

IN THE HOUSE

APRIL 8, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 9, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 House BILL NO. 789
2 INTRODUCED BY Rayner
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING A TRANSFER
5 FACILITY; AUTHORIZING THE DEPARTMENT OF HEALTH AND
6 ENVIRONMENTAL SCIENCES TO ESTABLISH PERMITTING REQUIREMENTS
7 CONCERNING TRANSFER FACILITIES; AMENDING SECTIONS 75-10-403
8 AND 75-10-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
9 DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 75-10-403, MCA, is amended to read:

13 "75-10-403. Definitions. Unless the context requires
14 otherwise, in this part the following definitions apply:

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

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

20 (3) "Dispose" or "disposal" means the discharge,
21 injection, deposit, dumping, spilling, leaking, or placing
22 of any hazardous waste into or onto the land or water so
23 that the hazardous waste or any constituent of it may enter
24 the environment or be emitted into the air or discharged
25 into any waters, including groundwaters.

1 (4) "Facility" or "hazardous waste management
2 facility" means all contiguous land and structures, other
3 appurtenances, and improvements on the land used for
4 treating, storing, or disposing of hazardous waste. A
5 facility may consist of several treatment, storage, or
6 disposal operational units.

7 (5) "Generation" means the act or process of producing
8 waste material.

9 (6) "Generator" means any person, by site, whose act
10 or process produces hazardous waste or whose act first
11 causes a hazardous waste to become subject to regulation
12 under this part.

13 (7) (a) "Hazardous waste" means a waste or combination
14 of wastes that, because of its quantity, concentration, or
15 physical, chemical, or infectious characteristics, may:

16 (i) cause or significantly contribute to an increase
17 in mortality or an increase in serious irreversible or
18 incapacitating reversible illness; or

19 (ii) pose a substantial present or potential hazard to
20 human health or the environment when improperly treated,
21 stored, transported, or disposed of or otherwise managed.

22 (b) Hazardous wastes do not include those substances
23 governed by Title 82, chapter 4, part 2.

24 (8) "Hazardous waste management" means the management
25 of the collection, source separation, storage,



1 transportation, processing, treatment, recovery, and
2 disposal of hazardous wastes.

3 (9) "Manifest" means the shipping document originated
4 and signed by the generator and which is used to identify
5 the hazardous waste, its quantity, origin, and destination
6 during its transportation.

7 (10) "Person" means the United States, an individual,
8 firm, trust, estate, partnership, company, association,
9 corporation, city, town, local governmental entity, or any
10 other governmental or private entity, whether organized for
11 profit or not.

12 (11) "Regulated substance":

13 (a) means:

14 (i) a hazardous substance as defined in 75-10-602; or

15 (ii) petroleum, including crude oil or any fraction
16 thereof, which is liquid at standard conditions of
17 temperature and pressure (60 degrees F and 14.7 pounds per
18 square inch absolute);

19 (b) does not include a substance regulated as a
20 hazardous waste under this part.

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

24 (13) "Transfer facility" means any land, structure, or
25 improvement, including loading docks, parking areas, holding

1 sites, and other similar areas where shipments of hazardous
2 waste are temporarily held, including for a period of 10
3 days or less, during the normal course of transportation up
4 to but not including the point of ultimate treatment,
5 storage, or disposal.

6 (14) "Transportation" means the movement of
7 hazardous wastes from the point of generation to any
8 intermediate points and finally to the point of ultimate
9 storage or disposal.

10 (15) "Transporter" means a person engaged in the
11 offsite transportation of hazardous waste by air, rail,
12 highway, or water.

13 (16) "Treatment" means a method, technique, or
14 process, including neutralization, designed to change the
15 physical, chemical, or biological character or composition
16 of any hazardous waste so as to neutralize the waste or so
17 as to render it nonhazardous, safer for transportation,
18 amenable for recovery, amenable for storage, or reduced in
19 volume.

20 (17) "Underground storage tank":

21 (a) means, except as provided in subsections
22 (17)(b)(i) through (17)(b)(viii):

23 (i) any one or combination of tanks (including
24 connected underground pipes) used to contain a regulated
25 substance, the volume of which (including the volume of the

1 connected underground pipes) is 10% or more beneath the
2 surface of the ground; and

3 (ii) any underground pipes used to contain or transport
4 a regulated substance and connected to a storage tank,
5 whether the storage tank is entirely above ground, partially
6 above ground, or entirely underground;

7 (b) does not include:

8 (i) a septic tank;

9 (ii) a pipeline facility (including gathering lines)
10 regulated under:

11 (A) the Natural Gas Pipeline Safety Act of 1968 (49
12 U.S.C. 1671, et seq.);

13 (B) the Hazardous Liquid Pipeline Safety Act of 1979
14 (49 U.S.C. 2001, et seq.); or

15 (C) state law comparable to the provisions of law
16 referred to in subsection ~~(16)(b)(1)(A)~~ (17)(b)(ii)(A) or
17 ~~(16)(b)(1)(B)~~ (17)(b)(ii)(B), if the facility is
18 intrastate;

19 (iii) a surface impoundment, pit, pond, or lagoon;

20 (iv) a storm water or wastewater collection system;

21 (v) a flow-through process tank;

22 (vi) a liquid trap or associated gathering lines
23 directly related to oil or gas production and gathering
24 operations;

25 (vii) a storage tank situated in an underground area,

1 such as a basement, cellar, mine, draft, shaft, or tunnel,
2 if the storage tank is situated upon or above the surface of
3 the floor; or

4 (viii) any pipe connected to a tank described in
5 subsections ~~(16)(b)(1)~~ (17)(b)(i) through ~~(16)(b)(viii)~~
6 (17)(b)(vii)."

7 Section 2. Section 75-10-405, MCA, is amended to read:

8 "75-10-405. Administrative rules. (1) The department
9 may adopt, amend, or repeal rules governing hazardous waste,
10 including but not limited to the following:

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

14 (b) requirements for the proper treatment, storage,
15 transportation, and disposal of hazardous waste;

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

19 (d) requirements for the issuance, denial, renewal,
20 modification, and revocation of permits for hazardous waste
21 management facilities;

22 (e) requirements for manifests and the manifest system
23 for tracking hazardous waste and for reporting and
24 recordkeeping by generators, transporters, and owners and
25 operators of hazardous waste management facilities;

1 (f) requirements for training of facility personnel
2 and for financial assurance of facility owners and
3 operators;

4 (g) requirements for registration of generators and
5 transporters;

6 (h) a schedule of fees for hazardous waste management
7 facility permits and registration of hazardous waste
8 generators;

9 (i) a schedule of fees to defray a portion of the
10 costs of establishing, operating, and maintaining any state
11 hazardous waste management facility authorized by 75-10-412;
12 and

13 (j) other rules which are necessary to obtain and
14 maintain authorization under the federal program.

15 (2) The department may not adopt rules under this part
16 that are more restrictive than those promulgated by the
17 federal government under the Resource Conservation and
18 Recovery Act of 1976, as amended, except that the department
19 may:

20 (a) require the registration of transporters not
21 otherwise required to register with the state of Montana
22 pursuant to the federal Resource Conservation and Recovery
23 Act of 1976, as amended;

24 (b) require generators and facilities to report on an
25 annual rather than on a biennial basis; and

1 (c) adopt requirements for the prevention of leakage
2 from underground storage tanks, including:

3 (i) reporting by owners and operators;

4 (ii) financial responsibility;

5 (iii) release detection, prevention, and correction;

6 and

7 (iv) standards for design, construction, and
8 installation; and

9 (d) adopt permitting requirements for transfer
10 facilities."

11 NEW SECTION. Section 3. Extension of authority. Any
12 existing authority of the department of health and
13 environmental sciences to make rules on the subject of the
14 provisions of this act is extended to the provisions of this
15 act.

16 NEW SECTION. Section 4. Effective date. This act is
17 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB789, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

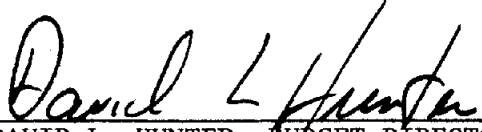
An act defining a transfer facility; authorizing the Department of Health and Environmental Sciences to establish permitting requirements concerning transfer facilities; amending Sections 75-10-403 and 75-10-405, MCA; and providing an immediate effective date.


ASSUMPTIONS:

1. It is assumed that processing a hazardous waste transfer facility permit will require 60 work days. This assumption is based on Environmental Protection Agency (EPA) program guidelines that estimate it would require 120 days to process a permit for a hazardous waste storage and treatment facility. Because a transfer facility has a more limited scope of activity, the work days required to process such a permit were halved.
2. It is assumed that permit review would encompass an assessment of the physical structure, waste handling and storage requirements, contingency plans and personnel training for each facility.
3. It is estimated that 30 work days would be required to develop and adopt rules.
4. It is assumed that the same fee schedule would be applied to hazardous waste transfer facilities as is currently adopted in rule for hazardous waste storage and treatment facility permits.
5. Two hazardous waste transfer permits will be issued in FY88. The Department of Health and Environmental Sciences would be able to absorb additional workload within existing staff and budgets if the EPA were to agree that processing such permits could be included in the annual state/EPA agreement. Without an EPA agreement, about \$20,550 additional state authority would be needed to fund permit review. (See long-range note.)

FISCAL IMPACT:

	FY88		FY89	
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Current Law</u>	<u>Proposed Law</u>
<u>Expenditures:</u>	\$ 0	\$ 0	\$ 0	\$ 0
<u>Revenues:</u>				
General Fund	\$ 0	\$ 5,000	\$ 0	\$ 5,000
Net Impact	\$ 0	\$ 5,000	\$ 0	\$ 5,000

 DATE 2/21/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

 DATE 2/21/87
 HAL HARPER, PRIMARY SPONSOR

Fiscal Note for HB789, as introduced.

HB 789

Fiscal Note Request, HB789, as introduced.

Form BD-15

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LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

It is unknown if more than two transfer facility permits will be processed; therefore, no such processing is projected in FY89. It is proposed that existing federal hazardous waste grant funds will be used for this permitting activity. However, this bill would make the state Hazardous Waste Program more stringent than the federal program. EPA has informed the Department of Health and Environmental Sciences that federal grant monies, which would include state matching funds, can only be expended on priority activities which are negotiated and detailed in the annual state/EPA agreements (SEA). If EPA will not consent to the inclusion of the proposed permitting activities as a priority item in the annual SEA, then other funding will have to be secured.

HB 789

APPROVED BY COMM. ON
BUSINESS AND LABOR

STATEMENT OF INTENT

HOUSE BILL 789

House Business and Labor Committee

A statement of intent is required for this bill because it delegates rulemaking and permitting authority to the department of health and environmental sciences. House Bill 789 adds transfer facilities operated by hazardous waste transporters to the category of facilities that require permits under the Montana Hazardous Waste Act.

It is the intent of the legislature that the department adopt and implement administrative rules that will ensure that proposed hazardous waste transfer facilities undergo a review and approval process before the commencement of waste handling activities.

The legislature intends that the administrative rules developed by the department to implement House Bill 789 should be similar to those rules applicable to hazardous waste management facilities that store wastes for longer periods of time. The department may develop rules for transfer facilities that are less restrictive or less encompassing than those for long-term storage facilities, but may not adopt rules that are more restrictive or more encompassing than those for long-term storage facilities. The department may not adopt rules that are more restrictive

or broader in scope than the comparable rules for hazardous waste management facilities that store wastes for longer periods of time.

The legislature understands and intends that the rules developed by the department to implement House Bill 789 must include the following:

- (1) preparedness for hazardous waste emergencies;
- (2) development of emergency contingency plans;
- (3) training of transfer facility personnel;
- (4) security provisions at transfer facilities;
- (5) hazardous waste drum handling, temporary storage methods, and containment requirements that minimize the possibilities of leaks, spills, off-site releases, or similar accidents; and
- (6) the proper design of transfer facilities to prevent threats to adjoining property and to environmental resources.

HOUSE BILL NO. 789

INTRODUCED BY HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING A HAZARDOUS WASTE TRANSFER FACILITY; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH PERMITTING REQUIREMENTS CONCERNING HAZARDOUS WASTE TRANSFER FACILITIES; AMENDING SECTIONS 75-10-403 AND 75-10-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 75-10-403, MCA, is amended to read:

"75-10-403. Definitions. Unless the context requires otherwise, in this part the following definitions apply:

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

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

(3) "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing of any hazardous waste into or onto the land or water so that the hazardous waste or any constituent of it may enter the environment or be emitted into the air or discharged

into any waters, including groundwaters.

(4) "Facility" or "hazardous waste management facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units.

(5) "Generation" means the act or process of producing waste material.

(6) "Generator" means any person, by site, whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation under this part.

(7) (a) "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

(i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

(b) Hazardous wastes do not include those substances governed by Title 82, chapter 4, part 2.

(8) "Hazardous waste management" means the management



1 of the collection, source separation, storage,
 2 transportation, processing, treatment, recovery, and
 3 disposal of hazardous wastes.

4 {9} "HAZARDOUS WASTE TRANSFER FACILITY" MEANS ANY
 5 LAND, STRUCTURE, OR IMPROVEMENT, INCLUDING LOADING DOCKS,
 6 PARKING AREAS, HOLDING SITES, AND OTHER SIMILAR AREAS, WHOSE
 7 PRIMARY PURPOSE IS THE TRANSPORTATION AND TEMPORARY STORAGE
 8 OF HAZARDOUS WASTES AND WHERE SHIPMENTS OF HAZARDOUS WASTE
 9 ARE TEMPORARILY HELD FOR A PERIOD OF 10 DAYS OR LESS DURING
 10 THE NORMAL COURSE OF TRANSPORTATION UP TO BUT NOT INCLUDING
 11 THE POINT OF ULTIMATE TREATMENT, STORAGE, OR DISPOSAL.

12 {9}{10} "Manifest" means the shipping document
 13 originated and signed by the generator and which is used to
 14 identify the hazardous waste, its quantity, origin, and
 15 destination during its transportation.

16 {10}{11} "Person" means the United States, an
 17 individual, firm, trust, estate, partnership, company,
 18 association, corporation, city, town, local governmental
 19 entity, or any other governmental or private entity, whether
 20 organized for profit or not.

21 {11}{12} "Regulated substance":

22 (a) means:

23 (i) a hazardous substance as defined in 75-10-602; or

24 (ii) petroleum, including crude oil or any fraction
 25 thereof, which is liquid at standard conditions of

1 temperature and pressure (60 degrees F and 14.7 pounds per
 2 square inch absolute);

3 (b) does not include a substance regulated as a
 4 hazardous waste under this part.

5 ~~{12}{13} "Storage" means the actual or intended~~
 6 ~~containment of wastes, either on a temporary basis or for a~~
 7 ~~period of years.~~

8 ~~{13} "Transfer facility" means any land, structure, or~~
 9 ~~improvement, including loading docks, parking areas, holding~~
 10 ~~sites, and other similar areas where shipments of hazardous~~
 11 ~~waste are temporarily held, including for a period of 10~~
 12 ~~days or less, during the normal course of transportation up~~
 13 ~~to but not including the point of ultimate treatment,~~
 14 ~~storage, or disposal.~~

15 {13}{14} "Transportation" means the movement of
 16 hazardous wastes from the point of generation to any
 17 intermediate points and finally to the point of ultimate
 18 storage or disposal.

19 {14}{15} "Transporter" means a person engaged in the
 20 offsite transportation of hazardous waste by air, rail,
 21 highway, or water.

22 {15}{16} "Treatment" means a method, technique, or
 23 process, including neutralization, designed to change the
 24 physical, chemical, or biological character or composition
 25 of any hazardous waste so as to neutralize the waste or so

1 as to render it nonhazardous, safer for transportation,
 2 amenable for recovery, amenable for storage, or reduced in
 3 volume.

4 ~~(16)~~(17) "Underground storage tank":

5 (a) means, except as provided in subsections
 6 ~~(16)(b)(i)~~ (17)(b)(i) through ~~(16)(b)(viii)~~ (17)(b)(viii):

7 (i) any one or combination of tanks (including
 8 connected underground pipes) used to contain a regulated
 9 substance, the volume of which (including the volume of the
 10 connected underground pipes) is 10% or more beneath the
 11 surface of the ground; and

12 (ii) any underground pipes used to contain or transport
 13 a regulated substance and connected to a storage tank,
 14 whether the storage tank is entirely above ground, partially
 15 above ground, or entirely underground;

16 (b) does not include:

17 (i) a septic tank;

18 (ii) a pipeline facility (including gathering lines)
 19 regulated under:

20 (A) the Natural Gas Pipeline Safety Act of 1968 (49
 21 U.S.C. 1671, et seq.);

22 (B) the Hazardous Liquid Pipeline Safety Act of 1979
 23 (49 U.S.C. 2001, et seq.); or

24 (C) state law comparable to the provisions of law
 25 referred to in subsection ~~(16)(b)(i)(A)~~ (17)(b)(i)(A) or

1 ~~(16)(b)(i)(B)~~ (17)(b)(i)(B), if the facility is
 2 intrastate;

3 (iii) a surface impoundment, pit, pond, or lagoon;

4 (iv) a storm water or wastewater collection system;

5 (v) a flow-through process tank;

6 (vi) a liquid trap or associated gathering lines
 7 directly related to oil or gas production and gathering
 8 operations;

9 (vii) a storage tank situated in an underground area,
 10 such as a basement, cellar, mine, draft, shaft, or tunnel,
 11 if the storage tank is situated upon or above the surface of
 12 the floor; or

13 (viii) any pipe connected to a tank described in
 14 subsections ~~(16)(b)(i)~~ (17)(b)(i) through ~~(16)(b)(viii)~~
 15 (17)(b)(vii)."

16 Section 2. Section 75-10-405, MCA, is amended to read:

17 "75-10-405. Administrative rules. (1) The department
 18 may adopt, amend, or repeal rules governing hazardous waste,
 19 including but not limited to the following:

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

23 (b) requirements for the proper treatment, storage,
 24 transportation, and disposal of hazardous waste;

25 (c) requirements for siting, design, operation,

1 maintenance, monitoring, inspection, closure, postclosure,
2 and reclamation of hazardous waste management facilities;

3 (d) requirements for the issuance, denial, renewal,
4 modification, and revocation of permits for hazardous waste
5 management facilities;

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

10 (f) requirements for training of facility personnel
11 and for financial assurance of facility owners and
12 operators;

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

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

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

22 (j) other rules which are necessary to obtain and
23 maintain authorization under the federal program.

24 (2) The department may not adopt rules under this part
25 that are more restrictive than those promulgated by the

1 federal government under the Resource Conservation and
2 Recovery Act of 1976, as amended, except that the department
3 may:

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

8 (b) require generators and facilities to report on an
9 annual rather than on a biennial basis; and

10 (c) adopt requirements for the prevention of leakage
11 from underground storage tanks, including:

12 (i) reporting by owners and operators;

13 (ii) financial responsibility;

14 (iii) release detection, prevention, and correction;

15 and

16 (iv) standards for design, construction, and
17 installation; and

18 (d) adopt permitting requirements for HAZARDOUS WASTE
19 transfer facilities. THESE PERMITTING REQUIREMENTS DO NOT
20 EXTEND TO COMMON CARRIERS, AS DEFINED UNDER THE FEDERAL
21 MOTOR CARRIER ACT OR TITLE 69, CHAPTER 11, WHOSE
22 TRANSPORTATION OF HAZARDOUS WASTE IS A MINOR PART OF THEIR
23 COMMODITY TRANSPORTATION ACTIVITY.

24 (3) PERMITTING REQUIREMENTS IN RULES ADOPTED UNDER
25 SUBSECTION (2)(D) DO NOT APPLY TO HAZARDOUS WASTE TRANSFER

1 FACILITIES THAT WERE IN OPERATION ON JUNE 30, 1987."

2 NEW SECTION. Section 3. Extension of authority. Any
3 existing authority of the department of health and
4 environmental sciences to make rules on the subject of the
5 provisions of this act is extended to the provisions of this
6 act.

7 NEW SECTION. Section 4. Effective date. This act is
8 effective on passage and approval.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 789

3 House Business and Labor Committee

4
5 A statement of intent is required for this bill because
6 it delegates rulemaking and permitting authority to the
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12 adopt and implement administrative rules that will ensure
13 that proposed hazardous waste transfer facilities undergo a
14 review and approval process before the commencement of waste
15 handling activities.

16 The legislature intends that the administrative rules
17 developed by the department to implement House Bill 789
18 should be similar to those rules applicable to hazardous
19 waste management facilities that store wastes for longer
20 periods of time. The department may develop rules for
21 transfer facilities that are less restrictive or less
22 encompassing than those for long-term storage facilities,
23 but may not adopt rules that are more restrictive or more
24 encompassing than those for long-term storage facilities.
25 The department may not adopt rules that are more restrictive

1 or broader in scope than the comparable rules for hazardous
2 waste management facilities that store wastes for longer
3 periods of time.

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5 developed by the department to implement House Bill 789 must
6 include the following:

- 7 (1) preparedness for hazardous waste emergencies;
- 8 (2) development of emergency contingency plans;
- 9 (3) training of transfer facility personnel;
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- 11 (5) hazardous waste drum handling, temporary storage
12 methods, and containment requirements that minimize the
13 possibilities of leaks, spills, off-site releases, or
14 similar accidents; and
- 15 (6) the proper design of transfer facilities to
16 prevent threats to adjoining property and to environmental
17 resources.

1 HOUSE BILL NO. 789
2 INTRODUCED BY HARPER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING A HAZARDOUS
5 WASTE TRANSFER FACILITY; AUTHORIZING THE DEPARTMENT OF
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19 entity, or any other governmental or private entity, whether
20 organized for profit or not.

21 {11}{12} "Regulated substance":

22 (a) means:

23 (i) a hazardous substance as defined in 75-10-602; or

24 (ii) petroleum, including crude oil or any fraction
25 thereof, which is liquid at standard conditions of

1 temperature and pressure (60 degrees F and 14.7 pounds per
2 square inch absolute);

3 (b) does not include a substance regulated as a
4 hazardous waste under this part.

5 {12}{13} "Storage" means the actual or intended
6 containment of wastes, either on a temporary basis or for a
7 period of years.

8 ~~{13} "Transfer facility" means any land, structure, or~~
9 ~~improvement, including loading docks, parking areas, holding~~
10 ~~sites, and other similar areas where shipments of hazardous~~
11 ~~waste are temporarily held, including for a period of 10~~
12 ~~days or less, during the normal course of transportation up~~
13 ~~to but not including the point of ultimate treatment,~~
14 ~~storage, or disposal.~~

15 {13}{14} "Transportation" means the movement of
16 hazardous wastes from the point of generation to any
17 intermediate points and finally to the point of ultimate
18 storage or disposal.

19 {14}{15} "Transporter" means a person engaged in the
20 offsite transportation of hazardous waste by air, rail,
21 highway, or water.

22 {15}{16} "Treatment" means a method, technique, or
23 process, including neutralization, designed to change the
24 physical, chemical, or biological character or composition
25 of any hazardous waste so as to neutralize the waste or so

1 as to render it nonhazardous, safer for transportation,
 2 amenable for recovery, amenable for storage, or reduced in
 3 volume.

4 ~~{16}{17}~~ "Underground storage tank":

5 (a) means, except as provided in subsections
 6 ~~{16}{b}{i}~~ (17)(b)(i) through ~~{16}{b}{viii}~~ (17)(b)(viii):

7 (i) any one or combination of tanks (including
 8 connected underground pipes) used to contain a regulated
 9 substance, the volume of which (including the volume of the
 10 connected underground pipes) is 10% or more beneath the
 11 surface of the ground; and

12 (ii) any underground pipes used to contain or transport
 13 a regulated substance and connected to a storage tank,
 14 whether the storage tank is entirely above ground, partially
 15 above ground, or entirely underground;

16 (b) does not include:

17 (i) a septic tank;

18 (ii) a pipeline facility (including gathering lines)
 19 regulated under:

20 (A) the Natural Gas Pipeline Safety Act of 1968 (49
 21 U.S.C. 1671, et seq.);

22 (B) the Hazardous Liquid Pipeline Safety Act of 1979
 23 (49 U.S.C. 2001, et seq.); or

24 (C) state law comparable to the provisions of law
 25 referred to in subsection ~~{16}{b}{i}{A}~~ (17)(b)(i)(A) or

1 ~~{16}{b}{i}{B}~~ (17)(b)(i)(B), if the facility is
 2 intrastate;

3 (iii) a surface impoundment, pit, pond, or lagoon;

4 (iv) a storm water or wastewater collection system;

5 (v) a flow-through process tank;

6 (vi) a liquid trap or associated gathering lines
 7 directly related to oil or gas production and gathering
 8 operations;

9 (vii) a storage tank situated in an underground area,
 10 such as a basement, cellar, mine, draft, shaft, or tunnel,
 11 if the storage tank is situated upon or above the surface of
 12 the floor; or

13 (viii) any pipe connected to a tank described in
 14 subsections ~~{16}{b}{i}~~ (17)(b)(i) through ~~{16}{b}{viii}~~
 15 (17)(b)(vii)."

16 Section 2. Section 75-10-405, MCA, is amended to read:

17 "75-10-405. Administrative rules. (1) The department
 18 may adopt, amend, or repeal rules governing hazardous waste,
 19 including but not limited to the following:

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

23 (b) requirements for the proper treatment, storage,
 24 transportation, and disposal of hazardous waste;

25 (c) requirements for siting, design, operation,

1 maintenance, monitoring, inspection, closure, postclosure,
2 and reclamation of hazardous waste management facilities;

3 (d) requirements for the issuance, denial, renewal,
4 modification, and revocation of permits for hazardous waste
5 management facilities;

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

10 (f) requirements for training of facility personnel
11 and for financial assurance of facility owners and
12 operators;

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

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

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

22 (j) other rules which are necessary to obtain and
23 maintain authorization under the federal program.

24 (2) The department may not adopt rules under this part
25 that are more restrictive than those promulgated by the

1 federal government under the Resource Conservation and
2 Recovery Act of 1976, as amended, except that the department
3 may:

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

8 (b) require generators and facilities to report on an
9 annual rather than on a biennial basis; and

10 (c) adopt requirements for the prevention of leakage
11 from underground storage tanks, including:

12 (i) reporting by owners and operators;

13 (ii) financial responsibility;

14 (iii) release detection, prevention, and correction;

15 and

16 (iv) standards for design, construction, and
17 installation; and

18 (d) adopt permitting requirements for HAZARDOUS WASTE
19 transfer facilities. THESE PERMITTING REQUIREMENTS DO NOT
20 EXTEND TO COMMON CARRIERS, AS DEFINED UNDER THE FEDERAL
21 MOTOR CARRIER ACT OR TITLE 69, CHAPTER 11, WHOSE
22 TRANSPORTATION OF HAZARDOUS WASTE IS A MINOR PART OF THEIR
23 COMMODITY TRANSPORTATION ACTIVITY.

24 (3) PERMITTING REQUIREMENTS IN RULES ADOPTED UNDER
25 SUBSECTION (2)(D) DO NOT APPLY TO HAZARDOUS WASTE TRANSFER

1 FACILITIES THAT WERE IN OPERATION ON JUNE 30, 1987."

2 NEW SECTION. Section 3. Extension of authority. Any
3 existing authority of the department of health and
4 environmental sciences to make rules on the subject of the
5 provisions of this act is extended to the provisions of this
6 act.

7 NEW SECTION. Section 4. Effective date. This act is
8 effective on passage and approval.

-End-

STANDING COMMITTEE REPORT

SENATE

SCRHB789

scrhb789.scr

March 23, 1987

MR. PRESIDENT

Public Health, Welfare, and Safety

We, your committee on.....

House Bill No. 789

having had under consideration.....

third reading copy (blue color)

REVISES DEFINITION OF HAZARDOUS WASTE MANAGEMENT FACILITY

HARPER (HAGER)

Respectfully report as follows: That..... House Bill No. 789.....

BE AMENDED AS FOLLOWS:

- 1. Statement of intent, page 1, line 6. Following: "rulemaking and" Strike: "permitting" Insert: "regulatory"
2. Statement of intent, page 1, line 10. Following: line 9 Strike: "permits" Insert: "regulation"
3. Statement of intent, page 1, lines 13 through 15. Following: "facilities" Strike: "undergo a review and approval process before the commencement of waste handling activities" Insert: "are regulated to protect public health and the environment"
4. Statement of intent, page 2, line 10. Following: "facilities;" Insert: "and"
5. Statement of intent, page 2, line 14. Following: "accidents" Strike: "; and" Insert: "."

- 6. Statement of intent, page 2, lines 15 through 17. Strike: subsection (6) in its entirety Insert: "The legislature intends that the enforcement authority granted to the department under 75-10-413 through 75-10-421 apply to the rules adopted under this act."
7. Title, line 6. Following: "ESTABLISH" Strike: "PERMITTING" Insert: "REGULATORY"
8. Page 3, lines 6 and 7. Strike: ", WHOSE PRIMARY PURPOSE IS THE TRANSPORTATION" Insert: "used for the transfer"
9. Page 8, line 18. Following: "adopt" Strike: "permitting" Insert: "regulatory"
10. Page 8, lines 19 through 23. Following: "facilities." Strike: remainder of lines 19 through 23 in their entirety
11. Page 8, line 24 through line 1 on page 9. Strike: subsection (3) in its entirety

PLEASE PRINT NAME

CONTINUED Chairman

Handwritten notes: BRW 10/11 3/3

BE CONCURRED IN AS AMENDED

Signature: Dorothy Cook Senator Eck

STATEMENT OF INTENT

HOUSE BILL 789

House Business and Labor Committee

A statement of intent is required for this bill because it delegates rulemaking and permitting REGULATORY authority to the department of health and environmental sciences. House Bill 789 adds transfer facilities operated by hazardous waste transporters to the category of facilities that require permits REGULATION under the Montana Hazardous Waste Act.

It is the intent of the legislature that the department adopt and implement administrative rules that will ensure that proposed hazardous waste transfer facilities undergo--a review-and-approval-process-before-the-commencement-of-waste handling--activities ARE REGULATED TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT.

The legislature intends that the administrative rules developed by the department to implement House Bill 789 should be similar to those rules applicable to hazardous waste management facilities that store wastes for longer periods of time. The department may develop rules for transfer facilities that are less restrictive or less encompassing than those for long-term storage facilities, but may not adopt rules that are more restrictive or more

encompassing than those for long-term storage facilities. The department may not adopt rules that are more restrictive or broader in scope than the comparable rules for hazardous waste management facilities that store wastes for longer periods of time.

The legislature understands and intends that the rules developed by the department to implement House Bill 789 must include the following:

- (1) preparedness for hazardous waste emergencies;
(2) development of emergency contingency plans;
(3) training of transfer facility personnel;
(4) security provisions at transfer facilities; AND
(5) hazardous waste drum handling, temporary storage methods, and containment requirements that minimize the possibilities of leaks, spills, off-site releases, or similar accidents;-and.

{6}--the---proper--design--of--transfer--facilities--to prevent-threats-to-adjoining-property-and--to--environmental resources-

THE LEGISLATURE INTENDS THAT THE ENFORCEMENT AUTHORITY GRANTED TO THE DEPARTMENT UNDER 75-10-413 THROUGH 75-10-421 APPLY TO THE RULES ADOPTED UNDER THIS ACT.



-2- REFERENCE BILL HB-789

HOUSE BILL NO. 789
INTRODUCED BY HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING A HAZARDOUS WASTE TRANSFER FACILITY; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH PERMITTING REGULATORY REQUIREMENTS CONCERNING HAZARDOUS WASTE TRANSFER FACILITIES; AMENDING SECTIONS 75-10-403 AND 75-10-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 75-10-403, MCA, is amended to read:

"75-10-403. Definitions. Unless the context requires otherwise, in this part the following definitions apply:

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

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

(3) "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing of any hazardous waste into or onto the land or water so that the hazardous waste or any constituent of it may enter the environment or be emitted into the air or discharged

into any waters, including groundwaters.

(4) "Facility" or "hazardous waste management facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units.

(5) "Generation" means the act or process of producing waste material.

(6) "Generator" means any person, by site, whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation under this part.

(7) (a) "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

(i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

(b) Hazardous wastes do not include those substances governed by Title 82, chapter 4, part 2.

(8) "Hazardous waste management" means the management



1 of the collection, source separation, storage,
 2 transportation, processing, treatment, recovery, and
 3 disposal of hazardous wastes.

4 (9) "HAZARDOUS WASTE TRANSFER FACILITY" MEANS ANY
 5 LAND, STRUCTURE, OR IMPROVEMENT, INCLUDING LOADING DOCKS,
 6 PARKING AREAS, HOLDING SITES, AND OTHER SIMILAR AREAS, WHOSE
 7 PRIMARY-PURPOSE-IS-THE-TRANSPORTATION USED FOR THE TRANSFER
 8 AND TEMPORARY STORAGE OF HAZARDOUS WASTES AND WHERE
 9 SHIPMENTS OF HAZARDOUS WASTE ARE TEMPORARILY HELD FOR A
 10 PERIOD OF 10 DAYS OR LESS DURING THE NORMAL COURSE OF
 11 TRANSPORTATION UP TO BUT NOT INCLUDING THE POINT OF ULTIMATE
 12 TREATMENT, STORAGE, OR DISPOSAL.

13 (10) "Manifest" means the shipping document
 14 originated and signed by the generator and which is used to
 15 identify the hazardous waste, its quantity, origin, and
 16 destination during its transportation.

17 (11) "Person" means the United States, an
 18 individual, firm, trust, estate, partnership, company,
 19 association, corporation, city, town, local governmental
 20 entity, or any other governmental or private entity, whether
 21 organized for profit or not.

22 (12) "Regulated substance":

23 (a) means:

- 24 (i) a hazardous substance as defined in 75-10-602; or
- 25 (ii) petroleum, including crude oil or any fraction

1 thereof, which is liquid at standard conditions of
 2 temperature and pressure (60 degrees F and 14.7 pounds per
 3 square inch absolute);

4 (b) does not include a substance regulated as a
 5 hazardous waste under this part.

6 (13) "Storage" means the actual or intended
 7 containment of wastes, either on a temporary basis or for a
 8 period of years.

9 ~~(13) "Transfer facility" means any land, structure, or~~
 10 ~~improvement, including loading docks, parking areas, holding~~
 11 ~~sites, and other similar areas where shipments of hazardous~~
 12 ~~waste are temporarily held, including for a period of 10~~
 13 ~~days or less, during the normal course of transportation up~~
 14 ~~to but not including the point of ultimate treatment,~~
 15 ~~storage, or disposal.~~

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

20 (15) "Transporter" means a person engaged in the
 21 offsite transportation of hazardous waste by air, rail,
 22 highway, or water.

23 (16) "Treatment" means a method, technique, or
 24 process, including neutralization, designed to change the
 25 physical, chemical, or biological character or composition

1 of any hazardous waste so as to neutralize the waste or so
2 as to render it nonhazardous, safer for transportation,
3 amenable for recovery, amenable for storage, or reduced in
4 volume.

5 ††6†(17) "Underground storage tank":

6 (a) means, except as provided in subsections
7 ††6†(b)†(i) (17)(b)(i) through ††6†(b)†(viii) (17)(b)(viii):

8 (i) any one or combination of tanks (including
9 connected underground pipes) used to contain a regulated
10 substance, the volume of which (including the volume of the
11 connected underground pipes) is 10% or more beneath the
12 surface of the ground; and

13 (ii) any underground pipes used to contain or transport
14 a regulated substance and connected to a storage tank,
15 whether the storage tank is entirely above ground, partially
16 above ground, or entirely underground;

17 (b) does not include:

18 (i) a septic tank;

19 (ii) a pipeline facility (including gathering lines)
20 regulated under:

21 (A) the Natural Gas Pipeline Safety Act of 1968 (49
22 U.S.C. 1671, et seq.);

23 (B) the Hazardous Liquid Pipeline Safety Act of 1979
24 (49 U.S.C. 2001, et seq.); or

25 (C) state law comparable to the provisions of law

1 referred to in subsection ††6†(b)†(i)†(A) (17)(b)(i)(A) or
2 ††6†(b)†(i)†(B) (17)(b)(i)(B), if the facility is
3 intrastate;

4 (iii) a surface impoundment, pit, pond, or lagoon;

5 (iv) a storm water or wastewater collection system;

6 (v) a flow-through process tank;

7 (vi) a liquid trap or associated gathering lines
8 directly related to oil or gas production and gathering
9 operations;

10 (vii) a storage tank situated in an underground area,
11 such as a basement, cellar, mine, draft, shaft, or tunnel,
12 if the storage tank is situated upon or above the surface of
13 the floor; or

14 (viii) any pipe connected to a tank described in
15 subsections ††6†(b)†(i) (17)(b)(i) through ††6†(b)†(viii)
16 (17)(b)(viii)."

17 Section 2. Section 75-10-405, MCA, is amended to read:

18 "75-10-405. Administrative rules. (1) The department
19 may adopt, amend, or repeal rules governing hazardous waste,
20 including but not limited to the following:

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

24 (b) requirements for the proper treatment, storage,
25 transportation, and disposal of hazardous waste;

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

4 (d) requirements for the issuance, denial, renewal,
5 modification, and revocation of permits for hazardous waste
6 management facilities;

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

11 (f) requirements for training of facility personnel
12 and for financial assurance of facility owners and
13 operators;

14 (g) requirements for registration of generators and
15 transporters;

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

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

23 (j) other rules which are necessary to obtain and
24 maintain authorization under the federal program.

25 (2) The department may not adopt rules under this part

1 that are more restrictive than those promulgated by the
2 federal government under the Resource Conservation and
3 Recovery Act of 1976, as amended, except that the department
4 may:

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

9 (b) require generators and facilities to report on an
10 annual rather than on a biennial basis; and

11 (c) adopt requirements for the prevention of leakage
12 from underground storage tanks, including:

13 (i) reporting by owners and operators;

14 (ii) financial responsibility;

15 (iii) release detection, prevention, and correction;

16 and

17 (iv) standards for design, construction, and
18 installation; and

19 (d) adopt permitting REGULATORY requirements for
20 HAZARDOUS WASTE transfer facilities. ~~THESE--PERMITTING~~
21 ~~REQUIREMENTS--DO--NOT--EXTEND--TO--COMMON--CARRIERS,--AS--DEFINED~~
22 ~~UNDER--THE--FEDERAL--MOTOR--CARRIER--ACT--OR--TITLE--69,--CHAPTER--117~~
23 ~~WHOSE--TRANSPORTATION--OF--HAZARDOUS--WASTE--IS--A--MINOR--PART--OF~~
24 ~~THEIR--COMMODITY--TRANSPORTATION--ACTIVITY.~~

25 ~~{3}--PERMITTING--REQUIREMENTS--IN--RULES--ADOPTED--UNDER~~

1 ~~SUBSECTION-(2)(B)-DO-NOT-APPLY-TO-HABARDOUS--WASTE--TRANSFER~~
2 ~~FACILITIES-THAT-WERE-IN-OPERATION-ON-JUNE-30-1987"~~

3 NEW SECTION. Section 3. Extension of authority. Any
4 existing authority of the department of health and
5 environmental sciences to make rules on the subject of the
6 provisions of this act is extended to the provisions of this
7 act.

8 NEW SECTION. Section 4. Effective date. This act is
9 effective on passage and approval.

-End-