SENATE FLOOR VERSION
February 13, 2012

SENATE BILL NO. 1042 By: Justice of the Senate

and

Wright of the House

An Act relating to solid waste management; amending 27A O.S. 2011, Section 2-10-103, which relates to the Oklahoma Solid Waste Management Act; defining terms; modifying certain definitions; stating applicability of the Oklahoma Solid Waste Management Act to recycling of certain roofing materials; requiring owners to install scales and assess certain fees; instructing owners to remit certain fees; providing for retention of certain monies for certain purpose; stating exception; authorizing Environmental Quality Board to promulgate rules; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 27A O.S. 2011, 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. “Commercial composting facility” means a composting facility that:

a. is not owned or operated by a governmental entity,

b. receives one hundred (100) tons or more per year of material for composting, any part of which consists of food waste, and

c. principally accepts material for composting that is not agricultural in origin;

3. “Composting facility” means a facility in which material is converted, under thermophilic conditions, to a product with a high humus content for use as a soil amendment or to prevent or remediate pollutants in soil, air, or stormwater run-off;

4. "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;

5. "Disposal site" means any place, including, but not limited to, a transfer station <u>or a roofing material recycling facility</u>, 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;

6. "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 16 of Section 1102 of Title 47 of the Oklahoma Statutes;

7. "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;

8. "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;

9. "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;

10. "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;

11. "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;

12. "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;

13. "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;

14. "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;

15. "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;

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

17. “Roofing Material” means all material associated with a roofing project that is debris or is otherwise not intended for future use by the roofer or the property owner, including but not limited to shingles made from asphalt, fiberglass, composite, or wood, as well as decking, flashing, fasteners, insulation, and associated packaging materials;

18. “Roofing material recycling facility” means a site or facility at which roofing material is processed for alternative uses, or is accumulated for the purpose of processing or selling all or parts of the roofing material for alternative uses, including but not limited to road construction;

19. "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;

~~18.~~ 20. "Solid waste" means all putrescible and nonputrescible refuse in solid, semisolid, or liquid form including, but not limited to, garbage, rubbish, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, roofing material, 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, not including roofing 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;

~~19.~~ 21. "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;

~~20.~~ 22. "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;

~~21.~~ 23. "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

~~22.~~ 24. "Waste reduction" means to reduce the volume of waste requiring disposal.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-10-802.2 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. In addition to meeting the requirements of the Oklahoma Solid Waste Management Act generally applicable to solid waste disposal sites, including but not limited to permitting, disclosure statement, siting, closure plan and financial assurance, the owner or operator of a roofing material recycling facility shall:

1. Install scales, weigh roofing material received and record weights in accordance with the provisions of paragraphs 1 and 2 of subsection A of Section 2-10-802 of Title 27A of the Oklahoma Statutes;

2. Assess a fee of One Dollar and fifty cents ($1.50) per ton of roofing material received, retaining twenty-five cents ($0.25) per ton for a period of time necessary to recoup a capital investment plus the interest costs expended in purchasing the scales, of Forty Thousand Dollars ($40,000.00). At the end of such period the fee shall revert to One Dollar and twenty-five cents ($1.25) per ton;

3. Remit the fee to the Department of Environmental Quality in accordance with the provisions of paragraphs 7 through 12 of subsection B of Section 2-10-802 of Title 27A of the Oklahoma Statutes. For a return with remittance filed on or before the due date, the owner or operator may deduct and retain ten percent (10%) of the fees collected. Records documenting the capital investment and the use of the funds shall be included with each return; and

4. Submit receipts for the payment for disposal of non-recyclable materials at a permitted landfill or solid waste disposal site in order to receive credit against the fee owed to the Department of Environmental Quality for that tonnage.

B. An operation otherwise meeting the definition of a roofing material recycling facility but that is included within and

regulated under a permit for a solid waste land disposal site is not subject to the provisions of this section.

C. The Environmental Quality Board is authorized to adopt rules recommended by the Solid Waste Management Advisory Council as needed to implement the provisions of this section.

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.

COMMITTEE REPORT BY: COMMITTEE ON ENERGY, dated 2-9-12 - DO PASS, As Coauthored.