

SENATE BILL NO. 291

INTRODUCED BY ECK, METCALF

BY REQUEST OF THE DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES

IN THE SENATE

January 26, 1983	Introduced and referred to Committee on Natural Resources.
February 14, 1983	Committee recommend bill do pass. Report adopted.
February 15, 1983	Bill printed and placed on members' desks.
February 16, 1983	Second reading, do pass.
February 18, 1983	Correctly engrossed.
February 19, 1983	Third reading, passed. Ayes, 48; Noes, 0. Transmitted to House.

IN THE HOUSE

March 1, 1983	Introduced and referred to Committee on Natural Resources.
March 10, 1983	Committee recommend bill be concurrent in. Report adopted.
March 11, 1983	Second reading, concurrent in.
March 12, 1983	Third reading, concurrent in.

IN THE SENATE

March 14, 1983	Returned to Senate. Sent to enrolling.  Reported correctly enrolled.
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8 APPLICATION DOES NOT RUN PRIOR TO ISSUANCE OF AN  
9 ENVIRONMENTAL IMPACT STATEMENT WHENEVER AN ENVIRONMENTAL  
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11 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES IS THE  
12 LEAD AGENCY FOR PREPARATION OF THE STATEMENT; CORRECTING  
13 INTERNAL CITATIONS; AMENDING SECTION 75-2-211, MCA; AND  
14 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

17 Section 1. Section 75-2-211, MCA, is amended to read:

18 "75-2-211. Permits for construction, installation,  
19 alteration, or use. (1) The department shall provide for the  
20 issuance, suspension, revocation, and renewal of a permit  
21 issued under this section.

22 (2) Not later than 180 days before construction begins  
23 of any machine, equipment, device, or facility which the  
24 board finds may directly or indirectly cause or contribute  
25 to air pollution or which is intended primarily to prevent

1 or control the emission of air pollutants and not later than  
2 120 days before installation, alteration, or use begins, the  
3 owner or operator shall file with the department the  
4 appropriate permit application on forms available from the  
5 department and pay to the department a fee sufficient to  
6 cover:

7 (a) the reasonable costs of reviewing and acting upon  
8 the application for such permit; and

9 (b) the reasonable costs of implementing and enforcing  
10 the terms and conditions of such permit if the permit is  
11 granted (not including any court costs or other costs  
12 associated with any enforcement action). The fee shall be  
13 deposited in an earmarked revenue fund to be used by the  
14 department for administration of this section.

15 (3) Nothing in this section shall restrict the board's  
16 authority to adopt regulations providing for a single air  
17 quality permit system.

18 (4) The department may, for good cause shown, waive or  
19 shorten the time required for filing the appropriate  
20 applications.

21 (5) The department shall require that applications for  
22 permits be accompanied by any plans, specifications, and  
23 other information it considers necessary.

24 (6) An application is not considered filed until the  
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application forms required by subsections (2), (3), and (4) (5). However, if the department fails to notify the applicant in writing within 30 days after the purported filing of an application that the application is incomplete and fails to list the reasons why the application is considered incomplete, the application is considered filed as of the date of the purported filing.

(7) (a) Where an application for a permit requires the compilation of an environmental impact statement under the Montana Environmental Policy Act, the department shall notify the applicant in writing of the approval or denial of the application within:

(i) 180 days of the receipt of a filed application, as defined in subsection (5) (6), ~~of the approval or denial of the application~~ if the department prepares the environmental impact statement; or

(ii) within 30 days after issuance of the final environmental impact statement by the lead agency if a state agency other than the department has been designated by the governor as lead agency for preparation of the environmental impact statement.

(b) However, where an application does not require the compilation of an environmental impact statement, the department shall notify the applicant in writing within 60 days of the receipt of a filed application, as defined in

subsection (5) (6), of the approval or denial of the application. Notification of approval or denial may be served personally or by registered or certified mail on the applicant or his agent.

(3) when the department approves or denies the application for a permit under this section, a person who is jointly or severally adversely affected by the department's decision may request, within 15 days after the department renders its decision, upon affidavit setting forth the grounds therefor, a hearing before the board. A hearing shall be held under the provisions of the Montana Administrative Procedure Act.

(9) The department's decision on the application is not final unless 15 days have elapsed and there is no request for a hearing under this section. The filing of a request for a hearing postpones the effective date of the department's decision until the conclusion of the hearing and issuance of a final decision by the board."

NEW SECTION. Section 2. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 3. Saving clause. This act does

1 not affect rights and duties that matured, penalties that  
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