

HOUSE BILL NO. 167
INTRODUCED BY B. HANDS
BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE INTEGRATED WASTE MANAGEMENT AND SOLID WASTE MANAGEMENT LAWS; REVISING THE PROCESS FOR ADOPTING THE STATE SOLID WASTE MANAGEMENT AND RESOURCE RECOVERY PLAN; TRANSFERRING THE AUTHORITY TO ADOPT THE PLAN FROM THE BOARD OF ENVIRONMENTAL REVIEW TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AND AMENDING SECTIONS 75-10-104, 75-10-106, 75-10-111, 75-10-807, AND 75-10-920, MCA."

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

Section 1. Section 75-10-104, MCA, is amended to read:

"75-10-104. Duties of department. The department shall:

- (1) prepare, adopt, and implement a state solid waste management and resource recovery plan as required by 75-10-807 and 75-10-111 ~~for submission to the board;~~
- (2) prepare rules necessary for the implementation of this part for submission to the board, including but not limited to rules:
 - (a) governing the submission of plans for a solid waste management system;
 - (b) establishing, for the purpose of determining the tonnage or volume-based solid waste management fee that a facility is subject to under 75-10-115(1)(c), methods for determining or estimating the amount of solid waste incinerated or disposed of at a facility;
 - (c) establishing the license application fee that a facility is subject to under 75-10-115(1)(a);
 - (d) establishing the flat annual license renewal fee that a facility is subject to under 75-10-115(1)(b);
 - (e) establishing the tonnage or volume-based annual renewal fee that a facility is subject to under 75-10-115(1)(c); and
 - (f) providing procedures for the quarterly collection of the solid waste management fee provided for in 75-10-204(6); and
 - ~~—(g) providing guidelines for integrated waste management;~~
- (3) provide technical assistance to persons within the state for planning, designing, constructing, financing, and operating:

- (a) a solid waste management system in order to ensure that the system conforms to the state plan;
- (b) integrated waste management programs; and
- (c) collection, disposal, reduction, and educational programs for household hazardous waste and small quantities of hazardous waste that are exempt from regulation under Title 75, chapter 10, part 4;
- (4) enforce and administer the provisions of this part;
- (5) approve plans for a proposed solid waste management system submitted by a local government; and
- (6) serve as a clearinghouse for information on waste reduction and reuse, recycling technology and markets, composting, and household hazardous waste disposal, including chemical compatibility."

Section 2. Section 75-10-106, MCA, is amended to read:

"75-10-106. Duties of board. The board shall:

- ~~(1) adopt a state solid waste management and resource recovery plan after complying with the procedures outlined in 75-10-111; and~~
- (2) adopt rules necessary for the implementation of this part, including but not limited to rules governing the following:
 - ~~(a)~~(1) submission of plans for a solid waste management system; and
 - ~~(b)~~(2) the application fee, flat annual license renewal fee, and tonnage or volume-based renewal fee for solid waste management systems prepared by the department pursuant to 75-10-104 and 75-10-115."

Section 3. Section 75-10-111, MCA, is amended to read:

"75-10-111. State solid waste management and resource recovery plan -- hearings and action.

- ~~(1) A proposed~~ The department shall adopt the solid waste management and resource recovery plan shall be prepared by the department required in 75-10-104 and 75-10-807 according to the rulemaking procedures of the Montana Administrative Procedure Act under Title 2, chapter 4, part 3. The department shall prepare the plan in conjunction with local governments in the state and any other interested person, CITIZENS, SOLID WASTE AND RECYCLING INDUSTRIES, ENVIRONMENTAL ORGANIZATIONS, AND OTHERS INVOLVED OR INTERESTED IN THE MANAGEMENT OF SOLID WASTE. After a draft of a proposed solid waste management plan has been prepared, Within 3 days after the notice of proposed rulemaking to adopt the plan is published pursuant to Title 2, chapter 4, part 3, the department shall circulate mail a copy of the notice and the proposed plan to the board of county commissioners in each county in the state, the governing body of every incorporated city or town in the state, any person responsible for the operation of a solid waste management system under the provisions of Title 75, chapter 10,

parts 1 and 2, ~~chapter 10 of this title~~, the governor, the environmental quality council, and any other interested person, ~~for at least 90 days prior to submission of a final proposed solid waste management plan to the board.~~ During the ~~90-day~~ period for receipt of comments on the ~~draft~~ proposed rulemaking concerning the plan, the department shall hold at least ~~three public hearings around the state on the draft plan~~ one public hearing.

~~(2) A final proposed plan shall be prepared based on the comments and objections received at the public hearings and from the persons who have submitted comments on the draft solid waste management plan. The final plan submitted to the board shall include a discussion of all comments and objections received and the reasons why recommendations for changes or amendments to the proposed plan were accepted or rejected. The board shall consider the final proposed solid waste management plan after giving notice and holding at least one public hearing pursuant to the rulemaking procedures outlined in the Montana Administrative Procedure Act."~~

Section 4. Section 75-10-807, MCA, is amended to read:

"75-10-807. Requirement to prepare and implement state solid waste management and resource recovery plan. (1) As a basis for developing an integrated waste management program and ensuring adequate disposal capacity, the department shall prepare, adopt, and implement a state solid waste management and resource recovery plan in accordance with 75-10-111 and this part.

(2) The plan must be comprehensive and integrated and must include at least the following elements:

(a) a capacity assurance element that identifies existing disposal capacity, estimates waste generation rates, and determines the disposal capacity needed for the future and that assesses the potential effect of interstate disposal on capacity;

(b) an element that incorporates federal regulations 40 CFR, parts 257 and 258;

(c) an element that identifies the role of each of the components of the integrated waste management priorities contained in 75-10-804;

(d) a technology assessment element that assesses the availability and practicality of alternative technologies for solid waste management;

(e) an education and public information element that identifies existing education and information programs and describes how the state will increase the awareness and cooperation of the public in environmentally safe solid waste management;

(f) a special waste and household hazardous waste element that identifies types and quantities of wastes that create special disposal problems and recommends methods for reducing, handling, collecting, transporting, and disposing of those wastes and that identifies existing and future strategies for managing those wastes;

(g) an element that identifies the needs of rural communities and management strategies to address those needs;

(h) an element that identifies mechanisms to ensure proper training of landfill operators; and

(i) a timeline and implementation strategy for each of the plan elements.

~~(3) The plan must be developed with the involvement of local officials, citizens, solid waste and recycling industries, environmental organizations, and others involved in the management of solid waste.~~

~~————(4) The department shall conduct hearings as provided in 75-10-111.~~

~~(5)~~(3) The plan must be evaluated every 5 years and updated as necessary."

Section 5. Section 75-10-920, MCA, is amended to read:

"75-10-920. Environmental, social, and economic factors evaluated during certification. In evaluating applications for a certificate of site acceptability, the department shall give consideration to the following list of factors and regulations, where applicable, and may by rule add to the factors enumerated in this section:

(1) siting criteria for municipal solid waste landfills consistent with federal requirements as described in 40 CFR part 258;

(2) siting criteria described under the Montana Solid Waste Management Act, Title 75, chapter 10, part 2, and rules adopted under that part;

(3) the ~~Montana~~ state solid waste management and resource recovery plan;

(4) solid waste disposal needs, including:

(a) availability and desirability of alternative methods of solid waste disposal in lieu of the proposed facility;

(b) promotional activities of the applicant that may have given rise to the need for the facility;

(c) social changes resulting from the facility, including protection of public health and environmental quality; and

(d) integrated waste management activities that could reduce the need for additional solid waste disposal capacity;

(5) land use impacts, including:

(a) the area of land required and its ultimate use;

(b) consistency with state and regional solid waste plans;

(c) consistency with existing and projected nearby land use;

- (d) alternative uses of the site;
- (e) the impact on the population already in the area and the population attracted by construction or operation of the facility;
- (f) the impact of availability of solid waste disposal at the facility on growth patterns and population dispersal;
- (g) construction materials and practices, including quality control and quality assurance plans to be followed during construction of all phases of the proposed facility;
- (h) scenic impacts;
- (i) the effects on natural systems, wildlife, and plant life;
- (j) the impacts on important historic, architectural, archaeological, and cultural areas and features;
- (k) the impacts on public facilities and accommodations;
- (l) opportunities for joint use with solid waste disposal-intensive industries; and
- (m) the economic impact on the local area, local government infrastructure, and existing industry;
- (6) water resources impacts, including:
 - (a) hydrologic studies of the adequacy of water supply and the impact of the facility on streamflow, lakes, and reservoirs;
 - (b) hydrologic studies of the impact of the facility on ground water, including vadose zone studies describing the potential for leachate to migrate from the facility to ground water;
 - (c) an inventory of effluents, including physical, chemical, and biological characteristics;
 - (d) hydrologic studies of effects of effluents on receiving waters;
 - (e) the effect of the facility on water quality;
 - (f) the facility's projected water uses;
 - (g) the effects on plant and animal life, including algae, macroinvertebrates, and fish population;
 - (h) effects on unique or otherwise significant ecosystems, such as wetlands; and
 - (i) ground water, vadose zone, and methane gas monitoring systems and programs;
- (7) characteristics of solid wastes that will be disposed of at the facility, including:
 - (a) the rate of solid waste disposal;
 - (b) the solid waste handling practices proposed to be used;
 - (c) the present and expected future physical and chemical characteristics of the solid waste; and
 - (d) inspection practices for preventing the illegal dumping of hazardous waste into the facility;
- (8) transportation practices, including:

- (a) route and mode of transporting waste;
- (b) environmental, social, and economic impacts of transportation facilities; and
- (c) transfer facilities."

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