

HOUSE BILL NO. 64

INTRODUCED BY GRADY  
BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

IN THE HOUSE

DECEMBER 23, 1992	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
JANUARY 4, 1993	FIRST READING.
JANUARY 29, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 30, 1993	PRINTING REPORT.
FEBRUARY 1, 1993	SECOND READING, DO PASS.
FEBRUARY 2, 1993	ENGROSSING REPORT.
FEBRUARY 3, 1993	THIRD READING, PASSED. AYES, 69; NOES, 27.
FEBRUARY 4, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 4, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
MARCH 24, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 25, 1993	SECOND READING, CONCURRED IN.
MARCH 26, 1993	THIRD READING, CONCURRED IN. AYES, 45; NOES, 1.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 27, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

## 1 HOUSE BILL NO. 64

2 INTRODUCED BY GRADY

3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT DELAYING THE EFFECTIVE  
6 DATE OF THE LAW ESTABLISHING A SOLID WASTE MANAGEMENT FEE ON  
7 WASTE GENERATED OUT OF STATE; REQUIRING THE DEPARTMENT OF  
8 HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT RULES TO  
9 ESTABLISH A FEE ON THE DISPOSAL OR INCINERATION OF SOLID  
10 WASTE GENERATED OUTSIDE MONTANA; AND AMENDING SECTIONS  
11 75-10-204 AND 75-10-206, MCA, AND SECTION 8, CHAPTER 398,  
12 LAWS OF 1991."

13

## 14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because  
16 of the rulemaking authority granted to the department of  
17 health and environmental sciences in [section 2]. It is the  
18 intent of the legislature that the department adopt rules to  
19 establish a rationally based, legally defensible fee on the  
20 disposal or incineration of solid waste generated outside  
21 Montana. The purpose of the fee is to prevent Montana  
22 citizens from subsidizing the disposal of out-of-state  
23 waste. Therefore, the fee is to be based on the direct and  
24 indirect costs to the state of regulating the disposal or  
25 incineration of out-of-state waste under Title 75, chapter

1 10, parts 1 and 2. This bill provides a termination date for  
2 the rules in 75-10-204(8) in order to avoid a conflict with  
3 75-10-118, which under this bill becomes effective July 1,  
4 1995. The department shall report to the 1995 legislature on  
5 the implementation of the fee established under the  
6 authority of 75-10-204(8) so that the legislature may  
7 consider an amendment to 75-10-118 to adopt the fee amount  
8 established by the department.

9

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

11 Section 1. Section 8, Chapter 398, Laws of 1991, is  
12 amended to read:

13 "Section 8. Effective date. [This act] is effective  
14 July 1, ~~1993~~ 1995."

15 Section 2. Section 75-10-204, MCA, is amended to read:

16 "75-10-204. Powers and duties of department. The  
17 department shall adopt rules governing solid waste  
18 management systems which shall include but are not limited  
19 to:

20 (1) requirements for the plan of operation and  
21 maintenance that must be submitted with an application under  
22 this part;

23 (2) the classification of disposal sites according to  
24 the physical capabilities of the site to contain the type of  
25 solid waste to be disposed of;

(3) the procedures to be followed in the disposal, treatment, or transport of solid wastes;

(4) the suitability of the site from a public health standpoint when hydrology, geology, and climatology are considered;

(5) requirements relating to ground water monitoring, including but not limited to:

(a) information that owners and operators of municipal solid waste landfills and other disposal sites specified in 75-10-207 must submit to the department to enable the department to prepare the priority compliance list authorized by 75-10-207(3);

(b) the content of plans for the design, construction, operation, and maintenance of monitoring wells and monitoring systems; and

(c) recordkeeping and reporting;

(6) fees related to the review of solid waste management system license applications;

(7) the renewal of solid waste management system licenses and related fees; and

(8) a fee based on the direct and indirect costs to the state of administering Title 75, chapter 10, parts 1 and 2, for solid waste generated outside Montana and disposed of or incinerated within Montana. These rules:

(a) must be adopted by October 1, 1993; and

(b) terminate July 1, 1995.

~~(8)~~(9) any other factors relating to the sanitary disposal or management of solid wastes."

**Section 3.** Section 75-10-206, MCA, is amended to read:

"75-10-206. Variance. (1) Any person may apply to the board for a variance from rules adopted by the department pursuant to 75-10-204, except for rules adopted pursuant to 75-10-204(8). The board may grant a variance if it finds that:

(a) failure to comply with the rules does not result in a danger to public health or safety; or

(b) compliance with the rules from which a variance is sought would produce hardship without producing benefits to the health and safety of the public that outweigh the hardship.

(2) No variance may be granted pursuant to this section except after a hearing pursuant to the Montana Administrative Procedure Act and consideration by the board of the relative interests of the applicant and owners of the property likely to be affected by the waste disposal system under consideration.

(3) Nothing in this section may be construed as relieving the board from the obligation to comply with the Resource Conservation and Recovery Act of 1976, as amended, or as allowing the board to grant a variance less

HB 0064/01

1 restrictive than that act."

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0064, as introduced.

**DESCRIPTION OF PROPOSED LEGISLATION:** An act delaying the effective date of the law establishing a solid waste management fee on waste generated out of state; requiring the Department of Health and Environmental Sciences to adopt rules to establish a fee on the disposal or incineration of solid waste generated outside of Montana; and amending section 75-10-204 and 75-10-206, MCA and Section 8, Chapter 398, Laws of 1991.

**ASSUMPTIONS:**

1. The moratorium on the interstate transport of solid waste contained in 75-10-209, MCA, will not be extended and will expire as provided on October 1, 1993.
2. Existing program FTEs will be utilized for the required rulemaking and implementation of the out-of-state waste disposal fee.
3. Imported wastes will not exceed 12,500 tons per year during FY94 and FY95. It is estimated that approximately 8 solid waste disposal facilities will accept out-of-state wastes. These facilities will be responsible for reporting imported waste quantities and submitting the appropriate fee to the Department on a quarterly basis.
4. Prior to establishing a solid waste management fee for out-of-state waste the Department will need to determine what direct and indirect activities will be required in administering Title 75, chapter 10, parts 1 and 2, MCA, that are above and beyond current level activities for in-state wastes. The exact fee will be unknown until the completion of the Department study. As an estimate, the fee may range from \$1.00 or less to \$3.00 or more per ton. For the purpose of this fiscal note \$2.00 per ton will be used.
5. Implementation and administration of the actual out-of-state fee collection program will not begin until October 1, 1993.

**FISCAL IMPACT:**

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Fee Study & Analysis	0	1,200	1,200	0	0	0
Rulemaking and Adoption	0	1,000	1,000	0	0	0
Implementation & Administration	0	22,800	22,800	0	25,000	25,000
Total	0	25,000	25,000	0	25,000	25,000
<u>Expenditures:</u> (02)	0	25,000	25,000	0	25,000	25,000
<u>Revenues:</u> (Note: See #4 above)	0	25,000	25,000	0	25,000	25,000
<u>Net Impact:</u>	0	0	0	0	0	0

**LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:** Significant increases in the amounts of wastes imported to Montana may require an increase in program FTEs to administer and to monitor out-of-state wastes.

*David Lewis* 1-8-93  
 DAVID LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

*Edward J. Grady* 1-11-93  
 EDWARD J. GRADY, PRIMARY SPONSOR DATE  
 Fiscal Note for HB0064, as introduced.

HB 64

APPROVED BY COMM. ON  
NATURAL RESOURCES

HOUSE BILL NO. 64

INTRODUCED BY GRADY

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT DELAYING THE EFFECTIVE DATE OF THE LAW ESTABLISHING A SOLID WASTE MANAGEMENT FEE ON WASTE GENERATED OUT OF STATE; REQUIRING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT RULES TO ESTABLISH A FEE ON THE DISPOSAL OR INCINERATION OF SOLID WASTE GENERATED OUTSIDE MONTANA; AND LIMITING THE LENGTH OF TIME THE FEE IS APPLICABLE TO SOLID WASTE INCINERATORS AND CERTAIN SOLID WASTE DISPOSAL FACILITIES; AMENDING SECTIONS 75-10-118, 75-10-204, AND 75-10-206, MCA, AND SECTION 8, CHAPTER 398, LAWS OF 1991; AND PROVIDING EFFECTIVE DATES."

## STATEMENT OF INTENT

A statement of intent is required for this bill because of the rulemaking authority granted to the department of health and environmental sciences in [section 2 3]. It is the intent of the legislature that the department adopt rules to establish a rationally based, legally defensible fee on the disposal or incineration of solid waste generated outside Montana. The purpose of the fee is to prevent Montana citizens from subsidizing the disposal of out-of-state waste. Therefore, the fee is to be based on the

JUSTIFIABLE direct and indirect costs to the state of regulating the disposal or incineration of out-of-state waste under Title 75, chapter 10, parts 1 and 2. ~~This bill provides a termination date for the rules in 75-10-204(8) in order to avoid a conflict with 75-10-118, which--under--this bill becomes effective July 1, 1995.~~ IT IS THE INTENT OF THE LEGISLATURE THAT, UNTIL JULY 1, 1995, THE FEE ESTABLISHED BY THE DEPARTMENT UNDER 75-10-204(8) APPLY TO ALL SOLID WASTE IMPORTED FROM OUT OF STATE TO SOLID WASTE INCINERATORS AND SOLID WASTE DISPOSAL FACILITIES IN THIS STATE. EFFECTIVE JULY 1, 1995, THE FEE ESTABLISHED BY THE DEPARTMENT UNDER 75-10-204(8) APPLIES ONLY TO SOLID WASTE IMPORTED FROM OUT OF STATE TO SOLID WASTE DISPOSAL FACILITIES THAT RECEIVE LESS THAN 25,000 TONS OF SOLID WASTE ANNUALLY. ALSO EFFECTIVE JULY 1, 1995, SOLID WASTE DISPOSAL FACILITIES RECEIVING 25,000 TONS OR MORE OF SOLID WASTE ANNUALLY AND ALL SOLID WASTE INCINERATORS, REGARDLESS OF TONNAGE AMOUNTS, MUST BE CHARGED A FEE OF \$5 PER TON, PURSUANT TO 75-10-118, ON EACH TON OF SOLID WASTE IMPORTED FROM OUT OF STATE. The department shall report to the 1995 legislature on the implementation of the fee established under the authority of 75-10-204(8) so that the legislature may consider an amendment to 75-10-118 to adopt the fee amount established by the department.

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

**Section 1.** Section 8, Chapter 398, Laws of 1991, is amended to read:

"Section 8. **Effective date.** [This act] is effective July 1, 1993 1995."

**SECTION 2.** SECTION 75-10-118, MCA, IS AMENDED TO READ:

"75-10-118. (Effective July 1, 1993) Solid waste management fee -- out-of-state waste. (1) A Notwithstanding the fee established pursuant to 75-10-204(8) and except as provided in subsection (2) of this section, a person who owns an incinerator that burns solid waste or a solid waste disposal facility that is licensed pursuant to 75-10-221 and to rules adopted under 75-10-221 shall pay to the department a quarterly fee of \$5 for each ton of solid waste generated outside Montana and incinerated or disposed of at the facility.

(2) A person who owns a solid waste disposal facility that is licensed pursuant to 75-10-221 and to rules adopted under 75-10-221 that receives less than 25,000 tons of solid waste annually shall pay the department a quarterly fee, determined by the department pursuant to 75-10-204(8), for each ton of solid waste generated outside Montana.

~~(2)~~(3) All fees must be deposited in the solid waste management account provided for in 75-10-117."

**Section 3.** Section 75-10-204, MCA, is amended to read:

"75-10-204. **Powers and duties of department.** The department shall adopt rules governing solid waste management systems which shall include but are not limited to:

(1) requirements for the plan of operation and maintenance that must be submitted with an application under this part;

(2) the classification of disposal sites according to the physical capabilities of the site to contain the type of solid waste to be disposed of;

(3) the procedures to be followed in the disposal, treatment, or transport of solid wastes;

(4) the suitability of the site from a public health standpoint when hydrology, geology, and climatology are considered;

(5) requirements relating to ground water monitoring, including but not limited to:

(a) information that owners and operators of municipal solid waste landfills and other disposal sites specified in 75-10-207 must submit to the department to enable the department to prepare the priority compliance list authorized by 75-10-207(3);

(b) the content of plans for the design, construction, operation, and maintenance of monitoring wells and monitoring systems; and

(c) recordkeeping and reporting;

(6) fees related to the review of solid waste management system license applications;

(7) the renewal of solid waste management system licenses and related fees; and

(8) a QUARTERLY fee based on the JUSTIFIABLE direct and indirect costs to the state of administering Title 75, chapter 10, parts 1 and 2, for solid waste generated outside Montana and disposed of or incinerated within Montana. These rules:

~~(a) must be adopted by October AUGUST 1, 1993; and~~

~~(b) -- terminate July 1, 1995.~~

~~(8)(9)~~ any other factors relating to the sanitary disposal or management of solid wastes."

**Section 4.** Section 75-10-206, MCA, is amended to read:

"75-10-206. Variance. (1) Any person may apply to the board for a variance from rules adopted by the department pursuant to 75-10-204, except for rules adopted pursuant to 75-10-204(8). The board may grant a variance if it finds that:

(a) failure to comply with the rules does not result in a danger to public health or safety; or

(b) compliance with the rules from which a variance is sought would produce hardship without producing benefits to the health and safety of the public that outweigh the

hardship.

(2) No variance may be granted pursuant to this section except after a hearing pursuant to the Montana Administrative Procedure Act and consideration by the board of the relative interests of the applicant and owners of the property likely to be affected by the waste disposal system under consideration.

(3) Nothing in this section may be construed as relieving the board from the obligation to comply with the Resource Conservation and Recovery Act of 1976, as amended, or as allowing the board to grant a variance less restrictive than that act."

**NEW SECTION. SECTION 5. EFFECTIVE DATE. (SECTION 3 AND THIS SECTION) ARE EFFECTIVE ON PASSAGE AND APPROVAL.**

-End-



## HOUSE BILL NO. 64

INTRODUCED BY GRADY

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT DELAYING THE EFFECTIVE DATE OF THE LAW ESTABLISHING A SOLID WASTE MANAGEMENT FEE ON WASTE GENERATED OUT OF STATE; REQUIRING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT RULES TO ESTABLISH A FEE ON THE DISPOSAL OR INCINERATION OF SOLID WASTE GENERATED OUTSIDE MONTANA; AND LIMITING THE LENGTH OF TIME THE FEE IS APPLICABLE TO SOLID WASTE INCINERATORS AND CERTAIN SOLID WASTE DISPOSAL FACILITIES; AMENDING SECTIONS 75-10-118, 75-10-204, AND 75-10-206, MCA, AND SECTION 8, CHAPTER 398, LAWS OF 1991; AND PROVIDING EFFECTIVE DATES."

## STATEMENT OF INTENT

A statement of intent is required for this bill because of the rulemaking authority granted to the department of health and environmental sciences in [section 2 3]. It is the intent of the legislature that the department adopt rules to establish a rationally based, legally defensible fee on the disposal or incineration of solid waste generated outside Montana. The purpose of the fee is to prevent Montana citizens from subsidizing the disposal of out-of-state waste. Therefore, the fee is to be based on the

JUSTIFIABLE direct and indirect costs to the state of regulating the disposal or incineration of out-of-state waste under Title 75, chapter 10, parts 1 and 2. ~~This bill provides a termination date for the rules in 75-10-204(8) in order to avoid a conflict with 75-10-118, which--under--this bill becomes effective July 1, 1995.~~ IT IS THE INTENT OF THE LEGISLATURE THAT, UNTIL JULY 1, 1995, THE FEE ESTABLISHED BY THE DEPARTMENT UNDER 75-10-204(8) APPLY TO ALL SOLID WASTE IMPORTED FROM OUT OF STATE TO SOLID WASTE INCINERATORS AND SOLID WASTE DISPOSAL FACILITIES IN THIS STATE. EFFECTIVE JULY 1, 1995, THE FEE ESTABLISHED BY THE DEPARTMENT UNDER 75-10-204(8) APPLIES ONLY TO SOLID WASTE IMPORTED FROM OUT OF STATE TO SOLID WASTE DISPOSAL FACILITIES THAT RECEIVE LESS THAN 25,000 TONS OF SOLID WASTE ANNUALLY. ALSO EFFECTIVE JULY 1, 1995, SOLID WASTE DISPOSAL FACILITIES RECEIVING 25,000 TONS OR MORE OF SOLID WASTE ANNUALLY AND ALL SOLID WASTE INCINERATORS, REGARDLESS OF TONNAGE AMOUNTS, MUST BE CHARGED A FEE OF \$5 PER TON, PURSUANT TO 75-10-118, ON EACH TON OF SOLID WASTE IMPORTED FROM OUT OF STATE. The department shall report to the 1995 legislature on the implementation of the fee established under the authority of 75-10-204(8) so that the legislature may consider an amendment to 75-10-118 to adopt the fee amount established by the department.

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

**Section 1.** Section 8, Chapter 398, Laws of 1991, is amended to read:

"Section 8. **Effective date.** [This act] is effective July 1, 1993 1995."

**SECTION 2. SECTION 75-10-118, MCA, IS AMENDED TO READ:**

"75-10-118. (Effective July 1, 1993) Solid waste management fee -- out-of-state waste. (1) A Notwithstanding the fee established pursuant to 75-10-204(8) and except as provided in subsection (2) of this section, a person who owns an incinerator that burns solid waste or a solid waste disposal facility that is licensed pursuant to 75-10-221 and to rules adopted under 75-10-221 shall pay to the department a quarterly fee of \$5 for each ton of solid waste generated outside Montana and incinerated or disposed of at the facility.

(2) A person who owns a solid waste disposal facility that is licensed pursuant to 75-10-221 and to rules adopted under 75-10-221 that receives less than 25,000 tons of solid waste annually shall pay the department a quarterly fee, determined by the department pursuant to 75-10-204(8), for each ton of solid waste generated outside Montana.

~~(2)(3)~~ All fees must be deposited in the solid waste management account provided for in 75-10-117."

**Section 3.** Section 75-10-204, MCA, is amended to read:

"75-10-204. **Powers and duties of department.** The department shall adopt rules governing solid waste management systems which shall include but are not limited to:

(1) requirements for the plan of operation and maintenance that must be submitted with an application under this part;

(2) the classification of disposal sites according to the physical capabilities of the site to contain the type of solid waste to be disposed of;

(3) the procedures to be followed in the disposal, treatment, or transport of solid wastes;

(4) the suitability of the site from a public health standpoint when hydrology, geology, and climatology are considered;

(5) requirements relating to ground water monitoring, including but not limited to:

(a) information that owners and operators of municipal solid waste landfills and other disposal sites specified in 75-10-207 must submit to the department to enable the department to prepare the priority compliance list authorized by 75-10-207(3);

(b) the content of plans for the design, construction, operation, and maintenance of monitoring wells and monitoring systems; and

- 1 (c) recordkeeping and reporting;
- 2 (6) fees related to the review of solid waste
- 3 management system license applications;
- 4 (7) the renewal of solid waste management system
- 5 licenses and related fees; and
- 6 (8) a QUARTERLY fee based on the JUSTIFIABLE direct and
- 7 indirect costs to the state of administering Title 75,
- 8 chapter 10, parts 1 and 2, for solid waste generated outside
- 9 Montana and disposed of or incinerated within Montana. These
- 10 rules:
- 11 (a) must be adopted by October AUGUST 1, 1993; and
- 12 (b) -- terminate July 1, 1995.
- 13 (8)(9) any other factors relating to the sanitary
- 14 disposal or management of solid wastes."

15 **Section 4.** Section 75-10-206, MCA, is amended to read:

16 "75-10-206. Variance. (1) Any person may apply to the

17 board for a variance from rules adopted by the department

18 pursuant to 75-10-204, except for rules adopted pursuant to

19 75-10-204(8). The board may grant a variance if it finds

20 that:

21 (a) failure to comply with the rules does not result in

22 a danger to public health or safety; or

23 (b) compliance with the rules from which a variance is

24 sought would produce hardship without producing benefits to

25 the health and safety of the public that outweigh the

1 hardship.

2 (2) No variance may be granted pursuant to this section

3 except after a hearing pursuant to the Montana

4 Administrative Procedure Act and consideration by the board

5 of the relative interests of the applicant and owners of the

6 property likely to be affected by the waste disposal system

7 under consideration.

8 (3) Nothing in this section may be construed as

9 relieving the board from the obligation to comply with the

10 Resource Conservation and Recovery Act of 1976, as amended,

11 or as allowing the board to grant a variance less

12 restrictive than that act."

13 NEW SECTION. SECTION 5. EFFECTIVE DATE. [SECTION 3 AND

14 THIS SECTION] ARE EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

## HOUSE BILL NO. 64

INTRODUCED BY GRADY

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT DELAYING THE EFFECTIVE DATE OF THE LAW ESTABLISHING A SOLID WASTE MANAGEMENT FEE ON WASTE GENERATED OUT OF STATE; REQUIRING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT RULES TO ESTABLISH A FEE ON THE DISPOSAL OR INCINERATION OF SOLID WASTE GENERATED OUTSIDE MONTANA; AND LIMITING THE LENGTH OF TIME THE FEE IS APPLICABLE TO SOLID WASTE INCINERATORS AND CERTAIN SOLID WASTE DISPOSAL FACILITIES; AMENDING SECTIONS 75-10-118, 75-10-204, AND 75-10-206, MCA, AND SECTION 8, CHAPTER 398, LAWS OF 1991; AND PROVIDING EFFECTIVE DATES."

## STATEMENT OF INTENT

A statement of intent is required for this bill because of the rulemaking authority granted to the department of health and environmental sciences in [section 2 3]. It is the intent of the legislature that the department adopt rules to establish a rationally based, legally defensible fee on the disposal or incineration of solid waste generated outside Montana. The purpose of the fee is to prevent Montana citizens from subsidizing the disposal of out-of-state waste. Therefore, the fee is to be based on the

JUSTIFIABLE direct and indirect costs to the state of regulating the disposal or incineration of out-of-state waste under Title 75, chapter 10, parts 1 and 2. This bill provides a termination date for the rules in 75-10-204(8) in order to avoid a conflict with 75-10-118, which--under--this bill becomes effective July 1, 1995. IT IS THE INTENT OF THE LEGISLATURE THAT, UNTIL JULY 1, 1995, THE FEE ESTABLISHED BY THE DEPARTMENT UNDER 75-10-204(8) APPLY TO ALL SOLID WASTE IMPORTED FROM OUT OF STATE TO SOLID WASTE INCINERATORS AND SOLID WASTE DISPOSAL FACILITIES IN THIS STATE. EFFECTIVE JULY 1, 1995, THE FEE ESTABLISHED BY THE DEPARTMENT UNDER 75-10-204(8) APPLIES ONLY TO SOLID WASTE IMPORTED FROM OUT OF STATE TO SOLID WASTE DISPOSAL FACILITIES THAT RECEIVE LESS THAN 25,000 TONS OF SOLID WASTE ANNUALLY. ALSO EFFECTIVE JULY 1, 1995, SOLID WASTE DISPOSAL FACILITIES RECEIVING 25,000 TONS OR MORE OF SOLID WASTE ANNUALLY AND ALL SOLID WASTE INCINERATORS, REGARDLESS OF TONNAGE AMOUNTS, MUST BE CHARGED A FEE OF \$5 PER TON, PURSUANT TO 75-10-118, ON EACH TON OF SOLID WASTE IMPORTED FROM OUT OF STATE. The department shall report to the 1995 legislature on the implementation of the fee established under the authority of 75-10-204(8) so that the legislature may consider an amendment to 75-10-118 to adopt the fee amount established by the department.

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

**Section 1.** Section 8, Chapter 398, Laws of 1991, is amended to read:

"Section 8. **Effective date.** [This act] is effective July 1, 1993 1995."

**SECTION 2. SECTION 75-10-118, MCA, IS AMENDED TO READ:**

"75-10-118. (Effective July 1, 1993) Solid waste management fee -- out-of-state waste. (1) A Notwithstanding the fee established pursuant to 75-10-204(8) and except as provided in subsection (2) of this section, a person who owns an incinerator that burns solid waste or a solid waste disposal facility that is licensed pursuant to 75-10-221 and to rules adopted under 75-10-221 shall pay to the department a quarterly fee of \$5 for each ton of solid waste generated outside Montana and incinerated or disposed of at the facility.

(2) A person who owns a solid waste disposal facility that is licensed pursuant to 75-10-221 and to rules adopted under 75-10-221 that receives less than 25,000 tons of solid waste annually shall pay the department a quarterly fee, determined by the department pursuant to 75-10-204(8), for each ton of solid waste generated outside Montana.

~~(2)(3)~~ All fees must be deposited in the solid waste management account provided for in 75-10-117."

**Section 3.** Section 75-10-204, MCA, is amended to read:

"75-10-204. **Powers and duties of department.** The department shall adopt rules governing solid waste management systems which shall include but are not limited to:

(1) requirements for the plan of operation and maintenance that must be submitted with an application under this part;

(2) the classification of disposal sites according to the physical capabilities of the site to contain the type of solid waste to be disposed of;

(3) the procedures to be followed in the disposal, treatment, or transport of solid wastes;

(4) the suitability of the site from a public health standpoint when hydrology, geology, and climatology are considered;

(5) requirements relating to ground water monitoring, including but not limited to:

(a) information that owners and operators of municipal solid waste landfills and other disposal sites specified in 75-10-207 must submit to the department to enable the department to prepare the priority compliance list authorized by 75-10-207(3);

(b) the content of plans for the design, construction, operation, and maintenance of monitoring wells and monitoring systems; and

1 (c) recordkeeping and reporting;  
 2 (6) fees related to the review of solid waste  
 3 management system license applications;  
 4 (7) the renewal of solid waste management system  
 5 licenses and related fees; and  
 6 (8) a QUARTERLY fee based on the JUSTIFIABLE direct and  
 7 indirect costs to the state of administering Title 75,  
 8 chapter 10, parts 1 and 2, for solid waste generated outside  
 9 Montana and disposed of or incinerated within Montana. These  
 10 rules:  
 11 {a} must be adopted by October AUGUST 1, 1993; and  
 12 {b}--terminate-July-1-1995.  
 13 {c}{9} any other factors relating to the sanitary  
 14 disposal or management of solid wastes."

15 **Section 4.** Section 75-10-206, MCA, is amended to read:

16 "75-10-206. Variance. (1) Any person may apply to the  
 17 board for a variance from rules adopted by the department  
 18 pursuant to 75-10-204, except for rules adopted pursuant to  
 19 75-10-204(8). The board may grant a variance if it finds  
 20 that:

21 (a) failure to comply with the rules does not result in  
 22 a danger to public health or safety; or

23 (b) compliance with the rules from which a variance is  
 24 sought would produce hardship without producing benefits to  
 25 the health and safety of the public that outweigh the

1 hardship.

2 (2) No variance may be granted pursuant to this section  
 3 except after a hearing pursuant to the Montana  
 4 Administrative Procedure Act and consideration by the board  
 5 of the relative interests of the applicant and owners of the  
 6 property likely to be affected by the waste disposal system  
 7 under consideration.

8 (3) Nothing in this section may be construed as  
 9 relieving the board from the obligation to comply with the  
 10 Resource Conservation and Recovery Act of 1976, as amended,  
 11 or as allowing the board to grant a variance less  
 12 restrictive than that act."

13 NEW SECTION. SECTION 5. EFFECTIVE DATE. [SECTION 3 AND  
 14 THIS SECTION] ARE EFFECTIVE ON PASSAGE AND APPROVAL.

-End-