

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 75-10-204 AND 75-10-214 ~~AND 75-10-405~~, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

SECTION 1. SECTION 75-10-204, MCA, IS AMENDED TO READ:

"75-10-204. Powers and duties of department. The department shall, subject to the provisions of 75-10-107, adopt rules governing solid waste management systems that must include but are not limited to:

- (1) requirements for the plan of operation and maintenance that must be submitted with an application under this part;
- (2) the classification of disposal sites according to the physical capabilities of the site to contain the type of solid waste to be disposed of;
- (3) the procedures to be followed in the disposal, treatment, or transport of solid wastes;
- (4) the suitability of the site from a public health standpoint when hydrology, geology, and climatology are considered;
- (5) requirements relating to ground water monitoring, including but not limited to:
 - (a) information that owners and operators of municipal solid waste landfills and other disposal sites specified in 75-10-207 are required to submit to the department to enable the department to prepare the priority compliance list authorized by 75-10-207(3);
 - (b) the content of plans for the design, construction, operation, and maintenance of monitoring wells and monitoring systems; and
 - (c) recordkeeping and reporting;
- (6) the imposition of a quarterly fee based on the justifiable direct and indirect costs to the state of administering Title 75, chapter 10, parts 1 and 2, for solid waste generated outside Montana and disposed of or

1 incinerated within Montana;

2 (7) requirements to maintain financial assurance payable to the state of Montana with a surety
3 satisfactory to the department in an amount sufficient to provide for waste tire treatment, removal, transportation,
4 and disposal, fire suppression, or other measures necessary to protect the environment and the health, safety,
5 and welfare of the public;

6 (8) requirements for coal combustion residues at electrical generation facilities in order to provide for
7 state implementation of federal legislation or federal environmental protection agency regulations that contain
8 legislative or regulatory requirements pertaining to coal combustion residues and that become effective on or after
9 [the effective date of this act]; and

10 ~~(8)(9)~~ any other factors relating to the sanitary disposal or management of solid wastes."
11

12 **Section 2.** Section 75-10-214, MCA, is amended to read:

13 **"75-10-214. Exclusions -- exceptions to exclusions.** (1) (a) This part may not be construed to prohibit
14 a person from disposing of the person's own solid waste that is generated in reasonable association with the
15 person's household or agricultural operations upon land owned or leased by that person or covered by easement
16 or permit as long as the disposal does not create a nuisance or public health hazard or violate the laws governing
17 the disposal of hazardous or deleterious substances.

18 (b) ~~This~~ Except as provided in 75-10-405(1)(c) 75-10-204(8), this part does not apply to the operation
19 of an electric generating facility, to the drilling, production, or refining of natural gas or petroleum, or to the
20 operation of a mine, mill, smelter, or electrolytic reduction facility.

21 (2) The exclusions contained in subsection (1) do not apply to a division of land of 5 acres or less made
22 after July 1, 1977, that falls within the definition of subdivision in Title 76, chapter 4, part 1, or the Montana
23 Subdivision and Platting Act in Title 76, chapter 3."
24

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

26 ~~**"75-10-405. Administrative rules.** (1) The department may, subject to the provisions of 75-10-107,~~
27 ~~adopt, amend, or repeal rules governing hazardous waste and used oil, including but not limited to the following:~~

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

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

- 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 ~~———(o)(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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