

1  
 2 INTRODUCED BY James Foster <sup>House</sup> BILL NO. 403

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING MINIMUM STACK MONITORING REQUIREMENTS  
 5 FOR COMMERCIAL HAZARDOUS WASTE INCINERATORS; ESTABLISHING A PRESUMPTION OF  
 6 CONTINUING VIOLATION FOR CERTAIN VIOLATIONS OF THE CLEAN AIR ACT OF MONTANA; AND  
 7 AMENDING SECTION 75-2-413, MCA."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10  
 11 NEW SECTION. **Section 1. Commercial hazardous waste incinerators -- additional permit**  
 12 **requirements.** (1) In addition to the requirements under 75-2-231, the department shall require monitoring  
 13 of stack emissions from commercial hazardous waste incinerators permitted pursuant to 75-2-211. At least  
 14 once every 2 months, the stack emissions of dioxins, furans, heavy metals, and other specieate, as  
 15 determined by the department, must be monitored in accordance with standard monitoring and testing  
 16 methods and procedures.

17 (2) The monitoring requirement under subsection (1) is required for at least 2 years from the date  
 18 on which the permit issued pursuant to 75-2-211 is final.

19  
 20 **Section 2.** Section 75-2-413, MCA, is amended to read:

21 **"75-2-413. Civil penalties -- out-of-state litigants -- effect of action -- presumption of continuing**  
 22 **violation under certain circumstances.** (1) A person who violates any provision of this chapter, a rule  
 23 adopted under this chapter, or any order or permit made or issued under this chapter is subject to a civil  
 24 penalty not to exceed \$10,000 per violation. Each day of each violation constitutes a separate violation.  
 25 The department may institute and maintain in the name of the state any enforcement proceedings under  
 26 this section. Upon request of the department, the attorney general or the county attorney of the county  
 27 of violation shall petition the district court to impose, assess, and recover the civil penalty. The civil penalty  
 28 is in lieu of the criminal penalty provided for in 75-2-412.

29 (2) (a) Action under subsection (1) is not a bar to enforcement of this chapter or of a rule, order,  
 30 or permit made or issued under it by injunction or other appropriate civil remedies.

1 (b) An action under subsection (1) or to enforce this chapter or a rule, order, or permit made or  
2 issued under it may be brought in the district court of any county where a violation occurs or is threatened  
3 if the defendant cannot be located in Montana.

4 (3) If the department has notified a person operating a commercial hazardous waste incinerator of  
5 a violation and if the department makes a prima facie showing that the conduct or events giving rise to the  
6 violation are likely to have continued or recurred past the date of notice, the days of violation are presumed  
7 to include the date of the notice and every day after compliance has been achieved. This presumption may  
8 be overcome to the extent that the person operating a commercial hazardous waste incinerator can prove  
9 by a preponderance of evidence that there were intervening days when a violation did not occur or that the  
10 violation was not continuing in nature.

11 ~~(3)~~(4) Money collected under this section must be deposited in the state general fund. This  
12 subsection does not apply to money collected by an approved local air pollution control program."

13

14 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an  
15 integral part of Title 75, chapter 2, part 2, and the provisions of Title 75, chapter 2, part 2, apply to  
16 [section 1].

17

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0403, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing minimum stack monitoring requirements for commercial hazardous waste incinerators, and a presumption of continuing violation for certain violations of the Clean Air Act of Montana.

ASSUMPTIONS:

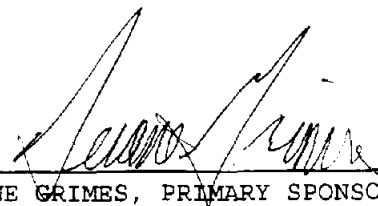
1. The Department of Health and Environmental Sciences (DHES) will need to have some compliance and enforcement staff observe some of the source tests performed every two months.
2. The DHES compliance and enforcement staff will need to review the source test data which will be submitted as a result of the frequent tests.
3. The monitoring requirement for the more frequent source testing is for two years after permit issuance.
4. The DHES current compliance activities and procedures are adequate to handle the additional requirements.

FISCAL IMPACT:

Passage of HB403 will have no fiscal impact on state government.

 2-15-95

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

 2/5/95

DUANE GRIMES, PRIMARY SPONSOR      DATE

Fiscal Note for HB0403, as introduced

**HB 403**