

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR HOUSE BILL NO. 1048

By: Bastin

COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending 63 O.S. 1991, Section 1-2414, as last amended by Section 41, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2414), which relates to disposal of solid waste; providing for consent of landowner for modification of certain permits for expansion; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-2414, as last amended by Section 41, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2414), is amended to read as follows:

Section 1-2414. A. Except as specified in subsection C of this section:

1. No person shall dispose of solid waste at any site or facility other than a site or facility for which a permit for solid or hazardous waste disposal has been issued by the Department;

2. No person shall own or operate a site or facility at which solid waste is disposed other than a site or facility for which a permit for solid or hazardous waste disposal has been issued by the Department; and

3. No person shall knowingly transport solid waste to an unpermitted site or facility.

B. No provision of this act shall be construed so as to prevent a person from disposing of solid waste from his own household upon his own land provided such disposal does not create a nuisance or a hazard to the public health or does not violate a city ordinance.

C. Except as otherwise provided in subsection H of this section, the Department shall not issue an original permit for a new landfill disposal site or a permit for expansion of a landfill disposal site having a permitted boundary located within one-half (1/2) mile of an outside wall of any dwelling occupied at the time a permit application is made unless the owner of the dwelling consents to the location of the landfill disposal site or expansion thereof, except under the procedures specified in subsection D of this section. Said consent shall not be required for any landfill disposal site designed for the disposal of fly ash or bottom ash generated by coal-fired facilities. Said consent shall not be required as a condition for the issuance of:

1. Any renewal permit for an existing landfill site; or
2. A permit for any modification ~~or expansion~~ of an existing landfill site other than an expansion; or
3. A permit for the construction of a new landfill site on property if any point of said property is within three (3) miles of any point of an existing permitted landfill site owned by the permittee.

D. If, after the applicant has made a reasonable effort to negotiate a consent agreement with the owners of such dwellings and has failed to obtain such consent, the applicant may certify to the Department that such reasonable effort had been made and that the owners of said dwellings will not consent. The Department may then issue said permit or modify the permit for expansion purposes if the permit application meets all other requirements of the solid waste regulations of the Board.

If a permit is issued or modified for expansion purposes without the consent of said owners, they shall have a cause of action against the applicant for any loss of value to their land and residence which will be caused by the operation of the landfill disposal site. Further, in an action brought to determine said damage, the court shall have the authority to weigh the public benefit of the proposed disposal site against the negative impact to the dwellings in the affected area and enjoin the operation of said landfill disposal site where the negative

impact outweighs the public benefit. Any nonconsenting owner or owners who wish to file with the court must do so no later than sixty (60) days after issuance of the permit or modification of the permit for expansion purposes. Upon issuance or upon modification for expansion purposes of any such permit the Department shall file a recordable notice of the permit in the land records of the county in which the site is located. The notice shall contain the legal description of the site as well as the terms under which the permit is issued, or so modified for expansion purposes.

E. No permit shall be required for beneficial use by land application of municipal wastewater sludge from facilities in substantial compliance with a water or sewage permit issued by the Commissioner of Health, but all sludge application projects shall be operated in conformance with site standards and operational regulations adopted by the Board.

F. The Department shall issue a permit to be effective for the life of a given site.

G. Information and data submitted in support of a permit application or a permit modification application for any site serving a population equivalent of five thousand (5,000) or more persons shall be prepared and sealed by a professional engineer licensed to practice in this state. Applicants for smaller site permits are encouraged but not required to seek professional engineering assistance.

H. The State Department of Health shall not issue any permit for the siting or expansion of an asbestos monofill which will be located closer than five hundred (500) yards from any occupied residence. No asbestos monofill shall be constructed within three (3) miles of the corporate boundaries of any city or town.

SECTION 2. This act shall become effective September 1, 1993.

44-1-6411

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