

SENATE BILL NO. 252

INTRODUCED BY D. ANKNEY

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A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN CHANGES FROM THE MAJOR FACILITY SITING ACT AMENDMENT PROCESS; AMENDING SECTIONS 75-20-213 AND 75-20-219, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. Section 1. Electric generating facility fuel source change -- notice requirements.

(1) (a) An amendment to a certificate is not required for an electric generating facility designed to generate 250 megawatts of electricity or more if a change is made at the facility to alter fuel sources necessary to maintain operations at the facility, if the certificate holder obtains necessary air quality permits under chapter 2 of this title.

(b) The department shall waive compliance with this chapter, as it relates to a change made in accordance with subsection (1)(a).

(2) (a) A certificate holder making a change in a facility in accordance with subsection (1) shall file notice of the change with the department at least 60 days prior to making the change.

(b) The department may provide notice to all active parties to the original certification proceeding, but a hearing is not required.

(3) (a) A change under subsection (1) is neither a material increase in the environmental impact of the facility nor a change or addition considered to affect compliance with a condition of the certificate.

(b) A change made in accordance with this section and notice of a change required in this section may not be used as the basis of an appeal of a final decision on a certificate by the department.

Section 2. Section 75-20-213, MCA, is amended to read:

"75-20-213. Supplemental material -- amendments. (1) ~~An~~ Except as provided in [section 1], an application for an amendment of an application or a certificate must be in the form and contain the information that the department by rule or by order prescribes. Notice of an application must be given as set forth in 75-20-211(3) and (4).

(2) An application may be amended by an applicant any time prior to the department's recommendation.



1 If the proposed amendment is such that it prevents the department or the agencies listed in 75-20-216(6) from
 2 carrying out their duties and responsibilities under this chapter, the department may require additional filing fees
 3 and additional amendment application review time. The total review time may not exceed 9 months from the date
 4 the department accepts a completed application for amendment.

5 (3) The applicant shall submit supplemental material in a timely manner as requested by the department
 6 or as offered by the applicant to explain, support, or provide the detail with respect to an item described in the
 7 original application, without filing an application for an amendment. The department's determination as to whether
 8 information is supplemental or whether an application for amendment is required is conclusive."

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10 **Section 3.** Section 75-20-219, MCA, is amended to read:

11 **"75-20-219. Amendments to certificate.** (1) (a) ~~Within~~ Except as provided in [section 1], within 30 days
 12 after notice of an amendment to a certificate is given as set forth in 75-20-213(1), including notice to all active
 13 parties to the original proceeding, the department shall determine whether the proposed change in the facility
 14 would result in a material increase in any environmental impact of the facility or a substantial change in the
 15 location of all or a portion of the facility as set forth in the certificate.

16 (b) ~~If~~ Except as provided in [section 1], if the department determines that the proposed change would
 17 result in a material increase in any environmental impact of the facility or a substantial change in the location of
 18 all or a portion of the facility, the department shall grant, deny, or modify the amendment with conditions as it
 19 considers appropriate.

20 (c) ~~If~~ Except as provided in [section 1], if the department determines that a modification of the proposed
 21 amendment to the certificate is needed, it shall consult with the applicant.

22 (2) ~~In~~ Except as provided in [section 1], in those cases in which the department determines that the
 23 proposed change in the facility would not result in a material increase in any environmental impact or would not
 24 be a substantial change in the location of all or a portion of the facility, the department shall automatically grant
 25 the amendment either as applied for or upon terms or conditions that the department considers appropriate.

26 (3) ~~If~~ Except as provided in [section 1], if a hearing is requested under 75-20-223(2), the party requesting
 27 the hearing has the burden of showing by clear and convincing evidence that the department's determination is
 28 not reasonable.

29 (4) ~~If~~ Except as provided in [section 1], if an amendment is required to a certificate that would affect,
 30 amend, alter, or modify a decision, opinion, order, certification, or air or water quality permit issued by the

1 department or board, the amendment must be processed under the applicable statutes administered by the
2 department or board."

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4 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
5 integral part of Title 75, chapter 20, part 2, and the provisions of Title 75, chapter 20, part 2, apply to [section 1].

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7 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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9 NEW SECTION. Section 6. Retroactive applicability. [This act] applies retroactively, within the
10 meaning of 1-2-109, to certificates issued on or after January 1, 1976.

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