

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 3325

By: Braddock

AS INTRODUCED

An Act relating to environment and natural resources; amending 63 O.S. 1991, Section 1-2416, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 3, Chapter 371, O.S.L. 1997 (27A O.S. Supp. 1997, Section 2-10-701), which relates to solid waste; providing for availability of certain funds by certain financial assurance mechanisms; authorizing a showing of availability of funds; requiring promulgation of rules; providing for certain trust; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-2416, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 3, Chapter 371, O.S.L. 1997 (27A O.S. Supp. 1997, Section 2-10-701), is amended to read as follows:

Section 2-10-701. A. All disposal site owners shall provide a closure plan to the Department of Environmental Quality for approval which defines operational phases and includes cost estimates, and plans and specifications for final closure. A site may be closed in phases according to a closure plan approved by the Department.

1. Owners of landfills that receive household solid waste, defined as Municipal Solid Waste Landfill Facilities in the federal regulations adopted under Subtitle D of the federal Solid Waste Disposal Act, and owners of commercial nonhazardous industrial waste landfills shall provide for the maintenance and monitoring of such works for thirty (30) years. Provided, the owner of any landfill that stops receiving waste on or before April 9, 1994, and has completed final closure of the site on or before October 9, 1994, shall provide for the maintenance and monitoring of such site for eight (8) years after final closure has been completed. A permittee who stopped receiving waste at his permitted solid waste municipal landfill on or before April 9, 1994, may apply to the Department for a modification of his permit to operate an on-site solid waste transfer station, a yard-waste composting facility or a citizen's collection station. Provided no land disposal occurs, such site shall not require monitoring or financial assurance as a municipal solid waste landfill.

2. Generator owned and operated private industrial nonhazardous monofills shall only be required to have an eight-year postclosure period or such postclosure time period as may be mandated under the federal Solid Waste Disposal Act.

3. Disposal sites other than land disposal sites shall have a closure plan which would accomplish the removal and proper disposal of any remaining waste and the elimination of potential environmental health hazards.

B. The Department shall require that any financial assurances be ~~provided~~ available in an amount sufficient to cover the estimated cost of closure and any postclosure. The Department shall establish financial assurance mechanisms which will ensure that the funds necessary to meet the costs of closure, postclosure care and corrective action for known releases will be available whenever such funds are needed. The financial assurance mechanisms shall provide

for the collection of fees or assessments which will allow for closure and corrective action obligations to be spread out over the economic life of the disposal site. An increase in financial assurance shall be required when any permittee deviates from the approved closure plan or when the cost of closure or postclosure is found to have increased. Owners of landfills that receive household solid waste shall increase financial assurance if corrective action is required.

C. 1. Disposal site owners shall provide financial assurance to guarantee the performance of final closure and for any required postclosure, as required by the Department pursuant to this section. Except in cases where owners utilize a financial test provided by rule, the state shall be the sole beneficiary of any such assurance solely for the cost of performance of closure and postclosure and shall have a security interest therein.

2. The financial assurance shall be in a form described in rules promulgated by the Board or the owner may provide the Department with cash or certificates of deposit payable to the Department of Environmental Quality Revolving Fund for deposit with the State Treasurer's Office.

3. Owners of disposal sites which receive waste after April 9, 1994, shall provide financial assurance for closure and any applicable postclosure on or before April 9, 1995, unless such date is extended by the federal Environmental Protection Agency pursuant to Subtitle D of the federal Resource, Conservation and Recovery Act. If any disposal site owner fails to provide such financial assurance by the applicable deadline, the Department shall cause the landfill disposal site permit to be summarily suspended by order. The Department shall initiate the process of revoking the permit and may require closure of the landfill. This subsection shall not apply to units of the federal government.

4. Financial assurance provided prior to June 8, 1994, as a condition of issuance of any permit or any agreement with the Department shall continue in effect unless the permittee replaces such assurance with an additional mechanism or combination of mechanisms authorized by the Department.

5. In lieu of the performance guarantee mechanisms specified in this section, owners or operators of a nonhazardous industrial solid waste landfill which is owned or operated by an industry or manufacturer for its exclusive noncommercial use may satisfy the financial assurance requirements for closure, postclosure and maintenance by meeting the requirements of a corporate financial test and corporate guarantee similar to that applicable to hazardous waste facilities.

6. Any unit of local government or public trust of which it is a beneficiary may satisfy financial assurance requirements for closure and, when required, postclosure, by participating in a statewide trust capable of guaranteeing performance of such closure and postclosure. The Department shall promulgate rules necessary to implement and maintain such a statewide trust.

7. Private owners and operators of disposal sites required by this section to provide financial assurance may satisfy this obligation through participation in the Oklahoma Landfill Closure Authority, created pursuant to the provisions of Section 4 2-10-701.1 of this ~~act~~ title.

8. Solid waste transfer stations, processing facilities, or composting facilities are exempt from the financial assurance requirements of this section if they principally manage municipal solid waste.

D. When financial assurance is required, it shall remain in effect until closure and any postclosure is completed. The amount of such assurance shall be set by the Department and shall not be less than the anticipated cost of contracting for performance of

each phase of the closure plan and postclosure; provided however, pursuant to rules established by the Department, a financial assurance mechanism may allow a disposal site owner to demonstrate future availability of such amount. The Department may allow a reduction in the amount of assurance to reflect the anticipated costs which remain.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-2-9254

KSM