

HOUSE BILL 676

Introduced by Raney, et al.

2/13	Introduced
2/13	Referred to Natural Resources
2/15	Fiscal Note Requested
2/17	Hearing
2/20	Fiscal Note Received
2/21	Fiscal Note Printed
3/27	Committee Report--Bill Passed as Amended
3/28	2nd Reading Passed
3/30	3rd Reading Passed

Transmitted to Senate

3/31	Referred to Natural Resources
4/05	Hearing
4/10	Hearing
4/13	Minority Committee Report--Bill Concurred as Amended
4/13	Majority Committee Report--Bill Not Concurred as Amended
4/13	Minority Report Adopted
4/14	2nd Reading Not Concurred as Amended
4/14	2nd Reading Indefinitely Postponed

1 HOUSE BILL NO. 676 Ellison
2 INTRODUCED BY Carey Marko Hagg
3
4 A BILL FOR AN ACT ENTITLED: AN ACT ESTABLISHING MANAGEMENT
5 STANDARDS FOR INFECTIOUS WASTE; REQUIRING PERMITS FOR
6 COMMERCIAL INFECTIOUS WASTE MANAGEMENT FACILITIES AND
7 TRANSPORTERS; ESTABLISHING FEES AND PERMITS FOR INFECTIOUS
8 WASTE DISPOSAL AND TRANSPORT; CREATING AN INFECTIOUS WASTE
9 MANAGEMENT SPECIAL REVENUE ACCOUNT; REQUIRING FACILITIES TO
10 APPOINT AN INFECTIOUS WASTE MANAGER AND TO SUBMIT REPORTS;
11 ESTABLISHING INFECTIOUS WASTE DISPOSAL REGIONS; AUTHORIZING
12 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO
13 CONDUCT INSPECTIONS, COLLECT SAMPLES, AND EXAMINE RECORDS;
14 ESTABLISHING A MORATORIUM ON THE COMMERCIAL TREATMENT,
15 STORAGE, OR DISPOSAL OF INFECTIOUS WASTE UNTIL REGULATIONS
16 ARE ADOPTED; PROVIDING ADDITIONAL AIR QUALITY PERMIT
17 REQUIREMENTS FOR CERTAIN COMMERCIAL FACILITIES THAT
18 INCINERATE INFECTIOUS WASTE; AND PROVIDING AN IMMEDIATE
19 EFFECTIVE DATE."

STATEMENT OF INTENT

It is the intent of the legislature than the department of health and environmental sciences adopt enforceable regulations to implement the infectious waste management standards provided in [section 5]. These regulations must be

designed to protect the public health, safety, and welfare and the environment and must be developed in consideration of the best current technical information, guidance from other states and the federal government, and the needs of Montana's medical service community.

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

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

The department shall also adopt rules providing a reduction in the fee for any interregional transport of infectious waste that reduces the risk to the public health, safety, and welfare and to the environment when compared to the alternative of intraregional transport. The reduction is intended to ensure that any current and safe transport practices are not subject to undue expense.

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

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

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

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

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

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

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

(d) to apply fees most heavily on management systems that create environmental or public health hazards through

long-range transportation of infectious waste and through the concentration of infectious waste at treatment, storage, or disposal sites;

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

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

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

(1) "Account" means the infectious waste management account provided for in [section 9].

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

(3) "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. The term does not mean a hospital or other medical facility that accepts for treatment, storage, or disposal infectious waste that is generated within its region.

(4) "Department" means the department of health and

1 environmental sciences provided for in Title 2, chapter 15,
2 part 21.

3 (5) "Disposal" or "to dispose" means the discharge,
4 injection, deposit, dumping, spilling, leaking, or placement
5 of any infectious waste into or onto the land or water so
6 that the hazardous waste or any constituent of it may enter
7 the environment or be emitted into the air or discharged
8 into any water, including ground water.

9 (6) "Effectively treated" means processed in a manner
10 to render the infectious waste sterile.

11 (7) "Facility" or "infectious waste management
12 facility" means all contiguous land and structures, other
13 appurtenances, and improvements on the land used for
14 treatment, storage, or disposal of infectious waste. A
15 facility may consist of several treatment, storage, or
16 disposal operational units.

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

18 (9) "Infectious waste" means isolation wastes;
19 cultures and stocks of infectious agents and associated
20 biologicals; human blood and blood products; contaminated
21 human body parts and bedding; pathological wastes;
22 contaminated sharp instruments and objects; contaminated
23 animal carcasses, animal body parts, and dressings that are
24 a potential source of human pathogens; wastes from surgeries
25 or autopsies; miscellaneous laboratory wastes, including

1 specimen containers, slides and cover slips, disposable
2 gloves, aprons, and lab coats; dialysis unit wastes, such as
3 tubing, filters, disposable sheets, towels, gloves, aprons,
4 and lab coats; and contaminated equipment, such as equipment
5 used in patient care, medical laboratories, and research and
6 in the production and testing of certain pharmaceuticals.
7 Infectious waste includes any otherwise noninfectious waste
8 that has been stored, bagged, or otherwise placed in direct
9 contact with infectious waste. The term does not mean any of
10 the wastes referred to in this subsection that have been
11 treated in a manner that has rendered the waste sterile.

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

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

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

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

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

24 (15) "Transportation" or "to transport" means the
25 movement of infectious waste from the point of generation to

any intermediate points and finally to the point of ultimate treatment or disposal.

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

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

NEW SECTION. Section 5. Management standards. (1) Infectious waste must be managed in compliance with the following standards:

(a) Storage and containment must be characterized by:

(i) segregation and identification of infectious waste from point of generation through disposal;

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

(iii) handling that excludes compaction or other physical or mechanical manipulation that provides an opportunity for release of infectious waste; and

(iv) compliance with time and temperature standards for

storage conditions.

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

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

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

(C) for liquid or semiliquid waste, discharge to a sewer, provided that secondary treatment is available, that federal, state, or local regulations do not prohibit the discharge, and that aerosol formation does not occur during the discharge.

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

(c) Transportation of infectious waste must include:

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

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

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

(iv) identification of vehicles as carriers of

1 infectious waste; and

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

5 (d) Workers involved in the generation, storage,
6 treatment, transportation, or disposal of infectious wastes
7 must be provided with appropriate protective clothing,
8 equipment, information, and training to provide for their
9 personal health and safety and to ensure the protection of
10 the public health, safety, and welfare and the environment.

11 (2) Human fetuses and recognizable human body parts
12 must be disposed of by incineration or interment.

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

18 **NEW SECTION. Section 6. Permits for commercial**
19 **facilities -- hearing.** (1) A commercial facility that
20 treats, stores, or disposes of infectious waste must possess
21 a permit issued by the department.

22 (2) An application for a permit must be submitted on
23 forms supplied by the department and must include a complete
24 description of the proposed operation and physical
25 facilities.

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

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

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

12 (c) for incinerators, the requirements of subsection
13 (4).

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

18 (5) The department shall conduct a public hearing on
19 an application for a commercial treatment, storage, or
20 disposal facility.

21 (6) (a) A permit is valid for 3 years and may be
22 renewed as provided by department rule.

23 (b) A proposed significant change in the quantity or
24 method of treatment, storage, or disposal of infectious
25 waste at a permitted facility must be described in an

1 amended permit application submitted to the department for
2 review. The change may not be made without approval by the
3 department.

4 (7) The department may modify, suspend, revoke, or
5 terminate a permit for failure to comply with the provisions
6 of [sections 1 through 19], a rule adopted under [sections 1
7 through 19], a permit condition, or an order of the
8 department or board.

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

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

16 (b) a person who transports in any month more than
17 1,000 pounds of infectious waste generated in Montana; or

18 (c) a person who transports in any month more than
19 5,000 pounds of infectious waste from one state to another
20 state through Montana.

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

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

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

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

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

10 (3) An infectious waste transport permit is valid for
11 1 year and may be renewed annually.

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

15 (b) (i) Except as provided in subsection (4)(b)(ii),
16 the department shall assess a fee of \$1,000 for an
17 infectious waste transport permit or permit renewal
18 authorizing interregional transport or transport of
19 infectious waste from one state to another state through
20 Montana.

21 (ii) The department may reduce the fee provided for in
22 subsection (4)(b)(i) to \$100 for interregional transport
23 that reduces the risk to the public health, safety, and
24 welfare and to the environment when compared to the
25 alternative of intraregional transport.

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

NEW SECTION. Section 8. Infectious waste disposal fee. (1) A person who operates any facility that disposes of infectious waste must annually pay to the department an infectious waste disposal fee that is calculated based on the classification of the facility, the weight of the infectious waste, and, for a commercial facility, the origin of the infectious waste, as follows:

(a) For a noncommercial facility:

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

(ii) that disposes of 1,000 pounds or more but less than 5,000 pounds of infectious waste, the annual fee is \$250;

(iii) that disposes of less than 1,000 pounds a year, there is no fee.

(b) For a commercial facility:

(i) that disposes only of infectious wastes generated within its region and:

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

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

(ii) that disposes of infectious waste generated out of

its region, the annual fee is \$10,000 plus 10 cents for each pound of infectious waste disposed of.

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

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

(2) There must be deposited in the account:

(a) all revenue from the infectious waste disposal fee;

(b) all revenue from the infectious waste transport permit fee;

(c) money appropriated to the account by the legislature;

(d) money that is received by the department in the form of gifts, reimbursements, or appropriations from any source and that is intended to be used for the purposes of the account.

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

NEW SECTION. Section 10. Infectious waste manager.

(1) The owner or operator of each commercial or noncommercial facility where infectious wastes are generated, treated, stored, or disposed of shall appoint an infectious waste manager who is the individual for the

department to contact on all matters related to the management of infectious waste at the facility.

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

(3) The infectious waste manager shall provide the department with a suitable emergency procedure to ensure that an individual responsible for infectious waste management at the facility may be contacted at all times.

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

(2) The report must include:

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

(b) the quantity of infectious waste disposed of at the facility during the preceding year and the method of disposal;

(c) the quantity of infectious waste that was

generated at the facility and disposed of at a location other than the facility and the location, method of disposal, and method of transport for that disposal;

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

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

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

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

(4) (a) The infectious waste manager of a facility that annually generates, treats, stores, or disposes of less than 1,000 pounds of infectious waste a year shall submit an initial notification to the department on a form supplied by the department, but he is not required to submit annual reports.

(b) If, after providing an initial notification under subsection (4)(a), a facility handles 1,000 pounds or more of infectious waste in a year, the manager shall submit an

1 annual report for that year and for any subsequent year in
2 which the quantity exceeds 1,000 pounds of infectious waste.

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

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

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

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

13 NEW SECTION. Section 13. Infectious waste disposal
14 regions. (1) There are six infectious waste disposal
15 regions, as follows:

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

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

22 (c) south central Montana, consisting of Bighorn,
23 Carbon, Fergus, Golden Valley, Judith Basin, Musselshell,
24 Petroleum, Stillwater, Sweet Grass, Treasure, Wheatland, and
25 Yellowstone Counties;

1 (d) southwestern Montana, consisting of Beaverhead,
2 Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis
3 and Clark, Madison, Meagher, Park, Powell, and Silver Bow
4 Counties;

5 (e) northwest Montana, consisting of Flathead, Lake,
6 Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties;
7 and

8 (f) all areas outside of Montana.

9 (2) The department shall assist and encourage public
10 health officials, persons involved in infectious waste
11 management, and the medical service community to coordinate
12 their activities within each region in Montana to provide
13 for the safe, efficient, and effective management of
14 infectious waste.

15 NEW SECTION. Section 14. Rulemaking. The department
16 shall adopt rules:

17 (1) establishing regulations to implement the
18 infectious waste management standards provided in [section
19 5];

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

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

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

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

(6) providing a fee reduction for interregional transportation of infectious waste if such transportation results in a reduced risk to the public health, safety, and welfare and to the environment when compared to the alternative of intraregional transport.

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

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

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

(b) the owner or operator submits a completed permit

application no later than 60 days after the application form is made available by the department; and

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

NEW SECTION. Section 16. Administrative enforcement.

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

(2) If, after a hearing held under subsection (1), the board finds that a violation has occurred, it shall either affirm or modify the department's order previously issued. An order issued by the department or by the board may prescribe the date by which the violation must cease and may

prescribe time limits for particular action. If, after hearing, the board finds no violation has occurred, it shall rescind the department's order.

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

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

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

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

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

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

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

(3) require compliance with [sections 1 through 19], a rule adopted under [sections 1 through 19], an order of the

department or board, or a permit provision.

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

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

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

(ii) treats, stores, or disposes of hazardous waste without a permit; or

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

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

(c) Each day of violation constitutes a separate

violation.

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

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

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

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

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

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

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

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

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

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

NEW SECTION. Section 22. 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

1 remains in effect in all valid applications that are
2 severable from the invalid applications.

3 NEW SECTION. **Section 23.** Extension of authority. Any
4 existing authority to make rules on the subject of the
5 provisions of [this act] is extended to the provisions of
6 [this act].

7 NEW SECTION. **Section 24.** Effective date. [This act]
8 is 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 HB676, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an Act entitled: " An Act establishing management standards for infectious waste; requiring permits for commercial infectious waste management facilities and transporters; establishing fees and permits for infectious waste disposal and transport; creating an infectious waste management special revenue account; requiring facilities to appoint an infectious waste manager and to submit reports; establishing infectious waste disposal regions; authorizing the Department of Health and Environmental Sciences to conduct inspections, collect samples, and examine records; establishing a moratorium on the commercial treatment, storage, or disposal of infectious waste until regulations are adopted; providing additional air quality permit requirements for certain commercial facilities that incinerate infectious waste; and providing an immediate effective date."

ASSUMPTIONS:

Due to the lack of data regarding amounts of infectious waste generated in the state of Montana, the following statistical information must be considered rough estimates only. Without an adequate regulatory program in place, there is no possibility under existing staffing limitations for the Department of Health and Environmental Sciences to spend the time necessary to develop more accurate estimates.

1. DHES will need 2.5 FTE to administer this program--1.0 Environmental Specialist IV, .5 Clerical, .5 Accounting Tech., .5 Lawyer.
2. Infectious waste in Montana hospitals will be generated at the rate of .65 lbs./patient/day.
3. Infectious waste in Montana licensed skilled nursing care facilities will be generated at the rate of .33 lbs./patient/day.
4. Infectious waste in Montana licensed intermediate care facilities will be generated at the rate of .16 lbs./patient/day.
5. Amounts of infectious waste for hospitals and long term care facilities are calculated on a "bed" basis and figured at an occupancy rate of 75%.
6. 75% of hospitals, long term care facilities and labs, generating more than 5000 lbs./infectious waste/year, will dispose of their own waste at their own facility. 25% of those generating 5000 lbs. or more will transport their waste to other facilities for disposal.
7. Twenty-eight hospitals will generate more than 5000 lbs./infectious waste/year. 75% of these (21) will dispose of their own waste on-site and will pay a \$2,000 annual fee. 25% of these (7) will transport their waste to other disposal facilities and pay no disposal fee.
8. Thirty-two hospitals will generate more than 1000 lbs./infectious waste/year but less than 5000 lbs./year. One-half (8) will dispose of their own waste on-site and will pay a \$250 annual fee. One-half (16) will transport their waste to other disposal facilities and pay no disposal fee.
9. One hospital will generate less than 1000 lbs./infectious waste/year and will pay no fee.



DATE 2/20/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

BOB RANEY, PRIMARY SPONSOR

DATE 2/20/89

Fiscal Note for HB676, as introduced

HB 676

Fiscal Note Request, HB676 as introduced

Form BD-15

Page 2

10. Sixteen skilled nursing care facilities will generate more than 5000 lbs./infectious waste/year. 75% of these (12) will dispose of their own waste at their own disposal facilities and will pay a \$2,000 annual fee. 25% of these (4) will transport their waste to other disposal facilities and will pay no fee.
11. Sixty-seven skilled nursing care facilities will generate from 1000 to 5000 lbs./infectious waste/year. One-half (33.5) will dispose of their own waste at their own disposal facilities and will pay a \$250 annual fee. One half (33.5) will transport their waste to other disposal facilities and will pay no fee.
12. Seven skilled nursing care facilities will generate less than 1000 lbs./infectious waste/year and will pay no fee.
13. Five intermediate care facilities will generate more than 5000 lbs./infectious waste/year. 75% of these (3.75) will dispose of their own waste at their own disposal facilities and will pay a \$2,000 annual fee. 25% of these (1.25) will transport their waste to other disposal facilities and will pay no fee.
14. Thirty-nine intermediate care facilities will generate from 1000 to 5000 lbs./infectious waste/year. One-half (19.5) will dispose of their own waste at their own disposal facilities and will pay \$250 annual fee. One half (19.5) will transport their waste to other disposal facilities and will pay no fee.
15. Fifteen intermediate care facilities will generate less than 1000 lbs./infectious waste/year and will pay no fee.
16. Six medical and dental clinics, personal care facilities, adult day care facilities, mental health and retardation programs, home health care programs and licensed hospice programs will generate 1000 to 5000 lbs./ infectious waste/year and will dispose of their own waste at their own facility. They will pay an annual fee of \$250.
17. An unknown number of medical and dental clinics, personal care facilities, adult day care facilities, mental health and retardation programs, home health care programs and licensed hospice programs will generate less than 1000 lbs./infectious waste/year and pay no fee.
18. Eleven commercial labs will generate infectious waste in Montana. Five will generate more than 5000 lbs./infectious waste/year and will dispose of their own waste at their own facility. They will pay an annual fee of \$2,000. Six will generate from 1000 to 5000 lbs./infectious waste/year. Three will dispose of their own waste at their own facility and will pay an annual fee of \$250. Three will transport their waste to other disposal facilities. They will pay no fee.
19. Ten persons/firms/institutions will transport 1000 lbs./infectious waste/month or more and will pay an annual fee of \$100. One commercial transporter will transport inter-region and will pay a \$1,000 fee.
20. It is unknown how many transporters of infectious waste may pay a fee for transport through the state of Montana. No revenue projections are made for this.
21. Due to lack of information about sources of infectious waste, it is unclear what other facilities may require permitting and/or assessment of fees.
22. It is estimated that the bill effectively discourages the importation of waste into Montana due to the relatively high fees. The assumption is made, therefore, that there will be no such commercial facilities under permit in the state.

HB 676

FISCAL IMPACT:

	Current	<u>FY90</u>		Current	<u>FY91</u>	
	<u>Law</u>	<u>Proposed</u>	<u>Difference</u>	<u>Law</u>	<u>Proposed</u>	<u>Difference</u>
Revenues-fees						
State Special	\$ -0-	\$105,000	\$105,000	\$ -0-	\$105,000	\$105,000
Expenditures	-0-	122,752	122,752	-0-	117,502	117,502
<u>Fund Impact:</u>						
General Fund	\$ -0-	(\$17,752)	(\$17,752)	\$ -0-	(\$12,502)	(\$12,502)

EFFECT ON COUNTY OR LOCAL REVENUE OR EXPENDITURE:

Since the fees assessed will be principally from the health service industry, revenue generated for the program will be passed on through user fees. Some of these health service programs are privately owned/operated and some are operated by units of state or local government. In some cases, the health service unit may be a non-profit organization.

LONG RANGE EFFECTS OF PROPOSED LEGISLATION:

Since the program will be an on-going regulatory structure, the fees assessed will be necessary on an annual basis. DHES staffing will be necessary as long as the program is maintained.

HB 676

APPROVED BY COMM. ON
NATURAL RESOURCES

HOUSE BILL NO. 676

INTRODUCED BY RANEY, DARKO, STANG, ELLIOTT, WYATT,
ELLISON, CAMPBELL, L. NELSON, O'KEEFE, SCHYE, NISBET,
BRADLEY, COHEN, IVERSON, GILBERT, REAM, HARPER,
BARDANOUE, DRISCOLL, VINCENT, ADDY, KIMBERLEY,
HANSEN, SQUIRES, MCDONOUGH, KADAS, COCCHIARELLA

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING MANAGEMENT
STANDARDS FOR INFECTIOUS WASTE; REQUIRING PERMITS FOR
COMMERCIAL INFECTIOUS WASTE MANAGEMENT FACILITIES AND
TRANSPORTERS; ESTABLISHING FEES AND PERMITS FOR INFECTIOUS
WASTE DISPOSAL MANAGEMENT AND TRANSPORT; CREATING AN
INFECTIOUS WASTE MANAGEMENT SPECIAL REVENUE ACCOUNT;
REQUIRING FACILITIES TO APPOINT AN INFECTIOUS WASTE MANAGER
AND TO SUBMIT REPORTS; ESTABLISHING INFECTIOUS WASTE
DISPOSAL MANAGEMENT REGIONS; AUTHORIZING THE DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES TO CONDUCT INSPECTIONS,
COLLECT SAMPLES, AND EXAMINE RECORDS; ESTABLISHING A
MORATORIUM ON THE ADDITIONAL COMMERCIAL TREATMENT,--STORAGE,
OR-DISPOSAL MANAGEMENT OF INFECTIOUS WASTE UNTIL REGULATIONS
ARE ADOPTED; PROVIDING ADDITIONAL AIR QUALITY PERMIT
REQUIREMENTS FOR CERTAIN COMMERCIAL FACILITIES THAT
INCINERATE INFECTIOUS WASTE; AND PROVIDING APPLICABILITY
DATES, A RETROACTIVE APPLICABILITY DATE FOR THE INFECTIOUS
WASTE MANAGEMENT FEE, AND AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

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

AS PART OF THE REGULATIONS IMPLEMENTING THE MANAGEMENT
STANDARDS PROVIDED IN [SECTION 5], THE DEPARTMENT SHALL
CONSIDER THE FOLLOWING SPECIFIC REQUIREMENTS:

(1) INFECTIOUS WASTE, EXCEPT FOR SHARPS, MUST BE
CONTAINED IN DISPOSABLE PLASTIC BAGS OR OTHER APPROPRIATE
CONTAINERS THAT ARE IMPERVIOUS TO MOISTURE AND HAVE A
STRENGTH SUFFICIENT TO PRECLUDE RIPPING, TEARING, OR
BURSTING UNDER NORMAL CONDITIONS OF USE. BAGS MUST BE
SECURELY TIED TO PREVENT LEAKAGE DURING STORAGE, HANDLING,
OR TRANSPORT.

(2) SHARPS SUBJECT TO STORAGE, TRANSPORT, TREATMENT,
OR DISPOSAL MUST BE PACKAGED IN LEAKPROOF, RIGID,
PUNCTURE-RESISTANT CONTAINERS THAT ARE TAPED CLOSED OR
TIGHTLY LIDDED TO PRECLUDE LOSS OF THE CONTENTS.

(3) LOCATIONS WHERE INFECTIOUS WASTE IS CONTAINED MUST BE SECURED TO DENY ACCESS BY UNAUTHORIZED PERSONS AND MUST BE MARKED WITH "BIOLOGICAL HAZARD" OR "BIOHAZARD" SIGNS.

(4) BAGS USED FOR CONTAINMENT OF INFECTIOUS WASTE MUST BE RED OR ORANGE AND CLEARLY IDENTIFIED.

(5) RIGID CONTAINERS OF DISCARDED SHARPS MUST BE LABELED AS "BIOMEDICAL WASTE" OR PLACED IN THE BAGS USED FOR OTHER INFECTIOUS WASTE.

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

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

THE DEPARTMENT SHALL ADOPT RULES PROVIDING FOR A WAIVER OF THE PER-POUND INTERREGIONAL MANAGEMENT FEE FOR INTERREGIONAL MANAGEMENT THAT RESULTS IN AN EQUIVALENT OR REDUCED RISK TO MONTANA'S PUBLIC HEALTH, SAFETY, WELFARE, AND ENVIRONMENT WHEN COMPARED TO THE ALTERNATIVE OF

INTRAREGIONAL MANAGEMENT. THE FEE WAIVER AUTHORIZED BY THIS RULE IS INTENDED TO ENSURE THAT ANY CURRENT AND SAFE INTERREGIONAL MANAGEMENT PRACTICES ARE NOT SUBJECT TO UNDUE EXPENSE. IF A COMMERCIAL FACILITY DOES NOT MANAGE ANY INFECTIOUS WASTE FOR WHICH THE PER-POUND FEE IS ASSESSED, THE ANNUAL OPERATING FEE FOR THAT COMMERCIAL FACILITY MUST BE DETERMINED PURSUANT TO [SECTION 8(1)(B)(III)].

The department shall also adopt rules providing IMPLEMENTING THE PROVISIONS OF [SECTION 7] THAT PROVIDE a reduction in the fee for any interregional transport of infectious waste that ~~reduces-the~~ RESULTS IN AN EQUIVALENT OR REDUCED risk to the MONTANA'S public health, safety, and welfare and-to-the, AND environment when compared to the alternative of intraregional transport. The FEE reduction is intended to ensure that any current and safe transport practices are not subject to undue expense.

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

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

NEW SECTION. Section 2. Policy and purpose. (1) It is the policy of the state of Montana to manage the treatment, storage, transportation, and disposal of infectious waste in an efficient and effective manner, recognizing the needs of the medical service community, recipients of medical care,

and persons whose health, safety, and property may be affected by exposure to infectious waste and its disposal residues. It is further the policy of the state of Montana to provide the governmental services necessary to ensure that Montana's land, air, and water resources are protected from contamination by infectious waste treatment, storage, transportation, and disposal.

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

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

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

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

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

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

(f) to impose a moratorium on additional commercial treatment, storage, and disposal of infectious waste until

the state of Montana has adopted infectious waste management regulations.

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

(1) "Account" means the infectious waste management account provided for in [section 9].

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

(3) "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. The term does not mean a hospital or other medical HEALTH CARE facility that accepts INFECTIOUS WASTE for treatment, storage, or disposal ~~infectious--waste--that--is--generated--within--its~~ region.

(4) "COMMERCIAL TRANSPORTER" MEANS A PERSON WHO, IN RETURN FOR CONSIDERATION, TRANSPORTS INFECTIOUS WASTE TO A MANAGEMENT LOCATION.

(5) "CONTAMINATED" MEANS HARBORING A PATHOGEN IN A STATE THAT COULD TRANSMIT INFECTION OR DISEASE.

(6) "DECONTAMINATION" OR "TO DECONTAMINATE" MEANS A PROCESS OF RENDERING NONINFECTIOUS THROUGH STEAM STERILIZATION, CHEMICAL TREATMENT, OR OTHER STERILIZATION

1 PROCEDURES A CONTAINER, IMPLEMENT, OR OTHER ARTICLE
 2 CONTAMINATED BY INFECTIOUS WASTE.

3 {4}{7} "Department" means the department of health and
 4 environmental sciences provided for in Title 2, chapter 15,
 5 part 21.

6 {5}{8} "Disposal" or "to dispose" means the discharge,
 7 injection, deposit, dumping, spilling, leaking, or placement
 8 of--any--infectious--waste--into--or--onto--the--land--or--water--so
 9 that--the--hazardous--waste--or--any--constituent--of--it--may--enter
 10 the--environment--or--be--emitted--into--the--air--or--discharged
 11 into--any--water,--including--ground--water. FINAL PLACEMENT OF
 12 INFECTIOUS WASTE.

13 {6}{9} "Effectively treated" means processed in a
 14 manner to render the infectious waste sterile NONINFECTIOUS.

15 {7}{10} "Facility" or "infectious waste management
 16 facility" means all contiguous land and structures, other
 17 appurtenances, and improvements on the land used for
 18 treatment, storage, or disposal of infectious waste. A
 19 facility may consist of several treatment, storage, or
 20 disposal operational units.

21 {8}{11} "Generate" means to produce infectious waste.

22 {9}{12} "Infectious waste" means isolation---wastes;
 23 cultures and stocks of infectious agents and associated
 24 biologicals; human blood and blood products; contaminated
 25 human body parts and bedding; pathological wastes;

1 contaminated---sharp---instruments---and---objects SHARPS;
 2 contaminated animal carcasses, animal body parts, and
 3 VETERINARY dressings that are a--potential SUSPECTED AS A
 4 source of human pathogens; wastes--from--surgeries--or
 5 autopsies;--miscellaneous---laboratory---wastes;---including
 6 specimen--containers;--slides--and--cover--slips;--disposable
 7 gloves;--aprons;--and--lab--coats;--dialysis--unit--wastes;--such--as
 8 tubing;--filters;--disposable--sheets;--towels;--gloves;--aprons;
 9 and--lab--coats;--and--contaminated--equipment;--such--as--equipment
 10 used--in--patient--care;--medical--laboratories;--and--research--and
 11 in--the--production--and--testing--of--certain--pharmaceuticals;
 12 WASTES FROM HUMANS OR ANIMALS THAT ARE ISOLATED TO PROTECT
 13 HUMANS FROM COMMUNICABLE DISEASES; AND WASTES GENERATED IN
 14 CONNECTION WITH PATIENT CARE THAT ARE KNOWN TO BE
 15 CONTAMINATED. Infectious waste includes any otherwise
 16 noninfectious waste that has been stored, bagged, or
 17 otherwise placed in direct contact with infectious waste.
 18 The term does not mean any of the wastes referred to in this
 19 subsection that have been treated in a manner that has
 20 rendered the waste sterile.

21 {13} "MANAGEMENT" OR "TO MANAGE" MEANS TREATMENT,
 22 STORAGE, OR DISPOSAL, EXCEPT THAT THE TERM DOES NOT MEAN THE
 23 DISPOSAL OF INFECTIOUS WASTE THAT HAS BEEN RENDERED
 24 NONINFECTIOUS.

25 {14} "NONINSTITUTIONAL FACILITY" MEANS THE OFFICE OR

1 CLINIC OF A HEALTH CARE PROFESSIONAL LICENSED UNDER TITLE 37
 2 THAT IS NOT WITHIN A HEALTH CARE FACILITY AS DEFINED IN
 3 50-5-101.

4 ~~{10}~~(15) "Permit" means an infectious waste management
 5 permit provided for in [section 6].

6 ~~{11}~~(16) "Person" means an individual, firm,
 7 partnership, company, commercial entity, corporation, or
 8 association.

9 ~~{12}~~(17) "Region" means an infectious waste disposal
 10 MANAGEMENT region, as provided for in [section 13].

11 ~~{13}~~"Sterilization"--means--a--process--to--make--an
 12 ~~infectious--waste--free--of--living--organisms--particularly~~
 13 ~~microorganisms--~~

14 (18) "SHARPS" MEANS ANY DISCARDED HEALTH CARE ARTICLE
 15 THAT MAY CAUSE PUNCTURES OR CUTS, INCLUDING BUT NOT LIMITED
 16 TO NEEDLES, INTRAVENOUS TUBING WITH NEEDLES ATTACHED,
 17 SCALPEL BLADES, GLASSWARE, AND SYRINGES THAT HAVE BEEN
 18 REMOVED FROM THEIR ORIGINAL STERILE CONTAINERS.

19 (19) "STEAM STERILIZATION" MEANS A TREATMENT METHOD FOR
 20 INFECTIOUS WASTE UTILIZING SATURATED STEAM WITHIN A PRESSURE
 21 VESSEL (KNOWN AS A STEAM STERILIZER, AUTOCLAVE, OR RETORT)
 22 AT TIME LENGTHS AND TEMPERATURES SUFFICIENT TO KILL
 23 INFECTIOUS AGENTS WITHIN THE WASTE.

24 ~~{14}~~(20) "Storage" or "to store" means the actual or
 25 intended containment of wastes, either on a temporary or a

1 long-term basis.

2 ~~{15}~~(21) "Transportation" or "to transport" means the
 3 movement of infectious waste from the point of generation to
 4 any intermediate points and finally to the point of ultimate
 5 treatment or disposal.

6 ~~{16}~~(22) "Treatment" or "to treat" means the
 7 application of a method, technique, or process, including
 8 incineration, designed to change the character of an
 9 infectious waste ~~so--as--to--render--it--sterile--safer--for~~
 10 ~~transportation--or--storage--or--reduced--in--volume.~~

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

16 NEW SECTION. Section 5. Management standards. (1)
 17 ~~infectious~~ EXCEPT AS PROVIDED IN SUBSECTION (3), INFECTIOUS
 18 waste must be managed in compliance with the following
 19 standards:

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

21 (i) segregation BY SEPARATE CONTAINMENT and
 22 identification of infectious waste CONTAINERS from point of
 23 generation through disposal;

24 (ii) use of containers that are secure, appropriately
 25 labeled and located, made of materials suitable to prevent

1 releases or punctures, and properly---disinfected
2 DECONTAMINATED if reusable;

3 (iii) handling that excludes compaction or other
4 physical or mechanical manipulation that provides an
5 opportunity for release of infectious waste; and

6 (iv) compliance with time and temperature standards for
7 storage conditions.

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

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

12 (B) STEAM sterilization that will render the waste
13 noninfectious; or

14 (C) for THE NONCOMMERCIAL DISPOSAL OF SMALL QUANTITIES
15 OF liquid or semiliquid waste GENERATED INCIDENTALLY TO A
16 HEALTH CARE PROCEDURE, discharge to a sewer, provided that
17 secondary treatment is available, that federal, state, or
18 local regulations do not prohibit the discharge, and that
19 aerosol formation does not occur during the discharge; OR

20 (D) ANY OTHER TECHNIQUE APPROVED BY DEPARTMENT RULE
21 THAT RESULTS IN EFFECTIVELY TREATED INFECTIOUS WASTE.

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

1 (c) Transportation of infectious waste must include:

2 (i) use of containers that are secure, appropriately
3 labeled and located, made of materials suitable to prevent
4 releases or punctures, and properly disinfected
5 DECONTAMINATED if reusable;

6 (ii) availability of decontamination and response
7 procedures in the event of a release;

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

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

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

15 (d) Workers involved in the generation, storage,
16 treatment, transportation, or disposal of infectious wastes
17 must be provided with appropriate protective clothing,
18 equipment, information, and training to provide for their
19 personal health and safety and to ensure the protection of
20 the public health, safety, and welfare and the environment.

21 (2) Human fetuses and recognizable human body parts,
22 OTHER THAN TEETH, must be disposed of by incineration or
23 interment.

24 (3) A PERSON WHO GENERATES LESS THAN 100 POUNDS OF
25 INFECTIOUS WASTE A MONTH AND WHO PACKAGES, LABELS, AND

OTHERWISE HANDLES INFECTIOUS WASTE IN ACCORDANCE WITH THE
GUIDELINES OF THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH
ADMINISTRATION MAY STORE AND TRANSPORT INFECTIOUS WASTE IN
THE SAME MANNER AS NONINFECTIOUS SOLID WASTE BUT SHALL
COMPLY WITH TREATMENT AND DISPOSAL REQUIREMENTS AND MAY NOT
SUBJECT INFECTIOUS WASTE TO COMPACTION.

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

NEW SECTION. Section 6. Permits for commercial facilities -- hearing. (1) A commercial facility that ~~treats, stores, or disposes of~~ MANAGES infectious waste must possess a AN INFECTIOUS WASTE MANAGEMENT permit issued by the department.

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

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

(a) the capability of a facility to ensure that infectious waste management will comply with the standards

provided for in [section 5] and with the rules adopted to implement the standards and will otherwise protect the public health, safety, and welfare and the environment;

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

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

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

(5) The department shall conduct a public hearing on an INITIAL PERMIT application for ~~--a--commercial--treatment, storage, or disposal--~~ facility.

(6) (a) A permit is valid for 3 years and may be renewed as provided by department rule.

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

(7) The department may modify, suspend, revoke, or

1 terminate a permit for failure to comply with the provisions
2 of [sections 1 through 19], a rule adopted under [sections 1
3 through 19], a permit condition, or an order of the
4 department or board.

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

9 (a)--a-person-who--in-return-for-consideration--engages
10 in-the-transport-of-infectious-waste-for-treatment--storage--
11 or-disposal-in-Montana;

12 (b)--a-person-who-transport--in-any-month-more-than
13 1,000-pounds-of-infectious-waste-generated-in-Montana--or

14 (c)--a--person--who--transport--in-any-month-more-than
15 5,000-pounds-of-infectious-waste-from-one-state--to--another
16 state--through--Montana. A COMMERCIAL TRANSPORTER SHALL
17 POSSESS AN INFECTIOUS WASTE TRANSPORT PERMIT ISSUED BY THE
18 DEPARTMENT.

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

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

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

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

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

8 (3) An infectious waste transport permit is valid for
9 1 year and may be renewed annually.

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

13 (b) (i) Except as provided in subsection (4)(b)(ii),
14 the department shall assess a fee of \$1,000 for an
15 infectious waste transport permit or permit renewal
16 authorizing interregional transport or--transport--of
17 infectious-waste-from-one-state--to--another--state--through
18 Montana.

19 (ii) The department may SHALL reduce the fee provided
20 for in subsection (4)(b)(i) to \$100 for interregional
21 transport that reduces--the RESULTS IN AN EQUIVALENT OR
22 REDUCED risk to the MONTANA'S public health, safety, and
23 welfare, and to--the environment when compared to the
24 alternative of intraregional transport.

25 (5) All fees collected by the department must be

deposited in the account provided for in [section 9].

NEW SECTION. Section 8. Infectious waste disposal MANAGEMENT fee. (1) A person who operates any facility that ~~disposes--of~~ MANAGES infectious waste must annually pay to the department an infectious waste disposal MANAGEMENT fee that is calculated based on the classification of the facility, the weight of the infectious waste, and, for a commercial facility, the origin of the infectious waste, as follows:

(a) For a noncommercial facility:

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

(ii) that ~~disposes--of~~ MANAGES ~~1,000~~ 1,200 pounds or more but less than 5,000 pounds of infectious waste, the annual fee is \$250;

(iii) that ~~disposes--of~~ MANAGES less than ~~1,000~~ 1,200 pounds a year, there is no fee.

(b) ~~For EXCEPT AS PROVIDED IN SUBSECTION (1)(C), FOR a~~ commercial facility:

(i) that ~~disposes--only--of~~ MANAGES ONLY infectious wastes generated within its region and:

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

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

(ii) that ~~disposes---of~~ MANAGES infectious waste generated out of its region, the annual fee is \$10,000 plus ~~10~~ 25 cents for each pound of infectious waste ~~disposed-of~~ GENERATED IN A DIFFERENT REGION AND MANAGED AT THE FACILITY, EXCEPT AS PROVIDED IN SUBSECTION (1)(B)(III).

(III) (A) THE DEPARTMENT SHALL WAIVE THE PER-POUND FEE FOR SPECIFIC SOURCES OF INFECTIOUS WASTE TRANSPORTED ACROSS REGIONAL BOUNDARIES TO A COMMERCIAL MANAGEMENT FACILITY IF THE TRANSPORT AND MANAGEMENT OF THAT WASTE RESULTS IN AN EQUIVALENT OR REDUCED RISK TO MONTANA'S PUBLIC HEALTH, SAFETY, WELFARE, AND ENVIRONMENT WHEN COMPARED TO THE ALTERNATIVE OF INTRAREGIONAL DISPOSAL.

(B) IF A COMMERCIAL FACILITY MANAGES ONLY INFECTIOUS WASTE FOR WHICH A PER-POUND FEE IS NOT ASSESSED, THE ANNUAL FEE FOR THAT COMMERCIAL FACILITY IS \$2,000 IF THE FACILITY MANAGES LESS THAN 50,000 POUNDS OF INFECTIOUS WASTE AND \$5,000 IF THE FACILITY MANAGES 50,000 POUNDS OR MORE OF INFECTIOUS WASTE.

(C) FOR A COMMERCIAL FACILITY THAT MANAGES A QUANTITY OF INFECTIOUS WASTE NO GREATER THAN THE QUANTITY MANAGED AT THAT FACILITY DURING 1988, THE ANNUAL FEE IS \$2,000.

(2) THE INFECTIOUS WASTE MANAGEMENT FEE MUST BE PAID NO LATER THAN MARCH 31 OF THE YEAR FOLLOWING THE CALENDAR YEAR FOR WHICH THE FEE IS ASSESSED.

~~12~~ (3) All fees collected by the department must be

deposited in the account provided for in [section 9].

NEW SECTION. Section 9. Infectious waste management

account. (1) There is an infectious waste management account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) all revenue from the infectious waste ~~disposal~~ MANAGEMENT fee;

(b) all revenue from the infectious waste transport permit fee;

(c) money appropriated to the account by the legislature;

(d) money that is received by the department in the form of gifts, reimbursements, or appropriations from any source and that is intended to be used for the purposes of the account.

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

NEW SECTION. Section 10. Infectious waste manager.

(1) The owner or operator of each commercial or noncommercial facility where infectious wastes are ~~generated, treated, stored, or disposed of~~ MANAGED shall appoint an infectious waste manager who is the individual for the department to contact on all matters related to the management of infectious waste at the facility.

(2) The owner or operator shall submit to the

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

(3) The infectious waste manager shall provide the department with a suitable emergency procedure to ensure that an individual responsible for infectious waste management at the facility may be contacted at all times.

NEW SECTION. Section 11. Reporting. (1) Except as

provided in subsection (4), an infectious waste manager shall annually submit to the department on or before March ~~1~~ 31 a report on the infectious waste management activities of the facility. The report must be submitted on a form supplied by the department.

(2) The report must include:

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

(b) the quantity of infectious waste ~~disposed of~~ MANAGED at the facility during the preceding year and the method of ~~disposal~~ MANAGEMENT;

(c) the quantity of infectious waste that was generated at the facility and ~~disposed of at~~ TRANSPORTED FOR MANAGEMENT TO a location other than the facility and the location, method of ~~disposal~~ MANAGEMENT, and method of

1 transport ~~for-that-disposal~~;

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

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

7 (f) any other information requested by the department
8 and necessary for the administration of [sections 1 through
9 19].

10 (3) An infectious waste manager shall report to the
11 department any proposed ~~handling~~ MANAGEMENT of quantities of
12 infectious waste significantly in excess of quantities
13 indicated in the most current report. The proposal is
14 subject to department approval, as provided in [section 6].

15 (4) (a) The infectious waste manager of a facility
16 that annually generates, treats, stores, or disposes of less
17 than ~~1,000~~ 50 pounds of infectious waste a year MONTH shall
18 submit an initial notification to the department on a form
19 supplied by the department, but he is not required to submit
20 annual reports.

21 (b) If, after providing an initial notification under
22 subsection (4)(a), a facility ~~handles--1,000~~ MANAGES 50
23 pounds or more of infectious waste in a year MONTH, the
24 manager shall submit an annual report for that year and for
25 any subsequent year in which the quantity exceeds ~~1,000~~ 50

1 pounds of infectious waste IN ANY MONTH.

2 (C) THE APPOINTMENT OF THE SAME INDIVIDUAL AS
3 INFECTIOUS WASTE MANAGER BY TWO OR MORE NONINSTITUTIONAL
4 FACILITIES IN THE SAME BUILDING OR COMPLEX DOES NOT CAUSE
5 THAT BUILDING OR COMPLEX TO BECOME A SINGLE FACILITY.

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

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

10 (2) collect samples of infectious waste or suspected
11 infectious waste from any facility, vehicle, equipment, or
12 other location utilized in the ~~handling~~ MANAGEMENT of
13 infectious waste; and

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

16 NEW SECTION. Section 13. Infectious waste ~~disposal~~
17 MANAGEMENT regions. (1) There are six infectious waste
18 ~~disposal~~ MANAGEMENT regions, as follows:

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

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

25 (c) south central Montana, consisting of Bighorn,

Carbon, Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Stillwater, Sweet Grass, Treasure, Wheatland, and Yellowstone Counties;

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

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

(f) all areas outside of Montana.

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

NEW SECTION. Section 14. Rulemaking. The department shall, NO LATER THAN JUNE 30, 1990, adopt rules:

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

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

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

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

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

(6) providing a fee reduction REDUCTIONS for interregional transportation OR MANAGEMENT of infectious waste ~~if--such--transportation--results--in--a--reduced--risk--to--the--public--health--safety--and--welfare--and--to--the--environment--when--compared--to--the--alternative--of--intraregional--transport--~~ AS PROVIDED FOR IN [SECTIONS 7 AND 8]; AND

(7) ESTABLISHING, FOR THE PURPOSE OF DETERMINING THE INFECTIOUS WASTE MANAGEMENT FEE TO WHICH A FACILITY IS SUBJECT UNDER [SECTION 8], METHODS FOR DETERMINING OR ESTIMATING THE AMOUNT OF INFECTIOUS WASTE MANAGED AT A FACILITY.

NEW SECTION. Section 15. Moratorium on additional ~~commercial treatment, storage, and disposal~~ MANAGEMENT of infectious waste. (1) Except as provided in subsection (2), a person may not engage in the commercial ~~treatment, storage, or disposal~~ MANAGEMENT of infectious waste until

the department has adopted rules implementing the infectious waste management standards provided in [section 5] and until the person has obtained a permit ~~for-the-commercial-activity~~ PURSUANT TO [SECTION 6].

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

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

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

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

NEW SECTION. **Section 16. Administrative enforcement.**

(1) When the department believes that a violation of [sections 1 through 19], a violation of a rule adopted under [sections 1 through 19], or a violation of a permit provision has occurred, it may serve written notice of the violation ~~by--certified-mail~~ on the alleged violator or his agent. The notice must specify the provision of [sections 1 through 19], the rule, or the permit provision alleged to be

violated and the facts alleged to constitute a violation and may include an order to take necessary corrective action within a reasonable period of time stated in the order. The order becomes final unless, within 30 days after the notice is served, the person named requests in writing a hearing before the board. On receipt of the request, the board shall schedule a hearing. Service by mail is complete on the date of mailing.

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

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

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

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

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

appropriate means.

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

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

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

(3) require compliance with [sections 1 through 19], a rule adopted under [sections 1 through 19], an order of the department or board, or a permit provision.

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

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

(i) knowingly transports infectious waste to an

unpermitted facility;

(ii) ~~treats, stores, or disposes of~~ MANAGES INFECTIOUS waste without a permit; or

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

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

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

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

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

NEW SECTION. Section 20. Infectious waste incineration -- additional permit requirements. (1) The owner or operator of a commercial facility, as defined in [section 3], who proposes to incinerate in any month a

1 quantity of infectious waste exceeding the maximum quantity
2 of infectious waste incinerated at the facility in any month
3 during 1988 shall apply to the department, pursuant to
4 75-2-211, for a permit authorizing the incineration and
5 consequent emissions.

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

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

10 (i) a characterization of emissions and ambient
11 concentrations of air pollutants, including hazardous air
12 pollutants, from any existing incineration at the facility;
13 and

14 (ii) an estimate of emissions and ambient air
15 concentrations, including hazardous air pollutants, from the
16 incineration of infectious waste as proposed in the permit
17 application; and

18 (b) the department has reached a determination that
19 the projected emissions and ambient concentrations will
20 constitute a negligible risk to the public health, safety,
21 and welfare and to the environment.

22 (3) The department shall require the application of
23 air pollution control equipment, engineering, or procedures
24 as necessary to satisfy the determination required under
25 subsection (2)(b). The equipment, engineering, or procedures

1 must provide particulate and gaseous emission reductions
2 equivalent to or more stringent than those achieved through
3 the best available control technology, in addition to any
4 other controls necessary to satisfy the determination
5 required under subsection (2)(b).

6 NEW SECTION. **Section 21.** Codification instruction.

7 [Section 20] is intended to be codified as an integral part
8 of Title 75, chapter 2, part 2, and the provisions of Title
9 75, chapter 2, part 2, apply to [section 20].

10 NEW SECTION. **Section 22.** Severability. If a part of

11 [this act] is invalid, all valid parts that are severable
12 from the invalid part remain in effect. If a part of [this
13 act] is invalid in one or more of its applications, the part
14 remains in effect in all valid applications that are
15 severable from the invalid applications.

16 NEW SECTION. **Section 23.** Extension of authority. Any

17 existing authority to make rules on the subject of the
18 provisions of [this act] is extended to the provisions of
19 [this act].

20 NEW SECTION. **SECTION 24.** APPLICABILITY DATES --

21 RETROACTIVE APPLICABILITY FOR INFECTIOUS WASTE MANAGEMENT
22 FEE. (1) THE DEPARTMENT MAY ENFORCE THE MANAGEMENT STANDARDS
23 PROVIDED FOR IN [SECTION 5] AND ADOPTED BY RULE UNDER
24 [SECTION 14] ONLY FOR VIOLATIONS OCCURRING AFTER JUNE 30,
25 1990.

1 (2) REQUIREMENTS FOR AN INFECTIOUS WASTE MANAGEMENT
2 PERMIT AND AN INFECTIOUS WASTE TRANSPORT PERMIT APPLY AFTER
3 JUNE 30, 1990.

4 (3) THE INFECTIOUS WASTE MANAGEMENT FEE PROVIDED FOR
5 IN [SECTION 8] APPLIES RETROACTIVELY, WITHIN THE MEANING OF
6 1-2-109, TO WASTE MANAGED DURING 1989.

7 (4) THE ANNUAL INFECTIOUS WASTE TRANSPORT FEE PROVIDED
8 FOR IN [SECTION 7] APPLIES TO TRANSPORTERS OPERATING AFTER
9 JUNE 30, 1990. THE INITIAL PERMIT IS VALID FROM JULY 1,
10 1990, THROUGH DECEMBER 31, 1990.

11 (5) THE REQUIREMENT FOR AN INFECTIOUS WASTE MANAGER
12 PROVIDED FOR IN [SECTION 10] APPLIES AFTER SEPTEMBER 30,
13 1989, AND THE INITIAL INFECTIOUS WASTE MANAGEMENT REPORT
14 MUST BE SUBMITTED ON OR BEFORE MARCH 31, 1990.

15 (6) [THIS ACT] DOES NOT APPLY TO THE NORMAL OPERATIONS
16 OF ANY MORTUARY AS DEFINED IN 37-19-101 OR ANY CREMATORY AS
17 DEFINED IN 35-21-101 UNTIL JULY 1, 1991.

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

-End-

HOUSE BILL NO. 676

INTRODUCED BY RANEY, DARKO, STANG, ELLIOTT, WYATT,
ELLISON, CAMPBELL, L. NELSON, O'KEEFE, SCHYE, NISBET,
BRADLEY, COHEN, IVERSON, GILBERT, REAM, HARPER,
BARDAMOUVE, DRISCOLL, VINCENT, ADDY, KIMBERLEY,
HANSEN, SQUIRES, MCDONOUGH, KADAS, COCCHIARELLA

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING MANAGEMENT
STANDARDS FOR INFECTIOUS WASTE; REQUIRING PERMITS FOR
COMMERCIAL INFECTIOUS WASTE MANAGEMENT FACILITIES AND
TRANSPORTERS; ESTABLISHING FEES AND PERMITS FOR INFECTIOUS
WASTE DISPOSAL MANAGEMENT AND TRANSPORT; CREATING AN
INFECTIOUS WASTE MANAGEMENT SPECIAL REVENUE ACCOUNT;
REQUIRING FACILITIES TO APPOINT AN INFECTIOUS WASTE MANAGER
AND TO SUBMIT REPORTS; ESTABLISHING INFECTIOUS WASTE
DISPOSAL MANAGEMENT REGIONS; AUTHORIZING THE DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES TO CONDUCT INSPECTIONS,
COLLECT SAMPLES, AND EXAMINE RECORDS; ESTABLISHING A
MORATORIUM ON THE ADDITIONAL COMMERCIAL TREATMENT,--STORAGE,
OR-DISPOSAL MANAGEMENT OF INFECTIOUS WASTE UNTIL REGULATIONS
ARE ADOPTED; PROVIDING ADDITIONAL AIR QUALITY PERMIT
REQUIREMENTS FOR CERTAIN COMMERCIAL FACILITIES THAT
INCINERATE INFECTIOUS WASTE; AND PROVIDING APPLICABILITY
DATES, A RETROACTIVE APPLICABILITY DATE FOR THE INFECTIOUS
WASTE MANAGEMENT FEE, AND AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

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

AS PART OF THE REGULATIONS IMPLEMENTING THE MANAGEMENT
STANDARDS PROVIDED IN [SECTION 5], THE DEPARTMENT SHALL
CONSIDER THE FOLLOWING SPECIFIC REQUIREMENTS:

(1) INFECTIOUS WASTE, EXCEPT FOR SHARPS, MUST BE
CONTAINED IN DISPOSABLE PLASTIC BAGS OR OTHER APPROPRIATE
CONTAINERS THAT ARE IMPERVIOUS TO MOISTURE AND HAVE A
STRENGTH SUFFICIENT TO PRECLUDE RIPPING, TEARING, OR
BURSTING UNDER NORMAL CONDITIONS OF USE. BAGS MUST BE
SECURELY TIED TO PREVENT LEAKAGE DURING STORAGE, HANDLING,
OR TRANSPORT.

(2) SHARPS SUBJECT TO STORAGE, TRANSPORT, TREATMENT,
OR DISPOSAL MUST BE PACKAGED IN LEAKPROOF, RIGID,
PUNCTURE-RESISTANT CONTAINERS THAT ARE TAPED CLOSED OR
TIGHTLY LIDDED TO PRECLUDE LOSS OF THE CONTENTS.

(3) LOCATIONS WHERE INFECTIOUS WASTE IS CONTAINED MUST BE SECURED TO DENY ACCESS BY UNAUTHORIZED PERSONS AND MUST BE MARKED WITH "BIOLOGICAL HAZARD" OR "BIOHAZARD" SIGNS.

(4) BAGS USED FOR CONTAINMENT OF INFECTIOUS WASTE MUST BE RED OR ORANGE AND CLEARLY IDENTIFIED.

(5) RIGID CONTAINERS OF DISCARDED SHARPS MUST BE LABELED AS "BIOMEDICAL WASTE" OR PLACED IN THE BAGS USED FOR OTHER INFECTIOUS WASTE.

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

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

THE DEPARTMENT SHALL ADOPT RULES PROVIDING FOR A WAIVER OF THE PER-POUND INTERREGIONAL MANAGEMENT FEE FOR INTERREGIONAL MANAGEMENT THAT RESULTS IN AN EQUIVALENT OR REDUCED RISK TO MONTANA'S PUBLIC HEALTH, SAFETY, WELFARE, AND ENVIRONMENT WHEN COMPARED TO THE ALTERNATIVE OF

INTRAREGIONAL MANAGEMENT. THE FEE WAIVER AUTHORIZED BY THIS RULE IS INTENDED TO ENSURE THAT ANY CURRENT AND SAFE INTERREGIONAL MANAGEMENT PRACTICES ARE NOT SUBJECT TO UNDUE EXPENSE. IF A COMMERCIAL FACILITY DOES NOT MANAGE ANY INFECTIOUS WASTE FOR WHICH THE PER-POUND FEE IS ASSESSED, THE ANNUAL OPERATING FEE FOR THAT COMMERCIAL FACILITY MUST BE DETERMINED PURSUANT TO [SECTION 8(1)(B)(III)].

The department shall also adopt rules providing IMPLEMENTING THE PROVISIONS OF [SECTION 7] THAT PROVIDE a reduction in the fee for any interregional transport of infectious waste that reduces-the RESULTS IN AN EQUIVALENT OR REDUCED risk to the MONTANA'S public health, safety, and welfare and-to-the, AND environment when compared to the alternative of intraregional transport. The FEE reduction is intended to ensure that any current and safe transport practices are not subject to undue expense.

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

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

NEW SECTION. Section 2. Policy and purpose. (1) It is the policy of the state of Montana to manage the treatment, storage, transportation, and disposal of infectious waste in an efficient and effective manner, recognizing the needs of the medical service community, recipients of medical care,

and persons whose health, safety, and property may be affected by exposure to infectious waste and its disposal residues. It is further the policy of the state of Montana to provide the governmental services necessary to ensure that Montana's land, air, and water resources are protected from contamination by infectious waste treatment, storage, transportation, and disposal.

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

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

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

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

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

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

(f) to impose a moratorium on additional commercial treatment, storage, and disposal of infectious waste until

the state of Montana has adopted infectious waste management regulations.

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

(1) "Account" means the infectious waste management account provided for in [section 9].

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

(3) "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. The term does not mean a hospital or other medical HEALTH CARE facility that accepts INFECTIOUS WASTE for treatment, storage, or disposal ~~infectious--waste--that--is--generated--within--its~~ region.

(4) "COMMERCIAL TRANSPORTER" MEANS A PERSON WHO, IN RETURN FOR CONSIDERATION, TRANSPORTS INFECTIOUS WASTE TO A MANAGEMENT LOCATION.

(5) "CONTAMINATED" MEANS HARBORING A PATHOGEN IN A STATE THAT COULD TRANSMIT INFECTION OR DISEASE.

(6) "DECONTAMINATION" OR "TO DECONTAMINATE" MEANS A PROCESS OF RENDERING NONINFECTIOUS THROUGH STEAM STERILIZATION, CHEMICAL TREATMENT, OR OTHER STERILIZATION

PROCEDURES A CONTAINER, IMPLEMENT, OR OTHER ARTICLE
CONTAMINATED BY INFECTIOUS WASTE.

{4}{7} "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

{5}{8} "Disposal" or "to dispose" means the discharge, injection, deposit, dumping, spilling, leaking, or placement of any infectious 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 water, including ground water. FINAL PLACEMENT OF INFECTIOUS WASTE.

{6}{9} "Effectively treated" means processed in a manner to render the infectious waste sterile NONINFECTIOUS.

{7}{10} "Facility" or "infectious waste management facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for treatment, storage, or disposal of infectious waste. A facility may consist of several treatment, storage, or disposal operational units.

{8}{11} "Generate" means to produce infectious waste.

{9}{12} "Infectious waste" means isolation---wastes; cultures and stocks of infectious agents and associated biologicals; human blood and blood products; contaminated human body parts and bedding; pathological wastes;

contaminated---sharp---instruments---and---objects SHARPS;
 contaminated animal carcasses, animal body parts, and VETERINARY dressings that are a---potential SUSPECTED AS A
 source of human pathogens; wastes---from---surgeries---or
 autopsies;---miscellaneous---laboratory---wastes;---including
 specimen---containers;---slides---and---cover---slips; disposable
 gloves; aprons; and lab coats; dialysis unit wastes; such as
 tubing; filters; disposable sheets; towels; gloves; aprons;
 and lab coats; and contaminated equipment; such as equipment
 used in patient care; medical laboratories; and research and
 in the production and testing of certain pharmaceuticals;
WASTES FROM HUMANS OR ANIMALS THAT ARE ISOLATED TO PROTECT
HUMANS FROM COMMUNICABLE DISEASES; AND WASTES GENERATED IN
CONNECTION WITH PATIENT CARE THAT ARE KNOWN TO BE
CONTAMINATED. Infectious waste includes any otherwise
 noninfectious waste that has been stored, bagged, or
 otherwise placed in direct contact with infectious waste.
 The term does not mean any of the wastes referred to in this
 subsection that have been treated in a manner that has
 rendered the waste sterile.

(13) "MANAGEMENT" OR "TO MANAGE" MEANS TREATMENT,
STORAGE, OR DISPOSAL, EXCEPT THAT THE TERM DOES NOT MEAN THE
DISPOSAL OF INFECTIOUS WASTE THAT HAS BEEN RENDERED
NONINFECTIOUS.

(14) "NONINSTITUTIONAL FACILITY" MEANS THE OFFICE OR

1 CLINIC OF A HEALTH CARE PROFESSIONAL LICENSED UNDER TITLE 37
 2 THAT IS NOT WITHIN A HEALTH CARE FACILITY AS DEFINED IN
 3 50-5-101.

4 ~~{10}~~(15) "Permit" means an infectious waste management
 5 permit provided for in [section 6].

6 ~~{11}~~(16) "Person" means an individual, firm,
 7 partnership, company, commercial entity, corporation, or
 8 association.

9 ~~{12}~~(17) "Region" means an infectious waste disposal
 10 MANAGEMENT region, as provided for in [section 13].

11 ~~{13}~~"Sterilization"--means--a--process--to--make---an
 12 ~~infectious--waste--free--of--living--organisms; particularly~~
 13 ~~microorganisms-~~

14 (18) "SHARPS" MEANS ANY DISCARDED HEALTH CARE ARTICLE
 15 THAT MAY CAUSE PUNCTURES OR CUTS, INCLUDING BUT NOT LIMITED
 16 TO NEEDLES, INTRAVENOUS TUBING WITH NEEDLES ATTACHED,
 17 SCALPEL BLADES, GLASSWARE, AND SYRINGES THAT HAVE BEEN
 18 REMOVED FROM THEIR ORIGINAL STERILE CONTAINERS.

19 (19) "STEAM STERILIZATION" MEANS A TREATMENT METHOD FOR
 20 INFECTIOUS WASTE UTILIZING SATURATED STEAM WITHIN A PRESSURE
 21 VESSEL (KNOWN AS A STEAM STERILIZER, AUTOCLAVE, OR RETORT)
 22 AT TIME LENGTHS AND TEMPERATURES SUFFICIENT TO KILL
 23 INFECTIOUS AGENTS WITHIN THE WASTE.

24 ~~{14}~~(20) "Storage" or "to store" means the actual or
 25 intended containment of wastes, either on a temporary or a

1 long-term basis.

2 ~~{15}~~(21) "Transportation" or "to transport" means the
 3 movement of infectious waste from the point of generation to
 4 any intermediate points and finally to the point of ultimate
 5 treatment or disposal.

6 ~~{16}~~(22) "Treatment" or "to treat" means the
 7 application of a method, technique, or process, including
 8 incineration, designed to change the character of an
 9 infectious waste ~~so--as--to--render--it--sterile;--safer--for~~
 10 ~~transportation--or--storage;--or--reduced--in--volume.~~

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

16 NEW SECTION. Section 5. Management standards. (1)
 17 infectious EXCEPT AS PROVIDED IN SUBSECTION (3), INFECTIOUS
 18 waste must be managed in compliance with the following
 19 standards:

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

21 (i) segregation BY SEPARATE CONTAINMENT and
 22 identification of infectious waste CONTAINERS from point of
 23 generation through disposal;

24 (ii) use of containers that are secure, appropriately
 25 labeled and located, made of materials suitable to prevent

1 releases or punctures, and properly---disinfected
2 DECONTAMINATED if reusable;

3 (iii) handling that excludes compaction or other
4 physical or mechanical manipulation that provides an
5 opportunity for release of infectious waste; and

6 (iv) compliance with time and temperature standards for
7 storage conditions.

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

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

12 (B) STEAM sterilization that will render the waste
13 noninfectious; or

14 (C) for THE NONCOMMERCIAL DISPOSAL OF SMALL QUANTITIES
15 OF liquid or semiliquid waste GENERATED INCIDENTALLY TO A
16 HEALTH CARE PROCEDURE, discharge to a sewer, provided that
17 secondary treatment is available, that federal, state, or
18 local regulations do not prohibit the discharge, and that
19 aerosol formation does not occur during the discharge; OR

20 (D) ANY OTHER TECHNIQUE APPROVED BY DEPARTMENT RULE
21 THAT RESULTS IN EFFECTIVELY TREATED INFECTIOUS WASTE.

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

1 (c) Transportation of infectious waste must include:

2 (i) use of containers that are secure, appropriately
3 labeled and located, made of materials suitable to prevent
4 releases or punctures, and properly disinfected
5 DECONTAMINATED if reusable;

6 (ii) availability of decontamination and response
7 procedures in the event of a release;

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

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

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

15 (d) Workers involved in the generation, storage,
16 treatment, transportation, or disposal of infectious wastes
17 must be provided with appropriate protective clothing,
18 equipment, information, and training to provide for their
19 personal health and safety and to ensure the protection of
20 the public health, safety, and welfare and the environment.

21 (2) Human fetuses and recognizable human body parts,
22 OTHER THAN TEETH, must be disposed of by incineration or
23 interment.

24 (3) A PERSON WHO GENERATES LESS THAN 100 POUNDS OF
25 INFECTIOUS WASTE A MONTH AND WHO PACKAGES, LABELS, AND

1 OTHERWISE HANDLES INFECTIOUS WASTE IN ACCORDANCE WITH THE
 2 GUIDELINES OF THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH
 3 ADMINISTRATION MAY STORE AND TRANSPORT INFECTIOUS WASTE IN
 4 THE SAME MANNER AS NONINFECTIOUS SOLID WASTE BUT SHALL
 5 COMPLY WITH TREATMENT AND DISPOSAL REQUIREMENTS AND MAY NOT
 6 SUBJECT INFECTIOUS WASTE TO COMPACTION.

7 ~~†3†~~(4) The department shall adopt specific
 8 requirements, under its rulemaking authority in [section
 9 14(1)], that apply to persons or facilities that generate,
 10 treat, store, transport, dispose of, or work with infectious
 11 wastes to achieve the management standards provided in this
 12 section.

13 NEW SECTION. Section 6. Permits for commercial
 14 facilities -- hearing. (1) A commercial facility that
 15 ~~treats, stores, or disposes of~~ MANAGES infectious waste must
 16 possess a AN INFECTIOUS WASTE MANAGEMENT permit issued by
 17 the department.

18 (2) An application for a permit must be submitted on
 19 forms supplied by the department and must include a complete
 20 description of the proposed operation and physical
 21 facilities.

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

24 (a) the capability of a facility to ensure that
 25 infectious waste management will comply with the standards

1 provided for in [section 5] and with the rules adopted to
 2 implement the standards and will otherwise protect the
 3 public health, safety, and welfare and the environment;

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

8 (c) for incinerators, the requirements of subsection
 9 (4).

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

14 (5) The department shall conduct a public hearing on
 15 an INITIAL PERMIT application for ~~a commercial treatment,~~
 16 ~~storage, or disposal facility.~~

17 (6) (a) A permit is valid for 3 years and may be
 18 renewed as provided by department rule.

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

25 (7) The department may modify, suspend, revoke, or

terminate a permit for failure to comply with the provisions of [sections 1 through 19], a rule adopted under [sections 1 through 19], a permit condition, or an order of the department or board.

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

~~{a}--a--person--who--in--return--for--consideration--engages in--the--transport--of--infectious--waste--for--treatment--storage--or--disposal--in--Montana;~~

~~{b}--a--person--who--transports--in--any--month--more--than 1,000--pounds--of--infectious--waste--generated--in--Montana--or~~

~~{c}--a--person--who--transports--in--any--month--more--than 5,000--pounds--of--infectious--waste--from--one--state--to--another state--through--Montana. A COMMERCIAL TRANSPORTER SHALL POSSESS AN INFECTIOUS WASTE TRANSPORT PERMIT ISSUED BY THE DEPARTMENT.~~

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

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

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

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

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

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

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

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

(ii) The department may SHALL reduce the fee provided for in subsection (4)(b)(i) to \$100 for interregional transport that ~~reduces--the~~ RESULTS IN AN EQUIVALENT OR REDUCED risk to the MONTANA'S public health, safety, and welfare, and ~~to--the~~ environment when compared to the alternative of intraregional transport.

(5) All fees collected by the department must be

deposited in the account provided for in [section 9].

NEW SECTION. Section 8. Infectious waste disposal MANAGEMENT fee. (1) A person who operates any facility that ~~disposes--of~~ MANAGES infectious waste must annually pay to the department an infectious waste disposal MANAGEMENT fee that is calculated based on the classification of the facility, the weight of the infectious waste, and, for a commercial facility, the origin of the infectious waste, as follows:

(a) For a noncommercial facility:

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

(ii) that ~~disposes--of~~ MANAGES ~~1,000~~ 1,200 pounds or more but less than 5,000 pounds of infectious waste, the annual fee is \$250;

(iii) that ~~disposes--of~~ MANAGES less than ~~1,000~~ 1,200 pounds a year, there is no fee.

(b) ~~For EXCEPT AS PROVIDED IN SUBSECTION (1)(C), FOR a~~ commercial facility:

(i) that ~~disposes--only--of~~ MANAGES ONLY infectious wastes generated within its region and:

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

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

(ii) that ~~disposes---~~ MANAGES infectious waste generated out of its region, the annual fee is \$10,000 plus ~~10~~ 25 cents for each pound of infectious waste ~~disposed-of~~ GENERATED IN A DIFFERENT REGION AND MANAGED AT THE FACILITY, EXCEPT AS PROVIDED IN SUBSECTION (1)(B)(III).

(III) (A) THE DEPARTMENT SHALL WAIVE THE PER-POUND FEE FOR SPECIFIC SOURCES OF INFECTIOUS WASTE TRANSPORTED ACROSS REGIONAL BOUNDARIES TO A COMMERCIAL MANAGEMENT FACILITY IF THE TRANSPORT AND MANAGEMENT OF THAT WASTE RESULTS IN AN EQUIVALENT OR REDUCED RISK TO MONTANA'S PUBLIC HEALTH, SAFETY, WELFARE, AND ENVIRONMENT WHEN COMPARED TO THE ALTERNATIVE OF INTRAREGIONAL DISPOSAL.

(B) IF A COMMERCIAL FACILITY MANAGES ONLY INFECTIOUS WASTE FOR WHICH A PER-POUND FEE IS NOT ASSESSED, THE ANNUAL FEE FOR THAT COMMERCIAL FACILITY IS \$2,000 IF THE FACILITY MANAGES LESS THAN 50,000 POUNDS OF INFECTIOUS WASTE AND \$5,000 IF THE FACILITY MANAGES 50,000 POUNDS OR MORE OF INFECTIOUS WASTE.

(C) FOR A COMMERCIAL FACILITY THAT MANAGES A QUANTITY OF INFECTIOUS WASTE NO GREATER THAN THE QUANTITY MANAGED AT THAT FACILITY DURING 1988, THE ANNUAL FEE IS \$2,000.

(2) THE INFECTIOUS WASTE MANAGEMENT FEE MUST BE PAID NO LATER THAN MARCH 31 OF THE YEAR FOLLOWING THE CALENDAR YEAR FOR WHICH THE FEE IS ASSESSED.

~~(2)~~ (3) All fees collected by the department must be

1 deposited in the account provided for in [section 9].

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

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

6 (a) all revenue from the infectious waste disposal
7 MANAGEMENT fee;

8 (b) all revenue from the infectious waste transport
9 permit fee;

10 (c) money appropriated to the account by the
11 legislature;

12 (d) money that is received by the department in the
13 form of gifts, reimbursements, or appropriations from any
14 source and that is intended to be used for the purposes of
15 the account.

16 (3) The account may be used by the department only for
17 the administration of [sections 1 through 19 20].

18 NEW SECTION. Section 10. Infectious waste manager.

19 (1) The owner or operator of each commercial or
20 noncommercial facility where infectious wastes are
21 generated, treated, stored, or disposed of MANAGED shall
22 appoint an infectious waste manager who is the individual
23 for the department to contact on all matters related to the
24 management of infectious waste at the facility.

25 (2) The owner or operator shall submit to the

1 department the name, address, and telephone number of the
2 infectious waste manager, along with any other pertinent
3 information requested by the department. The owner or
4 operator shall submit any change in this information to the
5 department within 2 weeks of the date of the change.

6 (3) The infectious waste manager shall provide the
7 department with a suitable emergency procedure to ensure
8 that an individual responsible for infectious waste
9 management at the facility may be contacted at all times.

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

16 (2) The report must include:

17 (a) the quantity of infectious waste generated during
18 the preceding calendar year;

19 (b) the quantity of infectious waste disposed of
20 MANAGED at the facility during the preceding year and the
21 method of disposal MANAGEMENT;

22 (c) the quantity of infectious waste that was
23 generated at the facility and disposed of at TRANSPORTED FOR
24 MANAGEMENT TO a location other than the facility and the
25 location, method of disposal MANAGEMENT, and method of

1 transport ~~for that disposal~~;

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

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

7 (f) any other information requested by the department
8 and necessary for the administration of [sections 1 through
9 19].

10 (3) An infectious waste manager shall report to the
11 department any proposed ~~handling~~ MANAGEMENT of quantities of
12 infectious waste significantly in excess of quantities
13 indicated in the most current report. The proposal is
14 subject to department approval, as provided in [section 6].

15 (4) (a) The infectious waste manager of a facility
16 that annually generates, treats, stores, or disposes of less
17 than ~~17,000~~ 50 pounds of infectious waste a year MONTH shall
18 submit an initial notification to the department on a form
19 supplied by the department, but he is not required to submit
20 annual reports.

21 (b) If, after providing an initial notification under
22 subsection (4)(a), a facility ~~handles--17,000~~ MANAGES 50
23 pounds or more of infectious waste in a year MONTH, the
24 manager shall submit an annual report for that year and for
25 any subsequent year in which the quantity exceeds ~~17,000~~ 50

1 pounds of infectious waste IN ANY MONTH.

2 (C) THE APPOINTMENT OF THE SAME INDIVIDUAL AS
3 INFECTIOUS WASTE MANAGER BY TWO OR MORE NONINSTITUTIONAL
4 FACILITIES IN THE SAME BUILDING OR COMPLEX DOES NOT CAUSE
5 THAT BUILDING OR COMPLEX TO BECOME A SINGLE FACILITY.

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

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

10 (2) collect samples of infectious waste or suspected
11 infectious waste from any facility, vehicle, equipment, or
12 other location utilized in the handling MANAGEMENT of
13 infectious waste; and

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

16 NEW SECTION. Section 13. Infectious waste disposal
17 MANAGEMENT regions. (1) There are six infectious waste
18 disposal MANAGEMENT regions, as follows:

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

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

25 (c) south central Montana, consisting of Bighorn,

1 Carbon, Fergus, Golden Valley, Judith Basin, Musselshell,
2 Petroleum, Stillwater, Sweet Grass, Treasure, Wheatland, and
3 Yellowstone Counties;

4 (d) southwestern Montana, consisting of Beaverhead,
5 Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis
6 and Clark, Madison, Meagher, Park, Powell, and Silver Bow
7 Counties;

8 (e) northwest Montana, consisting of Flathead, Lake,
9 Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties;
10 and

11 (f) all areas outside of Montana.

12 (2) The department shall assist and encourage public
13 health officials, persons involved in infectious waste
14 management, and the medical service community to coordinate
15 their activities within each region in Montana to provide
16 for the safe, efficient, and effective management of
17 infectious waste.

18 NEW SECTION. Section 14. Rulemaking. The department
19 shall, NO LATER THAN JUNE 30, 1990, adopt rules:

20 (1) establishing regulations to implement the
21 infectious waste management standards provided in [section
22 5];

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

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

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

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

9 (6) providing a fee reduction REDUCTIONS for
10 interregional transportation OR MANAGEMENT of infectious
11 waste ~~if--such--transportation--results--in--a--reduced--risk--to~~
12 ~~the--public--health,--safety,--and--welfare--and--to--the~~
13 ~~environment---when---compared---to---the---alternative---of~~
14 ~~intraregional--transport--~~ AS PROVIDED FOR IN [SECTIONS 7 AND
15 8]; AND

16 (7) ESTABLISHING, FOR THE PURPOSE OF DETERMINING THE
17 INFECTIOUS WASTE MANAGEMENT FEE TO WHICH A FACILITY IS
18 SUBJECT UNDER [SECTION 8], METHODS FOR DETERMINING OR
19 ESTIMATING THE AMOUNT OF INFECTIOUS WASTE MANAGED AT A
20 FACILITY.

21 NEW SECTION. Section 15. Moratorium on additional
22 commercial treatment, storage, and disposal MANAGEMENT of
23 infectious waste. (1) Except as provided in subsection (2),
24 a person may not engage in the commercial treatment,
25 storage, or disposal MANAGEMENT of infectious waste until

1 the department has adopted rules implementing the infectious
2 waste management standards provided in [section 5] and until
3 the person has obtained a permit ~~for the commercial activity~~
4 PURSUANT TO [SECTION 6].

5 (2) A commercial facility that is engaging or has
6 engaged in the ~~treatment-storage-or-disposal~~ MANAGEMENT of
7 infectious waste on or before [the effective date of this
8 act] may continue its commercial activities if:

9 (a) the quantity of infectious waste handled MANAGED
10 during any month does not exceed the maximum quantity of
11 infectious waste handled MANAGED at the facility during any
12 month in 1988;

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

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

18 NEW SECTION. Section 16. Administrative enforcement.

19 (1) When the department believes that a violation of
20 [sections 1 through 19], a violation of a rule adopted under
21 [sections 1 through 19], or a violation of a permit
22 provision has occurred, it may serve written notice of the
23 violation ~~by--certified-mail~~ on the alleged violator or his
24 agent. The notice must specify the provision of [sections 1
25 through 19], the rule, or the permit provision alleged to be

1 violated and the facts alleged to constitute a violation and
2 may include an order to take necessary corrective action
3 within a reasonable period of time stated in the order. The
4 order becomes final unless, within 30 days after the notice
5 is served, the person named requests in writing a hearing
6 before the board. On receipt of the request, the board shall
7 schedule a hearing. Service by mail is complete on the date
8 of mailing.

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

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

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

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

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

1 appropriate means.

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

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

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

12 (3) require compliance with [sections 1 through 19], a
13 rule adopted under [sections 1 through 19], an order of the
14 department or board, or a permit provision.

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

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

25 (i) knowingly transports infectious waste to an

1 unpermitted facility;

2 (ii) ~~treats, stores, or disposes of~~ hazardous MANAGES
3 INFECTIOUS waste without a permit; or

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

9 (b) A person convicted of a subsequent violation of
10 this section is subject to a fine not to exceed ~~\$20,000~~
11 \$10,000 for each violation or imprisonment not to exceed 1
12 year, or both.

13 (c) Each day of violation constitutes a separate
14 violation.

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

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

22 **NEW SECTION. Section 20. Infectious waste**
23 **incineration -- additional permit requirements.** (1) The
24 owner or operator of a commercial facility, as defined in
25 [section 3], who proposes to incinerate in any month a

1 quantity of infectious waste exceeding the maximum quantity
2 of infectious waste incinerated at the facility in any month
3 during 1988 shall apply to the department, pursuant to
4 75-2-211, for a permit authorizing the incineration and
5 consequent emissions.

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

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

10 (i) a characterization of emissions and ambient
11 concentrations of air pollutants, including hazardous air
12 pollutants, from any existing incineration at the facility;
13 and

14 (ii) an estimate of emissions and ambient air
15 concentrations, including hazardous air pollutants, from the
16 incineration of infectious waste as proposed in the permit
17 application; and

18 (b) the department has reached a determination that
19 the projected emissions and ambient concentrations will
20 constitute a negligible risk to the public health, safety,
21 and welfare and to the environment.

22 (3) The department shall require the application of
23 air pollution control equipment, engineering, or procedures
24 as necessary to satisfy the determination required under
25 subsection (2)(b). The equipment, engineering, or procedures

1 must provide particulate and gaseous emission reductions
2 equivalent to or more stringent than those achieved through
3 the best available control technology, in addition to any
4 other controls necessary to satisfy the determination
5 required under subsection (2)(b).

6 NEW SECTION. Section 21. Codification instruction.
7 [Section 20] is intended to be codified as an integral part
8 of Title 75, chapter 2, part 2, and the provisions of Title
9 75, chapter 2, part 2, apply to [section 20].

10 NEW SECTION. Section 22. Severability. If a part of
11 [this act] is invalid, all valid parts that are severable
12 from the invalid part remain in effect. If a part of [this
13 act] is invalid in one or more of its applications, the part
14 remains in effect in all valid applications that are
15 severable from the invalid applications.

16 NEW SECTION. Section 23. Extension of authority. Any
17 existing authority to make rules on the subject of the
18 provisions of [this act] is extended to the provisions of
19 [this act].

20 NEW SECTION. SECTION 24. APPLICABILITY DATES --
21 RETROACTIVE APPLICABILITY FOR INFECTIOUS WASTE MANAGEMENT
22 FEE. (1) THE DEPARTMENT MAY ENFORCE THE MANAGEMENT STANDARDS
23 PROVIDED FOR IN [SECTION 5] AND ADOPTED BY RULE UNDER
24 [SECTION 14] ONLY FOR VIOLATIONS OCCURRING AFTER JUNE 30,
25 1990.

1 (2) REQUIREMENTS FOR AN INFECTIOUS WASTE MANAGEMENT
2 PERMIT AND AN INFECTIOUS WASTE TRANSPORT PERMIT APPLY AFTER
3 JUNE 30, 1990.

4 (3) THE INFECTIOUS WASTE MANAGEMENT FEE PROVIDED FOR
5 IN [SECTION 8] APPLIES RETROACTIVELY, WITHIN THE MEANING OF
6 1-2-109, TO WASTE MANAGED DURING 1989.

7 (4) THE ANNUAL INFECTIOUS WASTE TRANSPORT FEE PROVIDED
8 FOR IN [SECTION 7] APPLIES TO TRANSPORTERS OPERATING AFTER
9 JUNE 30, 1990. THE INITIAL PERMIT IS VALID FROM JULY 1,
10 1990, THROUGH DECEMBER 31, 1990.

11 (5) THE REQUIREMENT FOR AN INFECTIOUS WASTE MANAGER
12 PROVIDED FOR IN [SECTION 10] APPLIES AFTER SEPTEMBER 30,
13 1989, AND THE INITIAL INFECTIOUS WASTE MANAGEMENT REPORT
14 MUST BE SUBMITTED ON OR BEFORE MARCH 31, 1990.

15 (6) [THIS ACT] DOES NOT APPLY TO THE NORMAL OPERATIONS
16 OF ANY MORTUARY AS DEFINED IN 37-19-101 OR ANY CREMATORY AS
17 DEFINED IN 35-21-101 UNTIL JULY 1, 1991.

18 **NEW SECTION. Section 25.** Effective date. [This act]
19 is effective on passage and approval.

-End-

SENATE STANDING COMMITTEE REPORT

page 1 of 2
April 12, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 676 (third reading copy -- blue), respectfully report that HB 676 be amended and as so amended be concurred in:

Sponsor: Raney (Eck)

1. 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 are not considered infectious waste unless, in the judgment of a health care professional, the particular circumstances under which the items were used dictates that they be managed as infectious waste."

2. Page 8.

Following: line 11

Insert: "and contaminated"

3. Page 8, lines 13 through 15

Following: "DISEASES" on line 13

Strike: "; AND" on line 13 through "CONTAMINATED" on line 15

4. Page 8, line 20.

Strike: "sterile"

Insert: "noninfectious"

Following: "-"

Insert: "Infectious waste also includes any item that is not normally considered infectious waste but, in the judgment of a health care professional, was used in a particular circumstance that dictates that it be managed as infectious waste."

5. Page 11, line 12.

Following: "STEAM"

Insert: "or chemical"

6. Page 17, line 3.

Strike: "A"

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

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."

SENATE COMMITTEE ON NATURAL RESOURCES, HB 676

April 12, 1989
page 2 of 2

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

Strike: "50"

Insert: "100"

10. Page 31, line 17.

Strike: "UNTIL JULY 1, 1991"


11. 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."


Senator Eck


Senator Van Valkenburg


Senator Stimatz


Senator Yellowtail


Senator Weeding

MINORITY REPORT
AND AS AMENDED BE CONCURRED IN

ADOPT

REJECT

SENATE