

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2720

By: Adair of the House

and

Easley of the Senate

AS INTRODUCED

An Act relating to environment and natural resources; amending 63 O.S. 1991, Sections 1-2302, as last amended by Section 141, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993, and 1-2414, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 2, Chapter 401, O.S.L. 1998 (27A O.S. Supp. 1999, Sections 2-10-103 and 2-10-301), which relate to the Oklahoma Solid Waste Management Act; adding definition; prohibiting location of certain municipal solid waste landfills over certain areas and aquifers; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-2302, as last amended by Section 141, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1999, Section 2-10-103), is amended to read as follows:

Section 2-10-103. As used in the Oklahoma Solid Waste Management Act:

1. "Affiliated person" means:
 - a. any officer, director or partner of the applicant,
 - b. any person employed by the applicant as general or key manager who directs the operations of the site, transfer station, or facility which is the subject of the application, or
 - c. any person owning or controlling more than five percent (5%) of the applicant's debt or equity;

2. "Disclosure statement" means a written statement by the applicant which contains:

- a. the full name, business address, and social security number of the applicant, and all affiliated persons,
- b. the full name and business address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%) or which is a parent company or subsidiary of the applicant, and a description of the ongoing organizational relationships as they may impact operations within the state,
- c. a description of the experience and credentials of the applicant, including any past or present permits, licenses, certifications, or operational authorizations relating to environmental regulation,
- d. a listing and explanation of any administrative, civil or criminal legal actions against the applicant and affiliated person which resulted in a final agency order or final judgment by a court of record, including final order or judgment on appeal, in the ten (10) years immediately preceding the filing of the application relating to solid or hazardous waste. Such action shall include, without limitations, any permit denial or any sanction imposed by a state regulatory agency or the United States Environmental Protection Agency, and
- e. a listing of any federal environmental agency and any state environmental agency that has or has had regulatory responsibility over the applicant;

3. "Disposal site" means any place, including a transfer station, or any other place at which solid waste is dumped, abandoned, or accepted or disposed of by incineration, land filling,

composting, shredding, compaction, baling or any other method or by processing by pyrolysis, resource recovery or any other method, technique or process designed to change the physical, chemical or biological character or composition of any solid waste so as to render such waste safe or nonhazardous, amenable to transport, recovery or storage or reduced in volume. A disposal site shall not include a manufacturing facility which processes scrap materials which have been separated for collection and processing as industrial raw materials;

4. "Dwelling" means a permanently-constructed, habitable structure designed and constructed for full-time occupancy in all weather conditions, which is not readily mobile and shall include but not be limited to a manufactured home as such term is defined by paragraph 11 of Section 1102 of Title 47 of the Oklahoma Statutes;

5. "Final closure" means those measures for providing final capping material, proper drainage, perennial vegetative cover, maintenance, monitoring and other closure actions required for the site by rules of the Board;

6. "Inert waste" means any solid waste that is insoluble in water, chemically inactive, that will not leach contaminants, or is commonly found as a significant percentage of residential solid waste;

7. "History of noncompliance" means any past operations by an applicant or affiliated persons which clearly indicate a reckless disregard for environmental regulation, or a demonstrated pattern of prohibited conduct which could reasonably be expected to result in adverse environmental impact if a permit were issued, as evidenced by findings, conclusions and rulings of any final agency order or final order or judgment of a court of record;

8. "Integrated solid waste management plan" means a plan that provides for the integrated management of all solid waste within the planning unit and embodies sound principles of solid waste

management, natural resources conservation, energy production, and employment-creating opportunities;

9. "Karst area" means topographical areas or terrains where deep weathering of carbonate sulfate and other soluble bedrock, including but not limited to limestone, dolomite, gypsum and anhydrite, has resulted in irregular bedrock, poorly defined surface drainage, rapid surface water loss and possible surface subsidence, including but not limited to areas or terrains exhibiting sinkholes, caves or caverns, springs or other such areas or terrains that have a close interaction between surface water and groundwater. The surface of a karst area may or may not have surface physiographic features of a karst area;

10. "Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. The term "lithified earth material" shall not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth's surface;

~~10.~~ 11. "Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a ninety percent (90%) or greater probability that the acceleration will not be exceeded in two hundred fifty (250) years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment;

~~11.~~ 12. "Monofill" means a landfill which is used to dispose of a single type of specified nonhazardous industrial solid waste, except for other nonhazardous industrial solid wastes which are not readily separable from the specified waste;

~~12.~~ 13. "Nonhazardous industrial solid waste" means any of the following wastes deemed by the Department to require special handling:

- a. unusable industrial or chemical products,
- b. solid waste generated by the release of an industrial product to the environment, or
- c. solid waste generated by a manufacturing or industrial process.

The term "nonhazardous industrial solid waste" shall not include waste that is regulated as hazardous waste or is commonly found as a significant percentage of residential solid waste;

~~13.~~ 14. "Person" means any individual, corporation, company, firm, partnership, association, trust, state agency, government instrumentality or agency, institution, county, any incorporated city or town or municipal authority or trust in which any governmental entity is a beneficiary, venture, or other legal entity however organized;

~~14.~~ 15. "Recycling" means to reuse a material that would otherwise be disposed of as waste, with or without reprocessing;

~~15.~~ 16. "Seismic impact zone" means an area with a ten percent (10%) or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10g in two hundred fifty (250) years;

~~16.~~ 17. "Solid waste" means all putrescible and nonputrescible refuse in solid or semisolid form including, but not limited to, garbage, rubbish, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, solid or semisolid commercial and industrial wastes including explosives, biomedical wastes, chemical wastes, herbicide and pesticide wastes. The term "solid waste" shall not include:

- a. scrap materials which are source separated for collection and processing as industrial raw materials, except when contained in the waste collected by or in behalf of a solid waste management system, or
- b. used motor oil, which shall not be considered to be a solid waste, but shall be considered a deleterious substance, if the used motor oil is recycled for energy reclamation and is ultimately destroyed when recycled;

~~17.~~ 18. "Solid waste management system" means the system that may be developed for the purpose of collection and disposal of solid waste by any person engaging in such process as a business or by any municipality, authority, trust, county or by any combination thereof at one or more disposal sites;

~~18.~~ 19. "Solid waste planning unit" means any county or any part thereof, incorporated city or town, or municipal authority or trust in which any governmental entity is a beneficiary, venture, or other legal entity however organized, which the Department determines to be capable of planning and implementing an integrated solid waste management program;

~~19.~~ 20. "Transfer station" means any disposal site, processing facility or other place where solid waste is transferred from a vehicle or container to another vehicle or container for transportation, including but not limited to a barge or railroad unloading facility where solid waste, in bulk or in containers, is unloaded, stored, processed or transported for any purpose. The term "transfer station" shall not include the following:

- a. a facility, such as an apartment complex or a large manufacturing plant, where the solid waste that is transferred has been generated by the occupants, residents, or functions of the facility,
- b. a citizens' collection station, or

- c. a waste collection system which leaves collected solid waste in enclosed containers along the collection route for later transport to a recycling or disposal facility serving the area; and

~~20.~~ 21. "Waste reduction" means to reduce the volume of waste requiring disposal.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-2414, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 2, Chapter 401, O.S.L. 1998 (27A O.S. Supp. 1999, Section 2-10-301), is amended to read as follows:

Section 2-10-301. A. Except as otherwise specified in 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 of Environmental Quality;

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;

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

4. The Department shall not bring an enforcement action against any unit of local government which undertakes any remediation of an illegal dump which the local government had no role in creating provided that the unit of local government first consults with and follows the remediation advice of the Department. The Department is authorized to recommend remediation of illegal dumps by burial of the material on location, when such burial appears to pose less risk than failure to remediate.

B. No provision of the Oklahoma Solid Waste Management Act shall be construed to prevent a person from disposing of solid waste

from his or her household upon his or her property provided such disposal does not create a nuisance or a hazard to the public health or environment or does not violate a local government ordinance.

C. Notice of permit actions shall be in accordance with the Uniform Permitting Act.

D. The Department shall issue a permit to be effective for the life of a given site. In order to assure adequate financial assurance as required by this section, each permittee who operates a landfill disposal site, other than a generator owned and operated private industrial nonhazardous monofill, shall submit information on an annual basis at such times and in such form as the Department shall require, sufficient to allow the Department to know the remaining landfill life.

E. 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.

F. The Department 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.

G. Disposal sites approved by the Department to receive only solid waste shall not accept for disposal any waste classified as hazardous waste.

H. No permit shall be required for a disposal site constructed pursuant to an order issued by the Department in an effort to remediate an abandoned or inactive waste site. Such disposal site shall only receive waste from the remediation project, and shall be

designed, constructed, and operated in accordance with the technical standards established in the applicable rules promulgated by the Environmental Quality Board. Such rules shall not be less stringent than those which would apply to a federally funded remediation project pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act.

I. The Department shall not issue any permit for the siting of a new municipal solid waste landfill in any location that is within or in close proximity to a locally fractured or cavernous limestone or cherty limestone bedrock which is in or over an aquifer classified as high or very high in vulnerability level pursuant to the Oklahoma Groundwater Quality Standards on the effective date of this act.

SECTION 3. 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.

47-2-7412 KSM 6/12/15