

HOUSE BILL NO. 592

INTRODUCED BY GRIMES
BY REQUEST OF THE DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

FEBRUARY 11, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 13, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 15, 1993	PRINTING REPORT.
MARCH 16, 1993	SECOND READING, DO PASS.
MARCH 17, 1993	ENGROSSING REPORT.
MARCH 18, 1993	THIRD READING, PASSED. AYES, 74; NOES, 24.
MARCH 19, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
MARCH 29, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 31, 1993	SECOND READING, CONCURRED IN.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 32; NOES, 17.
	RETURNED TO HOUSE.

IN THE HOUSE

APRIL 2, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 592
2 INTRODUCED BY James
3 BY REQUEST OF THE DEPARTMENT OF HEALTH
4 AND ENVIRONMENTAL SCIENCES
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING HAZARDOUS
7 WASTE MANAGEMENT PERMIT FEES; ESTABLISHING AN ACCOUNT IN THE
8 STATE SPECIAL REVENUE FUND; AMENDING SECTION 75-10-405, MCA;
9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
10 APPLICABILITY DATE."
11

12 STATEMENT OF INTENT

13 A statement of intent is required for this bill in order
14 to provide guidance to the department of health and
15 environmental sciences in promulgating rules. The intent of
16 this bill is to clarify and extend the authority of the
17 department to charge fees for the review and analysis of
18 hazardous waste management permits and for ensuring
19 compliance with hazardous waste laws, rules, and permit
20 conditions.

21 The department may develop rules that establish the
22 amount and procedure for collecting fees for:

23 (1) the filing and review of hazardous waste management
24 facility operation permits;

25 (2) the management of hazardous waste, based upon the

1 amount of waste managed;

2 (3) the reissuance and modification of hazardous waste
3 management facility operation permits; and

4 (4) the registration of hazardous waste generators.

5 In adopting these rules, the department shall meet the
6 criteria set forth in [sections 2 through 4]. In addition,
7 the rules adopted by the department must reflect a maximum
8 fee amount of \$10,000 for permit reissuance or permit
9 modification, except when the department's actual costs
10 exceed that amount.
11

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

13 **Section 1.** Section 75-10-405, MCA, is amended to read:

14 "75-10-405. **Administrative rules.** (1) The department
15 may adopt, amend, or repeal rules governing hazardous waste,
16 including but not limited to the following:

17 (a) identification and classification of those
18 hazardous wastes subject to regulation and those that are
19 not;

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

22 (c) requirements for siting, design, operation,
23 maintenance, monitoring, inspection, closure, postclosure,
24 and reclamation of hazardous waste management facilities;

25 (d) requirements for the issuance, denial, ~~renewal~~

1 reissuance, modification, and revocation of permits for
2 hazardous waste management facilities;

3 (e) requirements for corrective action within and
4 outside of facility boundaries and for financial assurance
5 of that corrective action;

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

10 (g) requirements for training of facility personnel and
11 for financial assurance of facility owners and operators and
12 for liability of guarantors providing financial assurance;

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

15 (i) establishing a schedule of fees and procedures for
16 the collection of fees for: hazardous--waste-management
17 facility--permits--and--registration--of---hazardous---waste
18 generators;

19 (i) the filing and review of hazardous waste management
20 facility operation permits as provided in [section 3];

21 (ii) hazardous waste management as provided in [section
22 4];

23 (iii) the reissuance and modification of hazardous waste
24 management facility operation permits; and

25 (iv) the registration of hazardous waste generators;

1 (j) a schedule of fees to defray a portion of the costs
2 of establishing, operating, and maintaining any state
3 hazardous waste management facility authorized by 75-10-412;

4 (k) requirements for availability to the public of
5 information obtained by the department regarding facilities
6 and sites used for the treatment, storage, and disposal of
7 hazardous wastes; and

8 (1) other rules which are necessary to obtain and
9 maintain authorization under the federal program.

10 (2) The department may not adopt rules under this part
11 that are more restrictive than those promulgated by the
12 federal government under the Resource Conservation and
13 Recovery Act of 1976, as amended, except that the
14 department:

15 (a) may require the registration of transporters not
16 otherwise required to register with the state of Montana
17 pursuant to the federal Resource Conservation and Recovery
18 Act of 1976, as amended;

19 (b) may require generators and facilities to report on
20 an annual rather than on a biennial basis;

21 (c) may adopt requirements for the prevention and
22 correction of leakage from underground storage tanks,
23 including:

24 (i) reporting by owners and operators;

25 (ii) financial responsibility;

(iii) release detection, prevention, and corrective action;

(iv) standards for design, construction, installation, and closure;

(v) development of a schedule of fees, not to exceed \$50 for a tank over 1,100 gallons and not to exceed \$20 for a tank 1,100 gallons or less, per tank, for tank notification and permits to defray state and local costs of implementing an underground storage tank program; and

(vi) delegation of authority and funds to local agents for inspections and implementation. The delegation of authority to local agents must complement and may not duplicate existing authority for implementation of rules adopted by the department of justice that relate to underground storage tanks.

(d) may adopt regulatory requirements for hazardous waste transfer facilities;

(e) shall require the owner or manager of any proposed commercial facility for the storage, collection, or transfer of hazardous waste to conduct a public hearing, as provided for in 75-10-441; and

(f) may adopt rules and performance standards for industrial furnaces and boilers that burn hazardous wastes. The rules and performance standards:

(i) may be adopted if there are no federal regulations;

or

(ii) may be more restrictive than federal regulations."

NEW SECTION. Section 2. Definitions. As used in [section 3], the following definitions apply:

(1) "Class I facility" means a hazardous waste management facility that:

(a) contains one or more regulated landfill units, surface impoundments, land treatment units, incinerators, boilers, or industrial furnaces; and

(b) primarily receives hazardous waste generated by offsite sources not owned, controlled, or operated by the facility owner or operator.

(2) "Class II facility" means a hazardous waste management facility that is neither a class I facility nor a class III facility.

(3) "Class III facility" means a hazardous waste management facility that:

(a) does not contain a regulated landfill unit, surface impoundment, land treatment unit, incinerator, boiler, or industrial furnace; and

(b) primarily receives hazardous waste generated either onsite or by offsite sources that are owned, controlled, or operated by the facility owner or operator.

NEW SECTION. Section 3. Hazardous waste management facility filing and review fees. (1) The department may

1 establish and collect fees for the filing and review of
2 hazardous waste management facility operation permits. The
3 fees must be based upon the following schedule:

4 (a) for class I facilities, a maximum fee of \$150,000,
5 payable as follows:

6 (i) a nonrefundable payment of \$50,000 due when an
7 applicant files for an operation permit;

8 (ii) a nonrefundable payment of \$50,000 due when the
9 department notifies the applicant that the application is
10 complete; and

11 (iii) an additional payment of up to \$50,000 for the
12 portion of the department's actual costs of review that
13 exceed \$100,000. This payment is due 30 days after the
14 department's final decision on the application.

15 (b) for class II facilities, a maximum fee of \$90,000,
16 payable as follows:

17 (i) a nonrefundable payment of \$50,000 due when an
18 applicant files for an operation permit; and

19 (ii) an additional payment of up to \$40,000 for the
20 portion of the department's actual costs of review that
21 exceed \$50,000. This payment is due 30 days after the
22 department's final decision on the application.

23 (c) for class III facilities, a maximum fee of \$25,000,
24 payable as follows:

25 (i) a nonrefundable payment of \$10,000 due when an

1 applicant files for an operation permit; and

2 (ii) an additional payment of up to \$15,000 for the
3 portion of the department's actual costs of review that
4 exceed \$10,000. This payment is due 30 days after the
5 department's final decision on the application.

6 (2) The department shall deposit all fees collected
7 pursuant to this section into an account in the state
8 special revenue fund as provided in [section 5].

9 **NEW SECTION. Section 4. Hazardous waste management**

10 fees. (1) An owner or operator of a hazardous waste
11 management facility that primarily receives waste generated
12 by offsite sources that are not owned, controlled, or
13 operated by the facility owner or operator or site owner
14 shall collect from generators and remit quarterly to the
15 department a fee of \$8 per ton on all hazardous waste
16 received at the facility or site for storage, disposal, or
17 treatment. The fee may be prorated for amounts of hazardous
18 waste received that are less than 1 ton in weight.

19 (2) The department shall remit 15% of the fees received
20 under this section from a facility to the county in which
21 the facility is located. The county shall use the money for
22 the purpose of implementing hazardous material or hazardous
23 waste monitoring and response programs.

24 (3) The department shall deposit all fees collected
25 under this section, except fees paid to a county, into an

1 account in the state special revenue fund as provided in
2 [section 5].

3 **NEW SECTION. Section 5.** Deposit of hazardous waste
4 management fees. (1) There must be credited to an account
5 within the state special revenue fund established in
6 17-2-102:

7 (a) all fees collected under [section 3]; and
8 (b) all fees collected under [section 4], except fees
9 paid to a county.

10 (2) Money in the account may be used by the department
11 only for the administration of this part.

12 **NEW SECTION. Section 6.** Codification instruction.
13 [Sections 2 through 5] are intended to be codified as an
14 integral part of Title 75, chapter 10, part 4, and the
15 provisions of Title 75, chapter 10, part 4, apply to
16 [sections 2 through 5].

17 **NEW SECTION. Section 7.** Severability. If a part of
18 [this act] is invalid, all valid parts that are severable
19 from the invalid part remain in effect. If a part of [this
20 act] is invalid in one or more of its applications, the part
21 remains in effect in all valid applications that are
22 severable from the invalid applications.

23 **NEW SECTION. Section 8.** Retroactive applicability.
24 [Section 3] applies retroactively, within the meaning of
25 1-2-109, to applications for hazardous waste management

1 facility operation permits received on or after January 1,
2 1993.

3 **NEW SECTION. Section 9.** Effective date. [This act] is
4 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 HB0592, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act establishing hazardous waste management permit fees and establishing an account in the state special revenue fund.

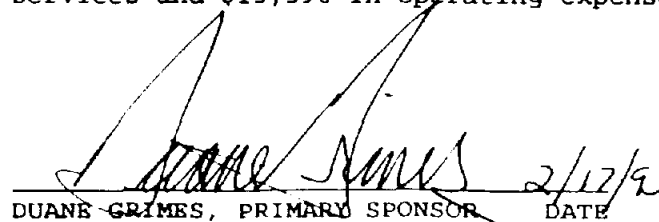
ASSUMPTIONS:

1. Fees collected will be deposited in a special revenue account established in accordance with the provisions specified in this bill.
2. Fees collected under the provisions of this bill during FY93 will be appropriated during FY94.
3. Permit applications will be received from Holnam and Ash Grove during FY93. Those facilities will be determined to be Class I facilities for permitting fee purposes and each of the applicants will be assessed permitting fees of \$50,000 for a total of \$100,000.
4. Permit applications for Holnam and Ash Grove will be determined to be complete during FY94 and the applicants will be assessed additional permitting fees of \$50,000 each for a total of \$100,000.
5. Final decisions to issue or deny hazardous waste facility permits for Holnam and Ash Grove will not be made during the 1995 biennium.
6. A permit application will be received from NEWTEC in FY94. That facility will be determined to be a Class II facility for permitting fee purposes and assessed a fee of \$50,000 upon receipt of the application. A final decision to issue or deny the permit application will be reached in FY95. At that time the applicant will be assessed a fee based upon actual costs incurred. That fee is assumed to be the maximum allowable: \$40,000.
7. No other hazardous waste facility permit applications subject to the provisions of this bill will be received during the 1995 biennium.
8. Special Resource Management (SRM) will be the only facility subject to the \$8/ton fee assessed to commercial facilities during the 1995 biennium.
9. SRM will be assessed fees of \$4,400 annually based upon receipt of 550 tons of hazardous waste per year.
10. Silver Bow County will be awarded \$660 during FY94 and FY95 in accordance with the provision of this bill that requires submittal of 15% of fees assessed on commercial facilities to counties in which those facilities are located.
11. Two temporary Environmental Specialist IIIs, Grade 14, will be hired during FY94 and FY95 with revenue generated by fees collected. Salary and benefits will total \$36,404 per position.
12. Operating expenses to support the temporary Environmental Specialist positions and to support consulting and professional services will total \$48,432 per fiscal year.
13. Equipment expenditures of \$5,000 will be incurred during FY94.
14. \$50,000 of revenue generated in the 1995 biennium will be carried over into FY96 to support one Environmental Specialist III position. This amount includes \$36,404 in personnel services and \$13,596 in operating expenses.

(Continued)

 2-16-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/17/93

DUANE GRIMES, PRIMARY SPONSOR DATE

Fiscal Note for HB0592, as introduced

HB 592

FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY94</u>			<u>FY95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	13.97	15.97	2.0	13.97	15.97	2.0
Personnel Services	486,709	559,517	72,808	487,625	560,433	72,808
Operating Expenses	233,219	281,651	48,432	236,538	284,970	48,432
Equipment	<u>5,384</u>	<u>10,384</u>	<u>5,000</u>	<u>5,361</u>	<u>5,361</u>	<u>0</u>
Total	725,312	851,552	126,240	729,524	850,764	121,240

Funding:

Hazardous Waste-CERCLA	240,532	240,532	0	241,602	241,602	0
EPA Letter of Credit	484,780	484,780	0	487,922	487,922	0
Special Revenue Account	<u>0</u>	<u>126,240</u>	<u>126,240</u>	<u>0</u>	<u>121,240</u>	<u>121,240</u>
Total	725,312	851,552	126,240	729,524	850,764	121,240

Revenues:

Hazardous Waste-CERCLA	240,532	240,532	0	241,602	241,602	0
EPA Letter of Credit	484,780	484,780	0	487,922	487,922	0
Special Revenue Account	<u>0</u>	<u>253,740</u>	<u>253,740</u>	<u>0</u>	<u>43,740</u>	<u>43,740</u>
Total	725,312	979,052	253,740	729,524	773,264	43,740

Net Impact:

Special Revenue Account	0	127,500	127,500	0	[77,500]	[77,500]
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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Counties in which commercial hazardous waste management facilities are located will receive 15% of fees collected of those facilities as provided for in this bill.

APPROVED BY COMMITTEE
ON TAXATION

1 HOUSE BILL NO. 592
2 INTRODUCED BY GRIMES
3 BY REQUEST OF THE DEPARTMENT OF HEALTH
4 AND ENVIRONMENTAL SCIENCES
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING HAZARDOUS
7 WASTE MANAGEMENT PERMIT FEES; ESTABLISHING AN ACCOUNT IN THE
8 STATE SPECIAL REVENUE FUND; AMENDING SECTION 75-10-405, MCA;
9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
10 APPLICABILITY DATE."
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12 STATEMENT OF INTENT

13 A statement of intent is required for this bill in order
14 to provide guidance to the department of health and
15 environmental sciences in promulgating rules. The intent of
16 this bill is to clarify and extend the authority of the
17 department to charge fees for the review and analysis of
18 hazardous waste management permits and for ensuring
19 compliance with hazardous waste laws, rules, and permit
20 conditions.

21 The department may develop rules that establish the
22 amount and procedure for collecting fees for:

- 23 (1) the filing and review of hazardous waste management
24 facility operation permits;
25 (2) the management of hazardous waste, based upon the

1 amount of waste managed;
2 (3) the reissuance and modification of hazardous waste
3 management facility operation permits; and
4 (4) the registration of hazardous waste generators.
5 In adopting these rules, the department shall meet the
6 criteria set forth in [sections 2 through 4]. In addition,
7 the rules adopted by the department must reflect a maximum
8 fee amount of \$10,000 for permit reissuance or permit
9 modification, except when the department's actual costs
10 exceed that amount.

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

13 **Section 1.** Section 75-10-405, MCA, is amended to read:

14 "75-10-405. Administrative rules. (1) The department
15 may adopt, amend, or repeal rules governing hazardous waste,
16 including but not limited to the following:

17 (a) identification and classification of those
18 hazardous wastes subject to regulation and those that are
19 not;

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

22 (c) requirements for siting, design, operation,
23 maintenance, monitoring, inspection, closure, postclosure,
24 and reclamation of hazardous waste management facilities;

25 (d) requirements for the issuance, denial, renewal

1 reissuance, modification, and revocation of permits for
2 hazardous waste management facilities;

3 (e) requirements for corrective action within and
4 outside of facility boundaries and for financial assurance
5 of that corrective action;

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

10 (g) requirements for training of facility personnel and
11 for financial assurance of facility owners and operators and
12 for liability of guarantors providing financial assurance;

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

15 (i) establishing a schedule of fees and procedures for
16 the collection of fees for: hazardous--waste-management
17 facility--permits--and--registration--of---hazardous---waste
18 generators;

19 (i) the filing and review of hazardous waste management
20 facility operation permits as provided in [section 3];

21 (ii) hazardous waste management as provided in [section
22 4];

23 (iii) the reissuance and modification of hazardous waste
24 management facility operation permits; and

25 (iv) the registration of hazardous waste generators;

1 (j) a schedule of fees to defray a portion of the costs
2 of establishing, operating, and maintaining any state
3 hazardous waste management facility authorized by 75-10-412;

4 (k) requirements for availability to the public of
5 information obtained by the department regarding facilities
6 and sites used for the treatment, storage, and disposal of
7 hazardous wastes; and

8 (l) other rules which are necessary to obtain and
9 maintain authorization under the federal program.

10 (2) The department may not adopt rules under this part
11 that are more restrictive than those promulgated by the
12 federal government under the Resource Conservation and
13 Recovery Act of 1976, as amended, except that the
14 department:

15 (a) may require the registration of transporters not
16 otherwise required to register with the state of Montana
17 pursuant to the federal Resource Conservation and Recovery
18 Act of 1976, as amended;

19 (b) may require generators and facilities to report on
20 an annual rather than on a biennial basis;

21 (c) may adopt requirements for the prevention and
22 correction of leakage from underground storage tanks,
23 including:

24 (i) reporting by owners and operators;

25 (ii) financial responsibility;

1 (iii) release detection, prevention, and corrective
 2 action;
 3 (iv) standards for design, construction, installation,
 4 and closure;
 5 (v) development of a schedule of fees, not to exceed
 6 \$50 for a tank over 1,100 gallons and not to exceed \$20 for
 7 a tank 1,100 gallons or less, per tank, for tank
 8 notification and permits to defray state and local costs of
 9 implementing an underground storage tank program; and
 10 (vi) delegation of authority and funds to local agents
 11 for inspections and implementation. The delegation of
 12 authority to local agents must complement and may not
 13 duplicate existing authority for implementation of rules
 14 adopted by the department of justice that relate to
 15 underground storage tanks.
 16 (d) may adopt regulatory requirements for hazardous
 17 waste transfer facilities;
 18 (e) shall require the owner or manager of any proposed
 19 commercial facility for the storage, collection, or transfer
 20 of hazardous waste to conduct a public hearing, as provided
 21 for in 75-10-441; and
 22 (f) may adopt rules and performance standards for
 23 industrial furnaces and boilers that burn hazardous wastes.
 24 The rules and performance standards:
 25 (i) may be adopted if there are no federal regulations;

1 or
 2 (ii) may be more restrictive than federal regulations."
 3 **NEW SECTION. Section 2. Definitions.** As used in
 4 [section 3], the following definitions apply:
 5 (1) "Class I facility" means a hazardous waste
 6 management facility that:
 7 (a) contains one or more regulated landfill units,
 8 surface impoundments, land treatment units, incinerators,
 9 boilers, or industrial furnaces; and
 10 (b) primarily receives hazardous waste generated by
 11 offsite sources not owned, controlled, or operated by the
 12 facility owner or operator.
 13 (2) "Class II facility" means a hazardous waste
 14 management facility that is neither a class I facility nor a
 15 class III facility.
 16 (3) "Class III facility" means a hazardous waste
 17 management facility that:
 18 (a) does not contain a regulated landfill unit, surface
 19 impoundment, land treatment unit, incinerator, boiler, or
 20 industrial furnace; and
 21 (b) primarily receives hazardous waste generated either
 22 onsite or by offsite sources that are owned, controlled, or
 23 operated by the facility owner or operator.
 24 **NEW SECTION. Section 3. Hazardous waste management**
 25 **facility filing and review fees.** (1) The department may

1 establish and collect fees for the filing and review of
2 hazardous waste management facility operation permits. The
3 fees must be based upon the following schedule:

4 (a) for class I facilities, a maximum fee of \$150,000,
5 payable as follows:

6 (i) a nonrefundable payment of \$50,000 due when an
7 applicant files for an-operation A permit;

8 (ii) a nonrefundable payment of \$50,000 due when the
9 department notifies the applicant that the application is
10 complete; and

11 (iii) an additional payment of up to \$50,000 for the
12 portion of the department's actual costs of review that
13 exceed \$100,000. This payment is due 30 days after the
14 department's final decision on the application.

15 (b) for class II facilities, a maximum fee of \$90,000,
16 payable as follows:

17 (i) a nonrefundable payment of ~~\$50,000~~ \$40,000 due when
18 an applicant files for an-operation A permit; and

19 (ii) an additional payment of up to ~~\$40,000~~ \$50,000 for
20 the portion of the department's actual costs of review that
21 exceed ~~\$50,000~~ \$40,000. This payment is due 30 days after
22 the department's final decision on the application.

23 (c) for class III facilities, a maximum fee of \$25,000,
24 payable as follows:

25 (i) a nonrefundable payment of \$10,000 due when an

1 applicant files for an-operation A permit; and

2 (ii) an additional payment of up to \$15,000 for the
3 portion of the department's actual costs of review that
4 exceed \$10,000. This payment is due 30 days after the
5 department's final decision on the application.

6 (2) IF, AFTER RECEIPT OF THE PAYMENT REQUIRED IN
7 SUBSECTION (1)(A)(II), THE APPLICANT NOTIFIES THE DEPARTMENT
8 IN WRITING OF ITS INTENT TO WITHDRAW THE APPLICATION, THE
9 DEPARTMENT SHALL RETURN TO THE APPLICANT ANY PORTION OF THE
10 PAYMENT RECEIVED PURSUANT TO SUBSECTION (1)(A)(II) IN EXCESS
11 OF THE DEPARTMENT'S ACTUAL COSTS OF PERMIT REVIEW.

12 (2)(3) The department shall deposit all fees collected
13 pursuant to this section into an account in the state
14 special revenue fund as provided in [section 5].

15 NEW SECTION. Section 4. Hazardous waste management
16 fees. (1) An owner or operator of a hazardous waste
17 management facility that primarily receives waste generated
18 by offsite sources that are not owned, controlled, or
19 operated by the facility owner or operator or site owner
20 shall collect from generators and remit quarterly to the
21 department a fee of:

22 (A) \$8 per ton on all hazardous waste received at the
23 facility or site for storage,--disposal,--or--treatment--
24 MANAGEMENT IN REGULATED LANDFILL UNITS, SURFACE
25 IMPOUNDMENTS, LAND TREATMENT UNITS, INCINERATORS, BOILERS,

OR INDUSTRIAL FURNACES; AND

(B) \$4 PER TON ON ALL HAZARDOUS WASTE RECEIVED AT THE FACILITY OR SITE FOR MANAGEMENT IN ANY REGULATED UNIT OR UNITS OTHER THAN THOSE UNITS DESCRIBED IN SUBSECTION (1)(A).

(2) The fee FEES ESTABLISHED IN SUBSECTION (1) may be prorated for amounts of hazardous waste received that are less than 1 ton in weight.

(3) The department shall remit 15% of the fees received under this section from a facility to the county in which the facility is located. The county shall MAY use the money for the purpose of implementing hazardous material or hazardous waste monitoring and response programs.

(4) The department shall deposit all fees collected under this section, except fees paid to a county, into an account in the state special revenue fund as provided in [section 5].

NEW SECTION. Section 5. Deposit of hazardous waste management fees. (1) There must be credited to an account within the state special revenue fund established in 17-2-102:

(a) all fees collected under [section 3]; and

(b) all fees collected under [section 4], except fees paid to a county.

(2) Money in the account may be used by the department only for the administration of THE HAZARDOUS WASTE

PROVISIONS OF this part.

NEW SECTION. Section 6. Codification instruction. [Sections 2 through 5] are intended to be codified as an integral part of Title 75, chapter 10, part 4, and the provisions of Title 75, chapter 10, part 4, apply to [sections 2 through 5].

NEW SECTION. Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 8. Retroactive applicability. [Section 3] applies retroactively, within the meaning of 1-2-109, to applications for hazardous waste management facility operation permits received on or after January 1, 1993.

NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

-End-

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INTRODUCED BY GRIMES
BY REQUEST OF THE DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING HAZARDOUS WASTE MANAGEMENT PERMIT FEES; ESTABLISHING AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND; AMENDING SECTION 75-10-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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A statement of intent is required for this bill in order to provide guidance to the department of health and environmental sciences in promulgating rules. The intent of this bill is to clarify and extend the authority of the department to charge fees for the review and analysis of hazardous waste management permits and for ensuring compliance with hazardous waste laws, rules, and permit conditions.

The department may develop rules that establish the amount and procedure for collecting fees for:

(1) the filing and review of hazardous waste management facility operation permits;

(2) the management of hazardous waste, based upon the

amount of waste managed;

(3) the reissuance and modification of hazardous waste management facility operation permits; and

(4) the registration of hazardous waste generators.

In adopting these rules, the department shall meet the criteria set forth in [sections 2 through 4]. In addition, the rules adopted by the department must reflect a maximum fee amount of \$10,000 for permit reissuance or permit modification, except when the department's actual costs exceed that amount.

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

Section 1. Section 75-10-405, MCA, is amended to read:

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

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

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

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

(d) requirements for the issuance, denial, renewal

1 reissuance, modification, and revocation of permits for
2 hazardous waste management facilities;

3 (e) requirements for corrective action within and
4 outside of facility boundaries and for financial assurance
5 of that corrective action;

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

10 (g) requirements for training of facility personnel and
11 for financial assurance of facility owners and operators and
12 for liability of guarantors providing financial assurance;

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

15 (i) establishing a schedule of fees and procedures for
16 the collection of fees for: hazardous--waste-management
17 facility--permits--and--registration--of---hazardous---waste
18 generators;

19 (i) the filing and review of hazardous waste management
20 facility operation permits as provided in [section 3];

21 (ii) hazardous waste management as provided in [section
22 4];

23 (iii) the reissuance and modification of hazardous waste
24 management facility operation permits; and

25 (iv) the registration of hazardous waste generators;

1 (j) a schedule of fees to defray a portion of the costs
2 of establishing, operating, and maintaining any state
3 hazardous waste management facility authorized by 75-10-412;

4 (k) requirements for availability to the public of
5 information obtained by the department regarding facilities
6 and sites used for the treatment, storage, and disposal of
7 hazardous wastes; and

8 (l) other rules which are necessary to obtain and
9 maintain authorization under the federal program.

10 (2) The department may not adopt rules under this part
11 that are more restrictive than those promulgated by the
12 federal government under the Resource Conservation and
13 Recovery Act of 1976, as amended, except that the
14 department:

15 (a) may require the registration of transporters not
16 otherwise required to register with the state of Montana
17 pursuant to the federal Resource Conservation and Recovery
18 Act of 1976, as amended;

19 (b) may require generators and facilities to report on
20 an annual rather than on a biennial basis;

21 (c) may adopt requirements for the prevention and
22 correction of leakage from underground storage tanks,
23 including:

24 (i) reporting by owners and operators;

25 (ii) financial responsibility;

1 (iii) release detection, prevention, and corrective
 2 action;
 3 (iv) standards for design, construction, installation,
 4 and closure;
 5 (v) development of a schedule of fees, not to exceed
 6 \$50 for a tank over 1,100 gallons and not to exceed \$20 for
 7 a tank 1,100 gallons or less, per tank, for tank
 8 notification and permits to defray state and local costs of
 9 implementing an underground storage tank program; and
 10 (vi) delegation of authority and funds to local agents
 11 for inspections and implementation. The delegation of
 12 authority to local agents must complement and may not
 13 duplicate existing authority for implementation of rules
 14 adopted by the department of justice that relate to
 15 underground storage tanks.
 16 (d) may adopt regulatory requirements for hazardous
 17 waste transfer facilities;
 18 (e) shall require the owner or manager of any proposed
 19 commercial facility for the storage, collection, or transfer
 20 of hazardous waste to conduct a public hearing, as provided
 21 for in 75-10-441; and
 22 (f) may adopt rules and performance standards for
 23 industrial furnaces and boilers that burn hazardous wastes.
 24 The rules and performance standards:
 25 (i) may be adopted if there are no federal regulations;

1 or
 2 (ii) may be more restrictive than federal regulations."
 3 **NEW SECTION. Section 2.** Definitions. As used in
 4 [section 3], the following definitions apply:
 5 (1) "Class I facility" means a hazardous waste
 6 management facility that:
 7 (a) contains one or more regulated landfill units,
 8 surface impoundments, land treatment units, incinerators,
 9 boilers, or industrial furnaces; and
 10 (b) primarily receives hazardous waste generated by
 11 offsite sources not owned, controlled, or operated by the
 12 facility owner or operator.
 13 (2) "Class II facility" means a hazardous waste
 14 management facility that is neither a class I facility nor a
 15 class III facility.
 16 (3) "Class III facility" means a hazardous waste
 17 management facility that:
 18 (a) does not contain a regulated landfill unit, surface
 19 impoundment, land treatment unit, incinerator, boiler, or
 20 industrial furnace; and
 21 (b) primarily receives hazardous waste generated either
 22 onsite or by offsite sources that are owned, controlled, or
 23 operated by the facility owner or operator.
 24 **NEW SECTION. Section 3.** Hazardous waste management
 25 facility filing and review fees. (1) The department may

1 establish and collect fees for the filing and review of
2 hazardous waste management facility operation permits. The
3 fees must be based upon the following schedule:

4 (a) for class I facilities, a maximum fee of \$150,000,
5 payable as follows:

6 (i) a nonrefundable payment of \$50,000 due when an
7 applicant files for an-operation A permit;

8 (ii) a nonrefundable payment of \$50,000 due when the
9 department notifies the applicant that the application is
10 complete; and

11 (iii) an additional payment of up to \$50,000 for the
12 portion of the department's actual costs of review that
13 exceed \$100,000. This payment is due 30 days after the
14 department's final decision on the application.

15 (b) for class II facilities, a maximum fee of \$90,000,
16 payable as follows:

17 (i) a nonrefundable payment of ~~\$50,000~~ \$40,000 due when
18 an applicant files for an-operation A permit; and

19 (ii) an additional payment of up to ~~\$40,000~~ \$50,000 for
20 the portion of the department's actual costs of review that
21 exceed ~~\$50,000~~ \$40,000. This payment is due 30 days after
22 the department's final decision on the application.

23 (c) for class III facilities, a maximum fee of \$25,000,
24 payable as follows:

25 (i) a nonrefundable payment of \$10,000 due when an

1 applicant files for an-operation A permit; and

2 (ii) an additional payment of up to \$15,000 for the
3 portion of the department's actual costs of review that
4 exceed \$10,000. This payment is due 30 days after the
5 department's final decision on the application.

6 (2) IF, AFTER RECEIPT OF THE PAYMENT REQUIRED IN
7 SUBSECTION (1)(A)(II), THE APPLICANT NOTIFIES THE DEPARTMENT
8 IN WRITING OF ITS INTENT TO WITHDRAW THE APPLICATION, THE
9 DEPARTMENT SHALL RETURN TO THE APPLICANT ANY PORTION OF THE
10 PAYMENT RECEIVED PURSUANT TO SUBSECTION (1)(A)(II) IN EXCESS
11 OF THE DEPARTMENT'S ACTUAL COSTS OF PERMIT REVIEW.

12 ~~(2)(3)~~ The department shall deposit all fees collected
13 pursuant to this section into an account in the state
14 special revenue fund as provided in [section 5].

15 NEW SECTION. Section 4. Hazardous waste management
16 fees. (1) An owner or operator of a hazardous waste
17 management facility that primarily receives waste generated
18 by offsite sources that are not owned, controlled, or
19 operated by the facility owner or operator or site owner
20 shall collect from generators and remit quarterly to the
21 department a fee of:

22 (A) \$8 per ton on all hazardous waste received at the
23 facility or site for storage,--disposal,--or--treatment--
24 MANAGEMENT IN REGULATED LANDFILL UNITS, SURFACE
25 IMPOUNDMENTS, LAND TREATMENT UNITS, INCINERATORS, BOILERS,

OR INDUSTRIAL FURNACES; AND

(B) \$4 PER TON ON ALL HAZARDOUS WASTE RECEIVED AT THE FACILITY OR SITE FOR MANAGEMENT IN ANY REGULATED UNIT OR UNITS OTHER THAN THOSE UNITS DESCRIBED IN SUBSECTION (1)(A).

(2) The fee FEES ESTABLISHED IN SUBSECTION (1) may be prorated for amounts of hazardous waste received that are less than 1 ton in weight.

(3) The department shall remit 15% of the fees received under this section from a facility to the county in which the facility is located. The county shall MAY use the money for the purpose of implementing hazardous material or hazardous waste monitoring and response programs.

(4) The department shall deposit all fees collected under this section, except fees paid to a county, into an account in the state special revenue fund as provided in [section 5].

NEW SECTION. Section 5. Deposit of hazardous waste management fees. (1) There must be credited to an account within the state special revenue fund established in 17-2-102:

(a) all fees collected under [section 3]; and

(b) all fees collected under [section 4], except fees paid to a county.

(2) Money in the account may be used by the department only for the administration of THE HAZARDOUS WASTE

PROVISIONS OF this part.

NEW SECTION. Section 6. Codification instruction. [Sections 2 through 5] are intended to be codified as an integral part of Title 75, chapter 10, part 4, and the provisions of Title 75, chapter 10, part 4, apply to [sections 2 through 5].

NEW SECTION. Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 8. Retroactive applicability. [Section 3] applies retroactively, within the meaning of 1-2-109, to applications for hazardous waste management facility operation permits received on or after January 1, 1993.

NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

-End-

1 HOUSE BILL NO. 592

2 INTRODUCED BY GRIMES

3 BY REQUEST OF THE DEPARTMENT OF HEALTH

4 AND ENVIRONMENTAL SCIENCES

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING HAZARDOUS
7 WASTE MANAGEMENT PERMIT FEES; ESTABLISHING AN ACCOUNT IN THE
8 STATE SPECIAL REVENUE FUND; AMENDING SECTION 75-10-405, MCA;
9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
10 APPLICABILITY DATE."
11

12 STATEMENT OF INTENT

13 A statement of intent is required for this bill in order
14 to provide guidance to the department of health and
15 environmental sciences in promulgating rules. The intent of
16 this bill is to clarify and extend the authority of the
17 department to charge fees for the review and analysis of
18 hazardous waste management permits and for ensuring
19 compliance with hazardous waste laws, rules, and permit
20 conditions.

21 The department may develop rules that establish the
22 amount and procedure for collecting fees for:

23 (1) the filing and review of hazardous waste management
24 facility operation permits;

25 (2) the management of hazardous waste, based upon the

1 amount of waste managed;

2 (3) the reissuance and modification of hazardous waste
3 management facility operation permits; and

4 (4) the registration of hazardous waste generators.

5 In adopting these rules, the department shall meet the
6 criteria set forth in [sections 2 through 4]. In addition,
7 the rules adopted by the department must reflect a maximum
8 fee amount of \$10,000 for permit reissuance or permit
9 modification, except when the department's actual costs
10 exceed that amount.

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

13 Section 1. Section 75-10-405, MCA, is amended to read:

14 "75-10-405. Administrative rules. (1) The department
15 may adopt, amend, or repeal rules governing hazardous waste,
16 including but not limited to the following:

17 (a) identification and classification of those
18 hazardous wastes subject to regulation and those that are
19 not;

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

22 (c) requirements for siting, design, operation,
23 maintenance, monitoring, inspection, closure, postclosure,
24 and reclamation of hazardous waste management facilities;

25 (d) requirements for the issuance, denial, renewal

1 reissuance, modification, and revocation of permits for
2 hazardous waste management facilities;

3 (e) requirements for corrective action within and
4 outside of facility boundaries and for financial assurance
5 of that corrective action;

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

10 (g) requirements for training of facility personnel and
11 for financial assurance of facility owners and operators and
12 for liability of guarantors providing financial assurance;

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

15 (i) establishing a schedule of fees and procedures for
16 the collection of fees for: hazardous--waste-management
17 facility--permits--and--registration--of--hazardous---waste
18 generators;

19 (i) the filing and review of hazardous waste management
20 facility operation permits as provided in [section 3];

21 (ii) hazardous waste management as provided in [section
22 4];

23 (iii) the reissuance and modification of hazardous waste
24 management facility operation permits; and

25 (iv) the registration of hazardous waste generators;

1 (j) a schedule of fees to defray a portion of the costs
2 of establishing, operating, and maintaining any state
3 hazardous waste management facility authorized by 75-10-412;

4 (k) requirements for availability to the public of
5 information obtained by the department regarding facilities
6 and sites used for the treatment, storage, and disposal of
7 hazardous wastes; and

8 (l) other rules which are necessary to obtain and
9 maintain authorization under the federal program.

10 (2) The department may not adopt rules under this part
11 that are more restrictive than those promulgated by the
12 federal government under the Resource Conservation and
13 Recovery Act of 1976, as amended, except that the
14 department:

15 (a) may require the registration of transporters not
16 otherwise required to register with the state of Montana
17 pursuant to the federal Resource Conservation and Recovery
18 Act of 1976, as amended;

19 (b) may require generators and facilities to report on
20 an annual rather than on a biennial basis;

21 (c) may adopt requirements for the prevention and
22 correction of leakage from underground storage tanks,
23 including:

24 (i) reporting by owners and operators;

25 (ii) financial responsibility;

1 (iii) release detection, prevention, and corrective
 2 action;
 3 (iv) standards for design, construction, installation,
 4 and closure;
 5 (v) development of a schedule of fees, not to exceed
 6 \$50 for a tank over 1,100 gallons and not to exceed \$20 for
 7 a tank 1,100 gallons or less, per tank, for tank
 8 notification and permits to defray state and local costs of
 9 implementing an underground storage tank program; and
 10 (vi) delegation of authority and funds to local agents
 11 for inspections and implementation. The delegation of
 12 authority to local agents must complement and may not
 13 duplicate existing authority for implementation of rules
 14 adopted by the department of justice that relate to
 15 underground storage tanks.
 16 (d) may adopt regulatory requirements for hazardous
 17 waste transfer facilities;
 18 (e) shall require the owner or manager of any proposed
 19 commercial facility for the storage, collection, or transfer
 20 of hazardous waste to conduct a public hearing, as provided
 21 for in 75-10-441; and
 22 (f) may adopt rules and performance standards for
 23 industrial furnaces and boilers that burn hazardous wastes.
 24 The rules and performance standards:
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 2 (ii) may be more restrictive than federal regulations."
 3 NEW SECTION. Section 2. Definitions. As used in
 4 [section 3], the following definitions apply:
 5 (1) "Class I facility" means a hazardous waste
 6 management facility that:
 7 (a) contains one or more regulated landfill units,
 8 surface impoundments, land treatment units, incinerators,
 9 boilers, or industrial furnaces; and
 10 (b) primarily receives hazardous waste generated by
 11 offsite sources not owned, controlled, or operated by the
 12 facility owner or operator.
 13 (2) "Class II facility" means a hazardous waste
 14 management facility that is neither a class I facility nor a
 15 class III facility.
 16 (3) "Class III facility" means a hazardous waste
 17 management facility that:
 18 (a) does not contain a regulated landfill unit, surface
 19 impoundment, land treatment unit, incinerator, boiler, or
 20 industrial furnace; and
 21 (b) primarily receives hazardous waste generated either
 22 onsite or by offsite sources that are owned, controlled, or
 23 operated by the facility owner or operator.
 24 NEW SECTION. Section 3. Hazardous waste management
 25 facility filing and review fees. (1) The department may

1 establish and collect fees for the filing and review of
2 hazardous waste management facility operation permits. The
3 fees must be based upon the following schedule:

4 (a) for class I facilities, a maximum fee of \$150,000,
5 payable as follows:

6 (i) a nonrefundable payment of \$50,000 due when an
7 applicant files for an-operation A permit;

8 (ii) a nonrefundable payment of \$50,000 due when the
9 department notifies the applicant that the application is
10 complete; and

11 (iii) an additional payment of up to \$50,000 for the
12 portion of the department's actual costs of review that
13 exceed \$100,000. This payment is due 30 days after the
14 department's final decision on the application.

15 (b) for class II facilities, a maximum fee of \$90,000,
16 payable as follows:

17 (i) a nonrefundable payment of ~~\$50,000~~ \$40,000 due when
18 an applicant files for an-operation A permit; and

19 (ii) an additional payment of up to ~~\$40,000~~ \$50,000 for
20 the portion of the department's actual costs of review that
21 exceed ~~\$50,000~~ \$40,000. This payment is due 30 days after
22 the department's final decision on the application.

23 (c) for class III facilities, a maximum fee of \$25,000,
24 payable as follows:

25 (i) a nonrefundable payment of \$10,000 due when an

1 applicant files for an-operation A permit; and

2 (ii) an additional payment of up to \$15,000 for the
3 portion of the department's actual costs of review that
4 exceed \$10,000. This payment is due 30 days after the
5 department's final decision on the application.

6 (2) IF, AFTER RECEIPT OF THE PAYMENT REQUIRED IN
7 SUBSECTION (1)(A)(II), THE APPLICANT NOTIFIES THE DEPARTMENT
8 IN WRITING OF ITS INTENT TO WITHDRAW THE APPLICATION, THE
9 DEPARTMENT SHALL RETURN TO THE APPLICANT ANY PORTION OF THE
10 PAYMENT RECEIVED PURSUANT TO SUBSECTION (1)(A)(II) IN EXCESS
11 OF THE DEPARTMENT'S ACTUAL COSTS OF PERMIT REVIEW.

12 ~~(2)(3)~~ The department shall deposit all fees collected
13 pursuant to this section into an account in the state
14 special revenue fund as provided in (section 5).

15 NEW SECTION. Section 4. Hazardous waste management
16 fees. (1) An owner or operator of a hazardous waste
17 management facility that primarily receives waste generated
18 by offsite sources that are not owned, controlled, or
19 operated by the facility owner or operator or site owner
20 shall collect from generators and remit quarterly to the
21 department a fee of:

22 (A) \$8 per ton on all hazardous waste received at the
23 facility or site for storage,--disposal,--or--treatment--
24 MANAGEMENT IN REGULATED LANDFILL UNITS, SURFACE
25 IMPOUNDMENTS, LAND TREATMENT UNITS, INCINERATORS, BOILERS,

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(B) \$4 PER TON ON ALL HAZARDOUS WASTE RECEIVED AT THE FACILITY OR SITE FOR MANAGEMENT IN ANY REGULATED UNIT OR UNITS OTHER THAN THOSE UNITS DESCRIBED IN SUBSECTION (1)(A).

(2) The fee FEES ESTABLISHED IN SUBSECTION (1) may be prorated for amounts of hazardous waste received that are less than 1 ton in weight.

(3) The department shall remit 15% of the fees received under this section from a facility to the county in which the facility is located. The county shall MAY use the money for the purpose of implementing hazardous material or hazardous waste monitoring and response programs.

(4) The department shall deposit all fees collected under this section, except fees paid to a county, into an account in the state special revenue fund as provided in [section 5].

NEW SECTION. Section 5. Deposit of hazardous waste management fees. (1) There must be credited to an account within the state special revenue fund established in 17-2-102:

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(b) all fees collected under [section 4], except fees paid to a county.

(2) Money in the account may be used by the department only for the administration of THE HAZARDOUS WASTE

PROVISIONS OF this part.

NEW SECTION. Section 6. Codification instruction. [Sections 2 through 5] are intended to be codified as an integral part of Title 75, chapter 10, part 4, and the provisions of Title 75, chapter 10, part 4, apply to [sections 2 through 5].

NEW SECTION. Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 8. Retroactive applicability. [Section 3] applies retroactively, within the meaning of 1-2-109, to applications for hazardous waste management facility operation permits received on or after January 1, 1993.

NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

-End-