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SENATE BILL NO. 199

INTRODUCED BY Foster

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING SITING CRITERIA FOR COMMERCIAL HAZARDOUS WASTE INCINERATORS; AMENDING SECTION 75-10-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

- (1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.
- (2) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.
- (3) "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing of any regulated substance or hazardous waste into or onto the land or water so that the regulated substance, hazardous waste, or any constituent of the regulated substance or hazardous waste may enter the environment or be emitted into the air or discharged into any waters, including ground water.
- (4) "Facility" or "hazardous waste management facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units.
- (5) "Generation" means the act or process of producing waste material.
- (6) "Generator" means any person, by site, whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation under this part.
- (7) (a) "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:
 - (i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - (ii) pose a substantial present or potential hazard to human health or the environment when



1 improperly treated, stored, transported, or disposed of or otherwise managed.

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

3 (8) "Hazardous waste management" means the management of the collection, source separation,
4 storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

5 (9) "Hazardous waste transfer facility" means any land, structure, or improvement, including
6 loading docks, parking areas, holding sites, and other similar areas, used for the transfer and temporary
7 storage of hazardous wastes and where shipments of hazardous waste are temporarily held for a period
8 of 10 days or less during the normal course of transportation up to but not including the point of ultimate
9 treatment, storage, or disposal.

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

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

15 (12) "Regulated substance":

16 (a) means:

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

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

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

21 (13) "Residence" means any real property that includes a building that is affixed to land and that
22 is designed to be primarily occupied by humans as a dwelling.

23 (14) "School" means an institution for the teaching of students that is established and maintained
24 under the laws of the state.

25 ~~(13)~~(15) "Storage" means the actual or intended containment of regulated substances, hazardous
26 wastes, or both, either on a temporary basis or for a period of years.

27 ~~(14)~~(16) "Transportation" means the movement of hazardous wastes from the point of generation
28 to any intermediate points and finally to the point of ultimate storage or disposal.

29 ~~(15)~~(17) "Transporter" means a person engaged in the offsite transportation of hazardous waste
30 by air, rail, highway, or water.

1 ~~(16)~~(18) "Treatment" means a method, technique, or process, including neutralization, that is
 2 designed to change the physical, chemical, or biological character or composition of any hazardous waste
 3 so as to neutralize the waste or so as to render it nonhazardous, safer for transportation, amenable for
 4 recovery, amenable for storage, or reduced in volume.

5 ~~(17)~~(19) "Underground storage tank":

6 (a) means, except as provided in subsections ~~(17)(b)(i)~~ (19)(b)(i) through ~~(17)(b)(viii)~~ (19)(b)(viii):

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

9 (ii) any underground pipes used to contain or transport a regulated substance and connected to a
 10 storage tank, whether the storage tank is entirely above ground, partially above ground, or entirely
 11 underground;

12 (b) does not include:

13 (i) a septic tank;

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

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

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

17 (C) state law comparable to the provisions of law referred to in subsection ~~(17)(b)(ii)(A)~~
 18 (19)(b)(ii)(A) or ~~(17)(b)(ii)(B)~~ (19)(b)(ii)(B), if the facility is intrastate;

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

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

21 (v) a flow-through process tank;

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

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

26 (viii) any pipe connected to a tank described in subsections ~~(17)(b)(i)~~ (19)(b)(i) through ~~(17)(b)(vi)~~
 27 (19)(b)(vi)."

28
 29 NEW SECTION. **Section 2. Commercial hazardous waste facility siting criteria.** (1) Except as
 30 provided in subsection (3), a permit may not be issued under 75-10-406 for a commercial hazardous waste

1 incinerator as defined in 75-2-103 if it is located:

2 (a) within 3 miles of:

3 (i) a school;

4 (ii) a residence;

5 (iii) a terminal public water supply reservoir that provides the storage of water immediately prior to
6 treatment and delivery to a distribution system; or

7 (iv) a terminal public surface water intake that provides water immediately prior to treatment and
8 delivery to a distribution system; or

9 (b) within 1 mile of a ground water well if it serves a public water supply system as defined in
10 75-6-102.

11 (2) A school, residence, terminal public water supply reservoir, terminal public surface water intake,
12 or ground water well serving a public water supply system must be in existence prior to the date of
13 application submittal for a permit under 75-10-406.

14 (3) The provisions of subsections (1) and (2) do not apply to a commercial hazardous waste
15 incinerator for which a permit has been issued under 75-10-406 prior to [the effective date of this act].

16

17 **NEW SECTION.** **Section 3. Codification instruction.** [Section 2] is intended to be codified as an
18 integral part of Title 75, chapter 10, part 4, and the provisions of Title 75, chapter 10, part 4, apply to
19 [section 2].

20

21 **NEW SECTION.** **Section 4. Effective date.** [This act] is effective on passage and approval.

22

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0199, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act creating siting criteria for commercial hazardous waste incinerators.

ASSUMPTIONS:

1. The Executive Budget present law base serves as the starting point from which to calculate any fiscal impact due to this proposed legislation.
2. The applicant for a permit to operate a commercial hazardous waste incinerator will provide the Department of Health and Environmental Sciences (DHES) adequate information to determine if the facility meets the siting criteria provisions of this bill at the time of permit application.
3. Applications for permits to operate commercial hazardous waste incinerators will be evaluated by DHES for compliance with the provisions of this bill in coordination with the application's completeness and technical review.
4. The department will utilize existing resources to implement the provisions of this bill.

FISCAL IMPACT:

None.

David Lewis 1-27-95
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Mike Foster
MIKE FOSTER, PRIMARY SPONSOR DATE

Fiscal Note for SB0199, as introduced

SB199