

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 449

BY ENVIRONMENT, ENERGY, AND TECHNOLOGY COMMITTEE

AN ACT

RELATING TO THE UNIFORM ENVIRONMENTAL COVENANTS ACT; AMENDING SECTION 39-7205, IDAHO CODE, TO PROVIDE THAT CERTAIN INSTITUTIONAL CONTROLS PROPOSED AS PART OF A VOLUNTARY REMEDIATION WORK PLAN SHALL COMPLY WITH THE UNIFORM ENVIRONMENTAL COVENANTS ACT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 39-7415, IDAHO CODE, TO PROVIDE THAT CERTAIN DEED NOTATIONS AND REMOVAL OF DEED NOTATIONS SHALL COMPLY WITH THE UNIFORM ENVIRONMENTAL COVENANTS ACT AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-7205, Idaho Code, be, and the same is hereby amended to read as follows:

39-7205. WORK PLANS. (1) If the department determines an application is eligible under this chapter, the person may submit a proposed voluntary remediation work plan to the department. Before the department evaluates a proposed voluntary remediation work plan, the person who submitted the work plan and the department must enter into a voluntary remediation agreement that sets forth the terms and conditions of the evaluation and the implementation of the work plan.

(a) A voluntary remediation agreement must include the following:

(i) An estimation of costs the department may incur under this chapter;

(ii) A payment schedule of all reasonable costs estimated to be incurred by the department in the review and oversight of the work plan;

(iii) A provision for the department's oversight including access to site and pertinent site records;

(iv) A timetable for the department to do the following:

1. ~~Reasonably~~ Review and evaluate the adequacy of the work plan; or

2. ~~Make~~ Make a determination concerning the approval or rejection of the work plan;

(v) A provision to modify the voluntary remediation agreement and voluntary remediation work plan based upon unanticipated site conditions;

(vi) Any other conditions considered necessary by the department or the person concerning the effective and efficient implementation of this chapter.

(b) A proposed voluntary remediation work plan must include a proposed statement of work and schedule to accomplish the remediation in accordance with rules established by the board. Any institutional control proposed as part of a work plan that requires activity and/or

1 use limitations shall comply with the uniform environmental covenants
 2 act, chapter 30, title 55, Idaho Code.

3 (2) If a voluntary remediation agreement is not reached between
 4 a person and the department within a reasonable time after good faith
 5 negotiations have begun, the person or the department may withdraw from the
 6 negotiations.

7 SECTION 2. That Section 39-7415, Idaho Code, be, and the same is hereby
 8 amended to read as follows:

9 39-7415. STANDARDS FOR CLOSURE. (1) Applicability. These standards
 10 apply to all MSWLF units that receive wastes on or after October 9, 1993,
 11 except as provided by 40 CFR 258. MSWLF units that accept waste after October
 12 9, 1991, but cease to accept waste prior to October 9, 1993, shall at a
 13 minimum comply with subsections (2) (a) and (3) of this section in addition to
 14 the "sanitary landfill closure guidance" criteria as adopted by the health
 15 district.

16 (2) Cover designs. Owners or operators of MSWLF units shall install one
 17 (1) of the following final cover systems:

18 (a) A cover as provided under 40 CFR 258.60(a); or

19 (b) The cover material must be fine-grained with intrinsic
 20 permeability no greater than 1×10^{-3} cm/sec and a minimum thickness of
 21 twenty-four (24) inches; and

22 (i) ~~Have~~ capillary holding capacity greater than the projected
 23 maximum accumulated volume of water as determined by utilization
 24 of accepted water balance methodology based on local or regional
 25 twenty-five (25) year climatic records;

26 (ii) ~~Annual~~ precipitation is less than twenty-five (25) inches
 27 with net evaporative losses greater than thirty (30) inches
 28 annually;

29 (iii) ~~The~~ top six (6) inches of the cover shall be capable of
 30 sustaining shallow rooted native plant growth; and

31 (iv) ~~This~~ design shall demonstrate consideration of site
 32 specific factors as provided in 40 CFR 258.60(b) ; or

33 (c) As provided in 40 CFR 258.60(b).

34 (3) The final grade of slopes shall be greater than two ~~per cent~~ percent
 35 (2%) unless otherwise supported by the post closure plan and uses approved by
 36 the health district, and the grade of side slopes not more than thirty-three
 37 ~~per cent~~ percent (33%).

38 (4) Closure plan preparation, placement in operating record, notice
 39 of intent to close, time requirements for commencement and completion
 40 of closure activities, certification, deed notation and removal of deed
 41 notation shall be conducted as provided in 40 CFR 258.60(c) through (j),
 42 inclusive. The deed notation and removal of deed notation shall comply with
 43 the uniform environmental covenants act, chapter 30, title 55, Idaho Code.