states specify or are considering specifying, time/temperature/pressure standards.

Eighteen states include chemical treatment as an alternative. Other states approve methods of treatment on a case-by-case basis.

• Under some conditions, at least twelve states allow land disposal of infectious waste without treatment.

• Unlike state hazardous waste laws, three requirements are not included routinely in a state's upgrading of its infectious waste program: requirements for contingency plans/spill management, closures, and financial assurances.

Contingency plans contain actions that should be undertaken when a spill of an infectious waste occurs. For example in the state's 11-2-87 external draft, Virginia has effectively taken the responsibility of producing a contingency plan that would apply to spills regardless of location. Virginia's spill management section specifies that all infectious waste management facilities are required to keep "a spill containment and cleanup kit within one hundred feet of any area where infectious wastes are managed," delineates the contents of the kit and lists containment and clean up procedures. Other states such as California may direct the generator to write a contingency plan for the state agency's review.

Closure requirements apply to that period when wastes are no longer accepted and the facility is in the process of decontaminating and ultimately shutting down the operation. Post closure (applies to disposal facilities) covers a specified number of years after closure when owners/operators must maintain and monitor the site. Six states (AR, CA, NH, OK, PA, TN, TX, WS) listed closure requirements in their infectious waste regulations.

Financial assurances provide that owners/operators must be fiscally responsible for closing a facility, for rendering post closure care at disposal facilities, and for compensating third parties for bodily injury and property damage caused by sudden and non-sudden accidents related to the facilities operation. Financial requirements include both assurances for adequate funding for closure/post closure and liability

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coverage for injury and property damage. Only four states (CA, OK, PA, WS) listed financial assurance requirements in place. Eight additional states are considering including such requirements in their updated programs.

In summary, the trend is clear. Regardless of federal activity in this new field, states have decided to address infectious wastes. These new state regulatory programs are unique in their jurisdictional overlap between state environmental agencies and health departments. Moreover, because of limited staff and money, the evolving regulations are designed to be self-enforcing. Best management practices (emphasizing biosafety), liability issues, and haulers' refusals to handle red-bagged wastes are recognized and depended upon as strong voluntary compliance inducements. □

Recent Legislative Actions

During the current (January-March 1988) sessions of state legislatures, many infectious waste bills have been introduced. The following list is a summary of some of these bills. The list is not comprehensive, and does not necessarily portray the final resolution of the bill. It does, however, give an indication of some of the current state activity.

State	Bill
SC	Imposes a tax on the incineration and disposition of infectious wastes. Introduced 2-3-88.
RI	Solid waste management and infectious waste. Introduced 2-24-88.
NJ	Provides for regulation of infectious waste. Introduced 2-22-88.
NY	Requires prior notice of increase in infectious waste treated, stored, or disposed of at a state-owned facility. Introduced 3-9-88.
MD	Requires creation of a Task Force to study aspects of infectious wastes. Introduced 2-26-88.
MA	Authorizes study of infectious waste laws.
MO	Infectious waste regulation changes and additions (several bills).
NJ	Establishes manifest system and liability for medical wastes. Introduced 1-12-88.
TN	Enacts "Infectious Waste Disposal Act." Introduced 2-2-88.
NJ	Provides for regulation of infectious waste. Introduced 3-21-88.

Data supplied courtesy of the American Paper Institute, Inc.

Table 1
Infectious Waste Definitions

State	Defines Infectious Waste	Lists Isolated Wastes	Cultures of Organisms	Blood/Blood Products	Pathological Wastes	Sharps (Needles, etc.)	Animal Carcasses	Other
ALABAMA								
ALASKA	R				R			
ARIZONA								
ARKANSAS	R	R	R	R	R	R		
CALIFORNIA	R	R	R	R	R	R	R	R
COLORADO	U	U	U	U	U	U	U	
CONNECTICUT	U	U	U	U	U	U	U	U
DELAWARE	U	U	U	U	U	U	U	
D.C.	U						U	
FLORIDA	R	R	R	R	R	R	U	
GEORGIA								
HAWAII								
IDAHO								
ILLINOIS	R	R	R	R	R	R	R	R
INDIANA	U	U		U	U	U	U	
IOWA								
KANSAS	R		R	R	R	R	R	
KENTUCKY	R	R	R	R	R	R	R	
LOUISIANA	R	U	U	U	U	U	U	
MAINE	U	U	U	U	U	U	U	
MARYLAND	R	R	R	R	R	R	U	
MASSACHUSETTS	R							
MICHIGAN								
MINNESOTA	R	R	R		R	U		R
MISSISSIPPI								
MISSOURI (1)	U*	U*	U*	U*	U*	U*	U*	
MONTANA								
NEBRASKA	R	R	U	U	U	U	U	
NEVADA			R	R		R		R
NEW HAMPSHIRE	R	R	R	R	R	R	R	R
NEW JERSEY	R	U	R	U	R	R	U	
NEW MEXICO	U	U	U	U	U	U	U	
NEW YORK	U	U	U	U	U	U	U	U
NORTH CAROLINA	R		R	R	R			
NORTH DAKOTA	U	U	R	U	U	R		R
OHIO	U	U	U	U	U	U	U	
OKLAHOMA								
OREGON	U		U	U	U	U	U	U
PENNSYLVANIA	R	R	R	R	R	R	R	R
RHODE ISLAND		R	R	R	R	R	R	
SOUTH CAROLINA	U	U	U	U	U	U	U	
SOUTH DAKOTA								
TENNESSEE	R	R	R	R	R	R	R	
TEXAS	R		U	U	U	U	U	
UTAH (2)								
VERMONT	R							
VIRGINIA	U	U	U	U	U	U	U	U
WASHINGTON								
WEST VIRGINIA	U	U	U	U	U	U	U	U
WISCONSIN	U							
WYOMING								

NOTES:

- (1) Regulations scheduled to be published 3/25/88 will change these "U"'s to "R"'s.
- (2) Legislation passed on February 24, 1988, authorizes a Statutory Committee to develop regulations.

KEY TO TABLE

- R = Regulation in place
- U = Under consideration as regulations are upgraded
- Blank = Not regulated by state and not under consideration.

Table 2
Activities Requiring Permits

State	Requires Permit For:	Treatment	Storage	Transport	Disposal	Emergency	Research and/or Development
ALABAMA							
ALASKA							
ARIZONA							
ARKANSAS							
CALIFORNIA		R	R	R	R		
COLORADO		U	U	U		U	U
CONNECTICUT		U	U	U	U		
DELAWARE		U	U	U	U		
D.C.							
FLORIDA (1)				U			
GEORGIA							
HAWAII							
IDAHO							
ILLINOIS				R	R		
INDIANA			U	U			
IOWA							
KANSAS					R		
KENTUCKY							
LOUISIANA		U	U	U	U	U	U
MAINE		U	U	U	U		
MARYLAND							
MASSACHUSETTS		R	R	R	R	U	U
MICHIGAN							
MINNESOTA							
MISSISSIPPI							
MISSOURI (2)		U	U	U*	U		
MONTANA							
NEBRASKA					R		
NEVADA							
NEW HAMPSHIRE		R	R		R		
NEW JERSEY		U	U	U	R	U	U
NEW MEXICO				U	U		
NEW YORK		R	R	R	R		
NORTH CAROLINA		R			R		
NORTH DAKOTA							
OHIO		U			U		U
OKLAHOMA		R	R		R		
OREGON							
PENNSYLVANIA		R			R		R
RHODE ISLAND			R	R	R		
SOUTH CAROLINA		U	U	U	U		
SOUTH DAKOTA							
TENNESSEE		R	R	R	R	R	
TEXAS					U		
UTAH							
VERMONT			R	R	R		
VIRGINIA		U	U	U	U	U	U
WASHINGTON							
WEST VIRGINIA							
WISCONSIN					R		
WYOMING							

NOTES

- (1) Florida requires incinerator permits for infectious wastes.
- (2) In addition to proposed transport permits, Missouri currently requires a license for transport. Regulations scheduled to be published 3/25/88 will change these "U"'s to "R"'s.

KEY TO TABLE

- R = Regulation in place
- U = Under consideration as regulations are upgraded
- Blank = Not regulated by state and not under consideration.

**Table 3
Regulated Activities**

State	Financial Assurances	Spill Management	Closure Requirements	Packaging & Labeling Requirements	Storage Facilities	Record Keeping Requirements	Transportation Requirements
ALABAMA							
ALASKA				R			
ARIZONA							
ARKANSAS			R		R		
CALIFORNIA	R	R	R	R	R		R
COLORADO	U	U		U	U	U	
CONNECTICUT		U		U	U	U	U
DELAWARE				U	U	U	U
D.C.							
FLORIDA	U	U	U	R	U	U	U
GEORGIA				R			
HAWAII							
IDAHO							
ILLINOIS						R	R
INDIANA	U		U		U	U	
IOWA							
KANSAS				R		R	
KENTUCKY							
LOUISIANA	U	U	U	U	U	U	U
MAINE		U		U	U	U	U
MARYLAND				U		U	
MASSACHUSETTS		U		R	R		R
MICHIGAN							
MINNESOTA				U	U		U
MISSISSIPPI				R			
MISSOURI (1)	U*	R		U*	U	U	R
MONTANA							
NEBRASKA				R			
NEVADA				R			
NEW HAMPSHIRE		R	R		R	R	R
NEW JERSEY	U	U	U	R	U	U	U
NEW MEXICO			U	U		U	U
NEW YORK	U	U		U	U	U	R
NORTH CAROLINA							
NORTH DAKOTA		U		R	R		R
OHIO				U		U	U
OKLAHOMA	R		R			R	R
OREGON		U		U	R		
PENNSYLVANIA	R	R	R	R	R	R	R
RHODE ISLAND				R	R	R	R
SOUTH CAROLINA				U	U	U	U
SOUTH DAKOTA							
TENNESSEE		R	R	R	R	R	R
TEXAS			R	R		U	U
UTAH				U			
VERMONT		R				R	R
VIRGINIA	U	U	U	U	U	U	U
WASHINGTON							
WEST VIRGINIA				U	U	U	U
WISCONSIN	R	R	R				
WYOMING							

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(1) Regulations scheduled to be published 3/25/88 will change these "U"'s to "R"'s.

KEY TO TABLE

R = Regulation in place
 U = Under consideration as regulations are upgraded
 Blank = Not regulated by state and not under consideration.

Table 4
Methods of Treatment and Disposal: Part I

State	Incineration	Specifies Ash Control	Specifies Performance Standards	Steam Sterilization	Specified Time/Temperature Pressure
ALABAMA	R				
ALASKA	R				
ARIZONA					
ARKANSAS	R			R	R
CALIFORNIA					
COLORADO		U	U	U	U
CONNECTICUT	U	U	U	U	
DELAWARE	U	U	U	U	U
D.C.	U		U		
FLORIDA	R		U	R	U
GEORGIA	R				
HAWAII					
IDAHO					
ILLINOIS	R	R	R	R	R
INDIANA	R	R	R		
IOWA					
KANSAS	R	R	R	R	
KENTUCKY	R			R	
LOUISIANA	U	U	U	U	U
MAINE	U		R	U	
MARYLAND	U			U	
MASSACHUSETTS					
MICHIGAN					
MINNESOTA	R			R	
MISSISSIPPI	R				
MISSOURI (1)	U*	U*	U*	U*	U*
MONTANA					
NEBRASKA	R				
NEVADA					
NEW HAMPSHIRE	R	R	R	R	
NEW JERSEY	R	R	R	U	U
NEW MEXICO			R		
NEW YORK	R		R	R	R
NORTH CAROLINA	R	R		R	
NORTH DAKOTA	R		R		
OHIO	R	U	U	U	U
OKLAHOMA	R	R	R		
OREGON	U	U	U	U	U
PENNSYLVANIA	R	R	R	R	
RHODE ISLAND	R			R	
SOUTH CAROLINA	U	U		U	U
SOUTH DAKOTA					
TENNESSEE	R	R	R	R	R
TEXAS	U				
UTAH					
VERMONT					
VIRGINIA	U	U	U	U	
WASHINGTON	R				
WEST VIRGINIA	U		U	U	U
WISCONSIN	R	R	R	U	
WYOMING					

NOTES

(1) Regulations scheduled to be published 3/25/88 will change these "U"'s to "R"'s.

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Table 5
Methods of Treatment and Disposal: Part II

State	Chemical Treatment	Pretreatment Before Landfilled	Double Bagged
ALABAMA			
ALASKA		R	
ARIZONA			
ARKANSAS	R		R
CALIFORNIA			
COLORADO	U		
CONNECTICUT	U	U	U
DELAWARE	U	U	U
D.C.			
FLORIDA	U	R	U
GEORGIA			
HAWAII			
IDAHO			
ILLINOIS	R	R	
INDIANA		U	
IOWA			
KANSAS		R	R
KENTUCKY			
LOUISIANA	U	U	U
MAINE		U	
MARYLAND	U	U	U
MASSACHUSETTS			
MICHIGAN			
MINNESOTA		R	
MISSISSIPPI		R	
MISSOURI	U	R	
MONTANA			
NEBRASKA			
NEVADA		R	R
NEW HAMPSHIRE	R	R	R
NEW JERSEY	U	R	R
NEW MEXICO	U	U	U
NEW YORK		R	U
NORTH CAROLINA		R	
NORTH DAKOTA			
OHIO	U	U	U
OKLAHOMA			
OREGON	U	U	U
PENNSYLVANIA	R	R	R
RHODE ISLAND		R	
SOUTH CAROLINA	U	U	U
SOUTH DAKOTA			
TENNESSEE	R	R	R
TEXAS	U	U	R
UTAH			
VERMONT			
VIRGINIA		U	
WASHINGTON			
WEST VIRGINIA		U	U
WISCONSIN	U		
WYOMING			

KEY TO TABLE

R = Regulation in place

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Amendments to House Bill No. 676
Third Reading Copy

Requested by Rep. Raney
For the Senate Committee on Natural Resources

April 5, 1989

Page 3.

Following: line 8

Insert: " It is the intent of the legislature that gloves, gowns, and other items routinely used in health care procedures not be considered infectious waste unless in the judgment of the health care professional the particular circumstances under which the items were used dictate that they be managed as infectious waste."

Rationale: Further emphasizes the judgment and discretion of the health care professional to determine if these items need to be managed as infectious waste.

Page 8.

Following: line 11

Insert: "contaminated"

Rationale: Clarifies that only contaminated isolation waste is to be defined as infectious.

Page 8, line 14.

Following: "KNOWN"

Insert: "by the health care professional"

Rationale: See comments to amendment #1

Page 8, line 20.

Following: "sterile"

Insert: "noninfectious"

Rationale: Provides consistency with remainder of the bill

Page 11, line 12.

Following: "STEAM"

Insert: "or chemical"

Rationale: Indicates that chemical sterilization methods are acceptable.

6. Page 17, line 3.

Strike: "A"

Insert: "Except as provided in subsection (4), a"

Rationale: See amendment #7

7. Page 19.

Following: line 1

Insert: " (4) Until July 1, 1991, a landfill is not subject to the infectious waste management fee for the authorized disposal of not more than 2,000 pounds of infectious waste per generator per year."

Rationale: Exempts landfills from paying the disposal fee for any continued use of landfills for infectious waste disposal, as authorized by amendment #9

8. Page 21, lines 17, 22, and 25.

Strike: "50"

Insert: "100"

Rationale: Applies the annual reporting requirement to facilities generating more than 100 pounds a month, rather to those generating more than 50 pounds a month. This higher limit would generally remove doctors' and dentists' offices from the reporting requirement and is also consistent with other figures in the bill.

9. Page 31.

Following: line 17

Insert: " (7) [This act] does not prohibit, before July 1, 1991, the disposal of not more than 2,000 pounds of infectious waste per year in a landfill, with the consent of the landfill operator, by the person generating the waste if the landfill had been disposing of the waste generated by the person prior to January 1, 1989."

Rationale: Allows small and medium-sized generators of infectious waste to continue using landfills for disposal during the next biennium.

Amendment to House Bill 676
Proposed by
Montana Dental Association

page 8, lines 13 through 15
Strike: "AND" on line 13 through "CONTAMINATED" on line 15

page 8
Following: "Infectious waste also includes any item that might not normally be considered infectious waste but that was, in the judgment of the health care professional, used under particular circumstances that dictate that it be managed as infectious waste."

Rationale: this amendment deletes some extremely vague language about wastes generated in connection with patient care which could certainly include the gloves, masks, and other disposable clothing routinely worn by dental office personnel. No one favoring the passage of this bill has wanted dental office gloves, etc. to be included as infectious wastes in the 99.9% of the situations they are used for. The problem has been how to write language which excludes these items when they should be excluded.

The revised definition of infectious wastes under this amendment will be much closer to the EPA's categories of infectious wastes regulated, in a 10-state area, under the Medical Wastes Tracking Act of 1988. This is also desirable that record-keeping forms or software will be more readily available in a style which conforms to EPA requirements.

The Dental Association does not favor placing such language in the statement of intent. It should go into the bill itself.

DATE

4-5-89

COMMITTEE ON

NATURAL RESOURCES

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Kay Rosenberg	Wife	HB 757	✓	
John Brunner	M W R A	*	✓	
John Sample	M.A.T.A.	HB 757	✓	
Wo. Meland	Headwaters Ag Committee	HB 757	✓	
Stockton + Polly White	CAP	HB 676	✓	
Pam Langley	Mt. Farmers Union Mt. Ag Business, Mt. Grain Elevator	H757	✓	
Chuck Merja	Mt Grain Growers Assn	H757	X	
Marc Montgomery	Livingston Residents	HB 676	✓	
DAN PORTER	CAP	HB 676	✓	
MAX Bauer Jr	Brown. Terris Indus. +	HB 676	✓	
Everett McWhorter	Mt. Dept Ag	HB 757	✓	
Bill Plude	MS	HB 757		
Reggie Lynn	Mt Dental Assoc	676		Amend
Bonnie Lippy	Mt Funeral Directors	676		neutral w/ amendment
Henry Matheson	AERO	757	✓	
Jim Ahnert	Mt. Hospital Assoc	676	✓	
ROGER KESLUNG	Montana Dental Assoc	676		Amend
Wm E. Zapp	MONTANA DENTAL ASSOCIATION	676		AMEND
Kim Wilh	Slack Club	676 757 757	✓	
Lerna Frank	Farm Bureau	HB 757	✓	
Martin Skinner MD	Mt. MED. Ass.	HB 676	✓	
See Weingarten	Mt seed washer Contractors	HB 676	✓	
Hon Angels	Mt Chamber of Commerce	HB 752 676		Monitor
Chris Kaufmann	MEIC	HB 752 676	✓	
Chris Kaufmann	MEIC	757	✓	
Martin Barber	A P A	757	✓	

(Please leave prepared statement with Secretary)