

The Code of Alabama 1975

Title 22 HEALTH, MENTAL HEALTH, AND ENVIRONMENTAL CONTROL.

Chapter 25C CENTRALIZED WASTE TREATMENT FACILITY FINANCIAL ASSURANCE REQUIREMENTS.

Section 22-25C-1

Operation of facilities; bond; closure cost estimates.

(a) Notwithstanding any provision of law, and except as provided in Section 22-25C-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 operation of 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 owner or operator ceases proper operation of the facility, abandons the facility, or fails to properly maintain the facility to ensure compliance with state environmental regulations. Notwithstanding the foregoing, this requirement shall not apply to waste treatment facilities which treat waste only from sources owned or operated by the owner of the waste treatment facilities or which treat waste pursuant to a contract at a waste treatment facility which also treats waste from sources owned or operated by the owner.

(b) The bond or other financial assurance shall be declared forfeited if required by ADEM when the owner or operator abandons the facility, ceases operation of the facility, or fails to properly maintain the facility to ensure compliance with state environmental regulations and shall be used for the purpose of closing the facility in compliance with state environmental rules and to pay the costs of any remediation required.

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

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

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

(Act 2012-551, p. 1627, §1; Act 2018-178, §1.)

Section 22-25C-2

Rulemaking authority; disposition of fees.

(a) ADEM shall promulgate rules necessary to implement and administer the provisions of this chapter.

(b) Any fees collected pursuant to subsection (a) of this section prior to amendment of this section by Act 2018-178 shall be refunded to the owner or operator of the centralized waste management facility that paid the fee.

(Act 2012-551, p. 1627, §§2, 3; Act 2018-178, §1, 2.)