

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

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ENROLLED, An Act,

To require certain centralized waste treatment facilities seeking a permit or modification of a permit from the Alabama Department of Environmental Management (ADEM) to operate a facility that processes or treats industrial wastes, industrial wastewater, or used material to post a performance bond or other financial assurance in an amount sufficient to close the facility if the facility owner or operator ceases operation, abandons the facility, or fails to properly maintain the facility to ensure compliance with state environmental regulations; to provide that such facilities charge a fee based on the amount of waste treated; to provide for the establishment of a fund administered by ADEM to receive the fees for the purposes of providing for the rehabilitation of such facilities upon reaching a threshold amount in the fund.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) Notwithstanding any provision of law, and except as provided in Section 2, the Alabama Department of Environmental Management (ADEM), prior to the issuance of a permit or prior to a modification of an existing permit, shall require certain centralized waste treatment facilities, as defined by federal effluent guidelines set forth at 40 CFR Part 437, when applying for or modifying a permit for the

1 operation of a facility that processes or treats industrial
2 wastes, industrial wastewater, or used material to post a
3 performance bond or other financial assurance in an amount
4 sufficient to close the facility if the owner or operator
5 ceases proper operation of the facility, abandons the
6 facility, or fails to properly maintain the facility to ensure
7 compliance with state environmental regulations.

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

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

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

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

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

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

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 01-MAY-12, as amended.

Greg Pappas
Clerk

Senate 16-MAY-12 Passed