

1 HB447
2 139654-4
3 By Representatives Johnson (R) and Coleman
4 RFD: Commerce and Small Business
5 First Read: 01-MAR-12

1 require certain centralized waste treatment facilities, as
2 defined by federal effluent guidelines set forth at 40 CFR
3 Part 437, when applying for or modifying a permit for the
4 operation of a facility that processes or treats industrial
5 wastes, industrial wastewater, or used material to post a
6 performance bond or other financial assurance in an amount
7 sufficient to close the facility if the owner or operator
8 ceases proper operation of the facility, abandons the
9 facility, or fails to properly maintain the facility to ensure
10 compliance with state environmental regulations.

11 Notwithstanding the foregoing, this requirement shall not
12 apply to waste treatment facilities which treat waste only
13 from sources owned or operated by the owner of the waste
14 treatment facilities or which treats waste pursuant to a
15 contract at a waste treatment facility which also treats waste
16 from sources owned or operated by the owner.

17 (b) The bond or other financial assurance may be
18 declared forfeited if required by ADEM when the owner or
19 operator abandons the facility, ceases operation of the
20 facility, or fails to properly maintain the facility to ensure
21 compliance with state environmental regulations.

22 (c) (1) The owner or operator shall have a minimum of
23 two detailed written estimates, in current dollars, of the
24 cost of hiring a third party to close a facility prior to
25 issuance of a permit or modification of a permit. The owner or
26 operator shall submit the closure cost estimates with the

1 permit application and submit a copy of the estimates with the
2 permit application.

3 (2) The owner or operator shall re-evaluate the
4 closure cost estimate and the amount of financial assurance
5 required if changes to the closure plan or facility conditions
6 significantly increase the maximum cost of closure at any time
7 during the active life of the facility. The owner or operator
8 shall submit any updated cost estimates and documentation of
9 the increase in financial assurances prior to initiating
10 changes at the facility which would insignificantly increase
11 the maximum cost of closure at any time during the active life
12 of the facility.

13 (d) Failure of the obligor of the bond or financial
14 assurance to provide service satisfactory to the department
15 shall constitute a cause of action for recovery in a civil
16 action at the instance of the department.

17 Section 2. (a) Each facility receiving a permit as
18 provided in Section 1 shall charge a fee that represents 5
19 percent of the costs of the facility to treat industrial
20 waste, industrial wastewater or other used material in the
21 facility. The fee shall be remitted quarterly to the ADEM
22 Centralized Waste Treatment Facility Rehabilitation Fund,
23 which is hereby created. The fund shall be managed by ADEM for
24 the purposes stated in Section 1 requiring financial
25 assurances upon the fund reaching a minimum threshold amount
26 of ten million dollars (\$10,000,000).

1 Notwithstanding anything to the contrary contained
2 herein, the fund created herein shall be used exclusively and
3 solely for purposes of closing a facility if the owner or
4 operator ceases proper operation of the facility, abandons a
5 facility, or fails to properly maintain the facility to ensure
6 compliance with state environmental regulations.

7 (b) Upon the fund reaching the threshold amount, the
8 requirements of permit applicants to provide financial
9 assurances shall be suspended. If the fund falls below the
10 threshold amount at the end of any fiscal year, financial
11 assurances of the permit applicant described in Section 1
12 shall be resumed until such time as ADEM determines that the
13 threshold amount is restored to the fund.

14 Section 3. ADEM shall promulgate rules necessary to
15 implement and administer the provisions of this act.

16 Section 4. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Commerce and
Small Business..... 01-MAR-12

Read for the second time and placed
on the calendar with 1 substitute
and 1 amendment..... 19-APR-12

Read for the third time and passed
as amended..... 01-MAY-12

Yeas 101, Nays 0, Abstains 0

Greg Pappas
Clerk