DEPARTMENT OF ENVIRONMENTAL QUALITY

2015 MONTANA LEGISLATURE

SENATE NATURAL RESOURCES
Exhibit No. 2
Date 2/6/15
Bill No. SB 136

White Paper

SB136 – An Act Limiting the Collection of Fees for the Generation of Remediation Waste

Provisions

A bill for an ACT entitled: "AN ACT LIMITING THE COLLECTION OF FEES FOR THE GENERATION OF REMEDIATION WASTE; AMENDING SECTIONS 75-10-403 AND 75-10-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

- Amends 75-10-403 and 75-10-405

Implementation:

The Department of Environmental Quality (DEQ), Waste and Underground Tank Management Bureau, Hazardous Waste Program (HWP) would administer the regulatory changes associated with this legislation.

History:

The Hazardous Waste Program establishes a comprehensive "cradle-to-grave" system to ensure that hazardous waste is properly identified, treated, stored, transported, and disposed. The DEQ administers the Montana Hazardous Waste Act, passed into law during the 1981 Legislature. Provisions of the statute and associated administrative rules are summarized below:

- Promulgate rules, subject to the provisions of 75-10-405, that are consistent with federal law
- Require registration of hazardous waste generators
- Establish a schedule of fees
- Issue hazardous waste management permits to treatment, storage, and disposal facilities
- Issue corrective action administrative orders to facilities as an alternative mechanism for permits
- Establish rules for the proper management of used oil
- Ensure regulatory compliance through inspections, assistance, and enforcement, if necessary
- Administer the hazardous waste special revenue account to fund program operations

Regulated Community

- Currently, the universe of hazardous waste and used oil handlers includes the following:
  - Treatment, Storage, and Disposal Facilities (TSDF) - 9
    - 5 of the 9 TSDFs are located at operating industrial or manufacturing plants
  - Large Quantity Generators (LQG >2,200#/month) - 80
  - Small Quantity Generators (SQG >220 #/mo) - 87
  - Conditionally Exempt Small Quantity Generators (CESQG <220 #/mo) - 1,205
  - Transporters (T) - 22
  - Used Oil Handlers (UOH) - 58
  - Universal Waste Handlers (UWH) - 10

Advantages:

The bill promotes dialogue on the topic of hazardous waste remediation and the fees necessary to support the program. Pre-legislative discussions prompted the agency to come up with concepts to correct remediation disincentives and avoid potential financial windfalls associated remediation waste fees. Consequently, the agency has filed notice of proposed rulemaking for an alternative hazardous waste fee proposal which we think addresses the issues.

Disadvantages:

- Remediation wastes account for ~65% of overall hazardous waste generated so capping or discounting the fee creates a disproportionate revenue impact.
- The bill creates structural imbalance by setting in statute a $25,000 remediation generation fee cap, which is inadequate to support the program over both the short and long term.
- Correcting the structural imbalance would necessitate a significant increase in other fees, or the creation of new fees and possibly new fee payers; or,
- Cutting the program to a level that is unable to sustain statutory provisions and essential services, such as timely permitting, corrective action and inspection, and increased possibility of co-implementation from EPA.
- The proposed retroactive date of calendar year 2014 reduces current anticipated revenue and threatens program operating budget (personnel and operating) for FY 2015.
- The proposed definition of "remediation waste" may cause confusion between hazardous waste and solid waste fee assessment (see proposed rule and/or amendment discussion draft).

February 6, 2015

-End-

Hazardous Waste Fund - 02421

Department of Environmental Quality - Revenue Analysis - 02/06/2015

FY15 Hazardous Waste Fee Appropriation	$ 305,318	
5 Year Average As-Generated Waste Revenue (@ $20.00/ton)	$ 106,102	
5 Year Average Permit Revenue	$ 8,280	
Additional Remediation Waste Revenue Needed (@$20.00/ton)	$ 190,936	
5 Year Average Remediation Revenue (projected at $20.00/ton)	$ 195, 996	**$ 5,056**
5 Year Average Remediation Revenue Generated with 25K Cap	$ 34,380	**$ (161,616)**

	2010	2011	2012	2013	2014	Total	5 Year Average
Permit Revenue	**$ 7,506**	**$ 9,893**	**$ 6,800**	**$ 10,200**	**$ 7,000**	**$ 41,399**	**$ 8,280**
As-Generated Waste Tons	5,314	4,638	5,355	4,928	6,290	26,525	5,305
Rate Per Ton	$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00
Revenue from As-Generated Waste	$ 106,282	$ 92,758	$ 107,102	$ 98,566	$ 125,800	$ 530,508	**$ 106,102**
Remediation Waste Tons	32,795	1,149	654	13,520	881	48,999	9,800
Rate Per Ton	$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00
Revenue from Remediation Waste	$ 655,900	$ 22,980	$ 13,086	$ 270,396	$ 17,616	$ 979,978	**$ 195,996**

	2010	2011	2012	2013	2014	5 Year Average
Remediation Waste Tons	32,795	1,149	654	13,520	881	9,800.00
Rate Per Ton	20.00	20.00	20.00	20.00	20.00	20.00
Revenue without Cap	**655,900**	**22,980**	**13,086**	**270,396**	**17,616**	**195,996**
Facilities Exceeding $25,000 cap	3	-	-	1	-	0.8
Tons Exceeding Cap	32,643.00			12,761.00		9,081.00
Revenue From Capped Facilities	**75,000**	-	-	**25,000**	-	**20,000**
Remediation Waste not Subject to Cap	152.00	1149	654.3	758.80	880.8	719
Rate Per Ton	20.00	20.00	20.00	20.00	20.00	20.00
Remediation Waste Revenue not Subject to Cap	**$ 3,040**	**$ 22,980**	**$ 13,086**	**$ 15,176**	**$ 17,616**	**$ 14,380**
Revenue With Cap	**$ 78,040**	**$ 22,980**	**$ 13,086**	**$ 40,176**	**$ 17,616**	**$ 34,380**
Revenue w/o cap	**$ 655,900**	**$ 22,980**	**$ 13,086**	**$ 270,396**	**$ 17,616**	**$ 195,996**
Revenue with Cap	**$ 78,040**	**$ 22,980**	**$ 13,086**	**$ 40,176**	**$ 17,616**	**$ 34,380**
Difference	**$ (577,860)**	**$ -**	**$ -**	**$ (230,220)**	**$ -**	**$ (161,616)**

Where is the difference?

Assumption is that .80 facility will reach the cap:

($25,000 * .80 facility) $ 20,000.00

Remediation Waste Revenue not Subject to Cap

($20.00 per ton * 718.98) $ 14,379.60

$ 34,380.00

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Comparison of State Hazardous Waste Fees
DEQ Waste and Underground Tank Management Bureau
February 6, 2015

State	Type of Fee	Rate
Region 8 States		
North Dakota	No fees	
South Dakota	No hazardous waste generation fee Permit application fee	 Initial Application: $50K, plus additional charges, not to exceed $75K; Amendments and renewals: $25K
Wyoming	Permit Maintenance Fee	Annual fee of $56,500 for direct and indirect costs associated with initial permit review and amendments, inspections, and enforcement
Utah	Document Review Fees Hazardous Waste Flat Fee Used Oil Handlers Copies of Rules Facility List New Commercial Facilities	$90/hour $2,414 $100 $10 $5 Various, depends on type of unit $1,000-$5,000
Colorado	Generator Fees Permitted facilities fees Document Review Fees	Flat fee CEGQ $200, SQG $625, LQG $3200 $3 to $9 per cubic yard depending on management method $150/hour
Other States		
Alabama	Hazardous Waste Generation Fee Permit Application Fee Unknown	Annual $150 fee with submittal of 8700-12
Arizona	Hazardous Waste Generation Fee Permit Application Fee	$67.50 per ton for SQG and LQG Annual Registration Fee: SQG: $100, LQG: $300 $5,000 - $20,000 per permitted unit;

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	Permit Modification Fee	maximum fee from $250,000 - $500,000 Class 1: $1000, Class 2: $5000, Class 3: $10,000 - $20,000
Arkansas	Permit Application Fee Permit Maintenance Fee Annually Permit Modification Fee Hazardous Waste Generation Fee Unknown	Commercial TSDF: $20,000; Non-Commercial TSDF: $15,000 Commercial TSDF: $15,000; Non-Commercial TSDF: $11,250 Class II and III: 50% of base permit application fee
Connecticut	Permit Application and Renewal Fee TSDF Permit Submittal of Closure or Post-Closure Plans Hazardous Waste Generation Fee	$21,000 $3750 $100 for Large amounts of HW or acute HW
Florida	Permit Application Fee Permit Renewal Fee Hazardous Waste Generation Fee Unknown	Construction of a new unit: $10,000 – 32,500 Operation of a unit: $10,000 $2000/year
Georgia	Hazardous Waste Generation Fee Permit Fees Unknown	SQG: $115/month LQG waste managed on site: $2.90 - $11.50 LQG waste managed off site: $10.35 - $23.00
Indiana	Hazardous Waste Disposal Fee Permit Application Fee TSDF Permit Renewal Fee TSDF Permit Modifications	$11.50/ton $23,800 $17,200 Class 3: $17,200; Class II: $2,500
Iowa	Hazardous Waste Generation Fee TSDF Fee	SQG: $25; LQG: $250 Annually Transported off site: $10/ton Disposed in an Iowa facility: $40/ton Treated or Destroyed at Generation Site to render non-hazardous: $2/ton 25.00 annually
Kansas	Permit fees Hazardous Waste Generation Fee	$10,000 - $18,000 annually LQG: $300 - $8,000

		SQG: $150
Kentucky	Hazardous Waste Generation Fee Permit Fees Unknown	$300 - $600 per waste stream TSDF: No Fee
Maine	Permit Processing Fee Permit Licensing Fee Hazardous Waste Generation Fee Unknown	$2500 - $10,000 $500 - $1,500 annually
Michigan	Hazardous Waste Generation Fee Licensed TSDF Fee	SQG: $100; LQG: $400; VLQG: $1000 annually $2000 annually
Minnesota	Hazardous Waste Generation Fee Permit Fee	Base fee $400 - $450 .05 - .10 per pound generated The hazardous waste generation quantity rate fee is capped at 1,000,000 pounds for nonmetropolitan area generators and 2,000,000 pounds for metropolitan area generators. A waste that is generated as a result of a response action is exempt from the generator fee. A response action is removal or remedial action taken according to the Environmental Response and Liability Act, Minnesota Statues, or the Comprehensive Environmental Response, Compensation, and Liability Act, United States Code. Permits are effective for 5 years, with a permit application fee ranging from $1,610 for a 550-gallon indoor storage tank, to $72,390 for land treatment. Annual Permit Fees range from $1,560 to $49,230.
Missouri	Hazardous Waste Generation Fee	$5/ton, minimum $150, maximum $52,000 $25/ton if disposed on their property

	Permit Fees Unknown	
Nevada	Hazardous Waste Generation Fee Permit Application Fee Permit Modification Fee Permit Renewal Fee Permit Fee Annually	$19/ton $5/ton for onsite treatment or disposal $25,000 - $50,000 Class I: $500; Class II: $1500; Class 3: $5000 $15,000 $2,500 - $50,000
Oregon	Hazardous Waste Generation Fee TSDF Fees Permit Fees Unknown	LQG: $525; SQG: $300 annually $130 x weight of waste x fee factor of 0 – 2.0 depending upon waste management Storage: $18,750; Treatment: $37,500 - $75,000; Disposal: $18,750 - $150,000
Rhode Island	Generator Fee	$.023/pound
Vermont	Generator Fee	$75 - $600, depending on category
District of Columbia	Hazardous Waste Generation Fee	CESQG: $200; SQG: $500; LQG: $1000 annually