

## SENATE BILL NO. 364

INTRODUCED BY C. VINCENT

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A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ADOPT RULES TO REGULATE THE DISPOSAL AND MANAGEMENT OF MATERIALS GENERATED BY THE COMBUSTION OF COAL AT ELECTRIC GENERATING FACILITIES UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 75-10-214 AND 75-10-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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**Section 1.** Section 75-10-214, MCA, is amended to read:

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**"75-10-214. Exclusions -- exceptions to exclusions.** (1) (a) This part may not be construed to prohibit a person from disposing of the person's own solid waste that is generated in reasonable association with the person's household or agricultural operations upon land owned or leased by that person or covered by easement or permit as long as the disposal does not create a nuisance or public health hazard or violate the laws governing the disposal of hazardous or deleterious substances.

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(b) ~~This~~ Except as provided in 75-10-405(1)(o), this part does not apply to the operation of an electric generating facility, to the drilling, production, or refining of natural gas or petroleum, or to the operation of a mine, mill, smelter, or electrolytic reduction facility.

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(2) The exclusions contained in subsection (1) do not apply to a division of land of 5 acres or less made after July 1, 1977, that falls within the definition of subdivision in Title 76, chapter 4, part 1, or the Montana Subdivision and Platting Act in Title 76, chapter 3."

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**Section 2.** Section 75-10-405, MCA, is amended to read:

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**"75-10-405. Administrative rules.** (1) The department may, subject to the provisions of 75-10-107, adopt, amend, or repeal rules governing hazardous waste and used oil, including but not limited to the following:

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

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

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- 1 (c) requirements for siting, design, operation, maintenance, monitoring, inspection, closure, postclosure,  
 2 and reclamation of hazardous waste management facilities;
- 3 (d) requirements for the issuance, denial, reissuance, modification, and revocation of permits for  
 4 hazardous waste management facilities;
- 5 (e) requirements for corrective action within and outside facility boundaries and for financial assurance  
 6 of that corrective action;
- 7 (f) requirements for manifests and the manifest system for tracking hazardous waste and for reporting  
 8 and recordkeeping by generators, transporters, and owners and operators of hazardous waste management  
 9 facilities;
- 10 (g) requirements for training of facility personnel, for financial assurance of facility owners and operators,  
 11 and for liability of guarantors providing financial assurance;
- 12 (h) requirements for registration of generators and transporters;
- 13 (i) establishing a schedule of fees and procedures for the collection of fees for:
- 14 (i) the filing and review of hazardous waste management facility permits as provided in 75-10-432;  
 15 (ii) hazardous waste management as provided in 75-10-433;  
 16 (iii) the reissuance and modification of hazardous waste management facility permits; and  
 17 (iv) the registration of hazardous waste generators;
- 18 (j) a schedule of fees to defray a portion of the costs of establishing, operating, and maintaining any state  
 19 hazardous waste management facility authorized by 75-10-412;
- 20 (k) requirements for availability to the public of information obtained by the department regarding facilities  
 21 and sites used for the treatment, storage, and disposal of hazardous wastes;
- 22 (l) procedures for the assessment of administrative penalties as authorized by 75-10-424;
- 23 (m) identification and classification of used oil that is subject to regulation and used oil that is not subject  
 24 to regulation;
- 25 (n) requirements for the proper management of used oil; ~~and~~
- 26 (o) requirements for coal combustion residues at electrical generation facilities in order to provide for  
 27 state implementation of federal legislation or federal environmental protection agency regulations that contain  
 28 legislative or regulatory requirements pertaining to coal combustion residues and that become effective on or after  
 29 [the effective date of this act]; and
- 30 ~~(p)~~(p) other rules that are necessary to obtain and maintain authorization under the federal program.

1           (2) Notwithstanding the provisions of 75-10-107, the department may not adopt rules under this part that  
2 are more restrictive than those promulgated by the federal government under the Resource Conservation and  
3 Recovery Act of 1976, as amended, except that the department:

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

6           (b) may require hazardous waste generators and hazardous waste management facilities to report on  
7 an annual rather than on a biennial basis;

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

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

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

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

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

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16           NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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