

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 1223

By: Easley of the Senate

and

Rice of the House

An Act relating to solid waste; amending 63 O.S. 1991, Section 1-2416.1, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 4, Chapter 401, O.S.L. 1998 (27A O.S. Supp. 1999, Section 2-10-501), which relates to solid waste permits; *** and declaring an emergency.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to environment and natural resources; amending 63 O.S. 1991, Section 1-2416.1, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 4, Chapter 401, O.S.L. 1998 (27A O.S. Supp. 1999, Section 2-10-501), which relates to solid waste permits; removing requirement for certain landfill operators to file certain monthly reports with the Department of Environmental Quality; amending 17 O.S. 1991, Section 503, which relates to Corporation Commission jurisdiction; clarifying agency jurisdiction over certain underground injection control wells; and 63 O.S. 1991, Section 1-902, as amended by Section 81, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1999, Section 2-6-701), which relates to the Department of Environmental Quality jurisdiction; clarifying agency jurisdiction over certain underground injection control wells; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-2416.1, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 4, Chapter 401, O.S.L. 1998 (27A O.S. Supp. 1999, Section 2-10-501), is amended to read as follows:

Section 2-10-501. A. The Department of Environmental Quality may issue a permit for a landfill disposal site, which is not a hazardous waste facility, which accepts unspecified nonhazardous industrial solid waste, only under the following circumstances:

1. The landfill is located outside of areas of principal groundwater resource or recharge areas as determined and mapped by the Oklahoma Geological Survey or is on a proposed site on property owned or operated by a person who also owns or operates a hazardous waste facility or solid waste facility, on or contiguous to property on which a hazardous waste facility or solid waste facility is operating pursuant to a permit and the site is designed to meet the most environmentally protective solid waste rules promulgated by the Environmental Quality Board and includes a leachate collection system; or

2. The landfill complies with all siting and public participation requirements as though the solid waste landfill were a hazardous waste landfill; or

3. The site is proposed and designed as a nonhazardous industrial solid waste landfill which will be owned, operated, or owned and operated by an industry or manufacturer for its exclusive noncommercial use; or

4. The landfill is owned or operated by a municipality or is a privately owned landfill which regularly serves one or more municipalities and which has been accepting nonhazardous industrial solid waste under approval of the Department.

B. The provisions of this section shall apply to all pending applications for which final agency action has not been taken, future permit applications and facilities which are not fully operational.

C. Except as otherwise provided in subsection A of this section, the Department shall not allow a solid waste disposal site to accept any nonhazardous industrial solid waste type unless:

1. Said site is permitted by the Department to accept such waste type;

2. The landfill is owned or operated by a municipality or is a privately owned landfill which regularly serves one or more municipalities and which has been accepting nonhazardous industrial solid waste under approval of the Department; or

3. The site is proposed, designed, and permitted as a nonhazardous industrial solid waste monofill.

D. 1. New landfills which accept nonhazardous industrial solid waste shall not be constructed nor shall such existing landfills be expanded which are located within a seismic impact zone unless the applicant demonstrates that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site.

2. No nonhazardous industrial solid waste landfill shall be located within five (5) miles of a known epicenter of an earthquake of more than 4.0 on the Richter Scale or a number V on the modified Mercalli Scale as recorded by the Oklahoma Geological Survey.

3. Paragraphs 1 and 2 of this subsection shall not apply to a nonhazardous industrial solid waste landfill which is owned or operated by:

- a. an industry or manufacturer and utilized for such industry's or manufacturer's exclusive noncommercial use, or
- b. a municipality, or is a privately owned landfill which regularly serves one or more municipalities, and which has been accepting nonhazardous industrial solid waste under approval of the Department.

E. 1. Except as otherwise provided by this subsection, the Department shall not issue, amend or modify a permit to allow a solid waste landfill to accept more than one type of nonhazardous

industrial solid waste for disposal unless said landfill is equipped with a composite liner and a leachate collection system designed and constructed in compliance with rules promulgated by the Board.

2. Any landfill which is owned, operated, or owned and operated by an industry or manufacturer and utilized for such industry's or manufacturer's exclusive noncommercial use may be required to install a composite liner and a leachate collection system as determined to be necessary by the Department on a case-by-case basis.

3. The Department shall not require composite liners and leachate collection systems for any nonhazardous industrial solid waste landfill initially licensed by the Department prior to July 1, 1992, which is owned and operated by an industry or manufacturer and utilized for such industry's or manufacturer's exclusive noncommercial use.

F. No limitation shall be placed on the percentage of nonhazardous industrial solid waste that may be accepted for disposal at solid waste landfills which have a composite liner and a leachate collection system designed and constructed in compliance with rules promulgated by the Board.

G. ~~Solid~~ Commercial solid waste disposal site operators shall submit to the Department an itemized monthly report of the type, quantity and source of nonhazardous industrial solid waste accepted the previous month. Solid waste disposal sites that are owned and operated by an industry or manufacturer which are utilized for such industry's or manufacturer's exclusive noncommercial use are not required to submit monthly reports to the Department but shall maintain in the operating record information regarding the type and quantity of nonhazardous industrial waste accepted each month. Information maintained in the operating record shall be made available to the Department upon request.

H. 1. Before sending waste identified as nonhazardous industrial solid waste for disposal in an Oklahoma solid waste landfill, a certification that the waste is not a hazardous waste as such term is defined in the Oklahoma Hazardous Waste Management Act shall be submitted to the Department. Such certification shall be made by:

- a. the original generator,
- b. a person who identifies and is under contract with a generator and whose activities under the contract cause the waste to be generated,
- c. a party to a remediation project under an order of the Department or under the auspices of the Oklahoma Energy Resources Board or other agencies of other states, or
- d. a person responding to an environmental emergency.

2. The Department may require the certifier to substantiate the certification by appropriate means, when it is reasonable to believe such waste may be hazardous. Such substantiation may include Material Safety Data Sheets, an explanation of specific technical process knowledge adequate to identify that the waste is not a hazardous waste, or laboratory analysis.

I. Any generator seeking to exclude a specific nonhazardous industrial solid waste, which is also an inert waste, from the provisions of this section may petition the Department for a regulatory exclusion. The generator shall demonstrate to the satisfaction of the Department that the waste is inert and that it may be properly disposed.

J. Unless otherwise specified in this section, by January 1, 1993, solid waste landfills existing on the effective date of this section which are required by this section to utilize composite liners and leachate collection systems and are not doing so shall cease to accept nonhazardous industrial solid waste.

K. Notwithstanding any other provision of the Oklahoma Solid Waste Management Act, no solid waste permit shall be required for an incineration facility burning nonhazardous solid waste for the purpose of disposing of the waste if:

1. The incinerator has an air quality permit from the Department;

2. Storage of waste at the site prior to incineration is limited to the lesser of twenty (20) tons or the volume reasonably expected to be incinerated within ten (10) days, considering the nature of the waste and the manufacturer's approved charge rate for the incinerator;

3. The waste is stored at a location and managed in a manner which minimizes the risk of a release, exposure or other incident which could threaten human health or the environment, including the storage of liquids within adequate secondary containment;

4. All ashes and residues from the incineration process are managed in accordance with applicable statutes and rules; and

5. a. The incinerator is owned and operated by a business or industry for the incineration of its own waste exclusively, or

b. The waste feed rate of the incinerator does not exceed five (5) tons per day.

SECTION 2. AMENDATORY 17 O.S. 1991, Section 503, is amended to read as follows:

Section 503. A. The Corporation Commission is hereby vested with jurisdiction over:

1. the The drilling for and production and disposal of brine for commercial purposes;

2. Class V injection wells used for the injection or disposal of mineral brines as defined in the federal Safe Drinking Water Act and 40 CFR Part 146; and

3. Class V wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts as defined in 40 CFR Part 146.

B. ~~The Commission is hereby authorized to enact~~ may promulgate such rules ~~and regulations:~~

1. ~~as~~ As are reasonably necessary to effectuate the purposes of this act, including rules ~~and regulations~~ governing the drilling of production, injection or disposal wells and the injection of effluent into underground formations. ~~The Commission shall also have jurisdiction to enact regulations;~~ and

2. ~~to~~ To ensure that the drilling, casing and plugging of wells is done in such a manner as to prevent the escape of brine and effluent from one formation to another and to prevent the pollution of fresh water supplies throughout the state. ~~The Commission shall also have jurisdiction to regulate the return of brine or effluent to the same formation from which it was produced or to other formations in such a manner as is proper to prevent damage to the formation.~~

~~B.~~ C. This act shall not apply to nor shall the Corporation Commission have jurisdiction over ~~the solution mining of brine from depths of less than three hundred (300) feet below the surface of the ground and being done pursuant to a mining permit issued by the Department of Mines~~ Class I, III, IV or V wells regulated by the Department of Environmental Quality pursuant to the federal Safe Drinking Water Act and 40 CFR Parts 144 through 148, inclusive and the Oklahoma Environmental Quality Act.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-902, as amended by Section 81, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1999, Section 2-6-701), is amended to read as follows:

Section 2-6-701. A. A permit issued by the Executive Director of the Department of Environmental Quality shall be required for ~~the~~

~~underground injection of hazardous and nonhazardous liquids except for the injection purposes of brine recovery, saltwater disposal or secondary or tertiary oil recovery~~ Class I, III, IV and V injection wells pursuant to the federal Safe Drinking Water Act and 40 CFR Parts 144 through 148, inclusive, except for:

1. Class V injection wells utilized in the remediation of groundwater associated with underground and above ground storage tanks regulated by the Corporation Commission; and

2. Wells used for the recovery, injection or disposal of mineral brines as defined in the Oklahoma Brine Development Act regulated by the Corporation Commission.

B. All water wells, monitoring wells, unused water test wells and water test holes used or capable of being used as sources of domestic or public water supply shall be constructed, sealed or plugged as required by the Department in a manner to avoid pollution of water-bearing strata.

SECTION 4. 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."

Passed the House of Representatives the 5th day of April, 2000.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 2000.

President of the Senate