

1 ENGROSSED HOUSE
2 BILL NO. 1705

By: Newton of the House

3 and

4 Murdock of the Senate
5
6

7 An Act relating to environment and natural resources;
8 amending 27A O.S. 2011, Section 2-7-105, which
9 relates to the powers and duties of the Department of
10 Environmental Quality; modifying powers and duties of
11 the Department; amending 27A O.S. 2011, Section 2-7-
12 119, which relates to permit fees; modifying certain
13 fee ranges; limiting certain fee schedule; amending
14 27A O.S. 2011, Section 2-7-121, which relates to
15 annual fees; modifying certain fee; providing an
16 effective date; and declaring an emergency.

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

18 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-7-105, is
19 amended to read as follows:

20 Section 2-7-105. The Department of Environmental Quality shall
21 have the power and duty to:

22 1. Issue permits for the construction and operation and for the
23 post-closure, maintenance and monitoring of hazardous waste
24 facilities;

2. Provide the owner or operator of a hazardous waste facility
a list of all materials which the Department deems acceptable for
treatment, recycling, storage, and disposal at the facility;

1 3. Make periodic inspections of hazardous waste facilities and
2 recycling, transporting, and generating facilities to determine the
3 extent of compliance with the Oklahoma Hazardous Waste Management
4 Act and rules promulgated thereunder, and orders, permits and
5 licenses issued pursuant thereto;

6 4. Develop, maintain, and monitor public records of the source
7 and amount of hazardous waste generated in Oklahoma and the methods
8 used to dispose of, recycle, or treat said waste or material;

9 5. Require and prescribe manifest forms to all persons
10 generating and transporting hazardous waste off-site for storage,
11 recycling, treatment, or disposal;

12 ~~6. Require and approve or disapprove disposal plans from all~~
13 ~~persons generating hazardous waste or shipping hazardous waste~~
14 ~~within, from, or into Oklahoma indicating the amount of hazardous~~
15 ~~waste generated, the handling, storage, treatment, and disposal~~
16 ~~methods, and the hazardous waste facilities used. The disposal~~
17 ~~plans shall be kept current by the persons generating or shipping~~
18 ~~hazardous waste and the Department shall be advised within five (5)~~
19 ~~working days of any changes in the disposal plans;~~

20 ~~7. Require reports from all persons generating hazardous waste,~~
21 ~~indicating the amount generated, the treatment and disposal methods,~~
22 ~~and the treatment, disposal, and recycling sites used. Such reports~~
23 ~~are to be made on at least a quarterly basis;~~

1 ~~8.~~ Require periodic reports or manifest certifications
2 regarding such programs and efforts to reduce the volume or quantity
3 and toxicity of such hazardous waste as may be required by or
4 pursuant to authority of the Oklahoma Hazardous Waste Management
5 Act;

6 ~~9.~~ 7. Require reports from all operators of hazardous waste
7 facilities who receive hazardous waste for treatment or storage or
8 disposal, listing the amount, transporter, and generator of all
9 hazardous waste received. Such reports are to be made on at least a
10 monthly or quarterly basis, as designated by the Department;

11 ~~10.~~ 8. Approve or disapprove methods of disposal of hazardous
12 waste, and may prohibit certain specific disposal practices
13 including, but not limited to, any type of land disposal of any form
14 of such waste. Land disposal includes, but is not limited to,
15 landfills, surface impoundments, waste piles, deep injection wells,
16 land treatment facilities, salt dome and bed formations and
17 underground mines or caves;

18 ~~11.~~ 9. Inform persons generating hazardous waste of available,
19 alternative methods of disposal of such waste ~~and assist the persons~~
20 ~~in developing satisfactory disposal plans;~~

21 ~~12.~~ 10. Develop a system to provide information on recyclable
22 wastes to potential users of such materials. Such information shall
23 not include any information which the Department deems confidential
24 or private in nature;

1 ~~13.~~ 11. Cooperate and share information with the U.S.
2 Environmental Protection Agency;

3 ~~14.~~ 12. Prepare an emergency response plan for spills of
4 hazardous waste and for spills of hazardous materials;

5 ~~15.~~ 13. Make information obtained by the Department regarding
6 hazardous waste facilities and sites available to the public in
7 substantially the same manner, and to the same degree, as would be
8 the case if the hazardous waste program in this state were being
9 carried out by the U.S. Environmental Protection Agency;

10 ~~16.~~ 14. Develop rules with respect to any existing surface
11 impoundment or landfill or class of surface impoundments or
12 landfills from which the Department determines hazardous waste may
13 migrate into groundwater, impose such requirements, including but
14 not limited to double liners and leachate detection and collection
15 systems, as may be necessary to protect human health and the
16 environment;

17 ~~17.~~ 15. Prohibit or restrict the use of any specific disposal
18 methods or practices for specific hazardous waste material,
19 substances or classes, as may be necessary to protect human health
20 and the environment;

21 ~~18.~~ 16. Identify areas within the state which are unsuitable
22 for specific hazardous waste disposal methods, and deny permits for
23 such disposal methods in such areas;

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1 ~~19.~~ 17. Issue a one-year research development and demonstration
2 permit for any treatment facility which proposes an innovative and
3 experimental hazardous waste treatment technology or process not yet
4 regulated. Permits may be renewed no more than three times. No
5 renewal may exceed one (1) year;

6 ~~20.~~ 18. Waive or modify general permit application and issuance
7 requirements for research and development permits, except for
8 financial responsibility and public participation requirements;

9 ~~21.~~ 19. Terminate experimental activity if necessary to protect
10 human health and the environment;

11 ~~22.~~ 20. Require oil recycling facilities using hazardous waste
12 to have a hazardous waste facility permit;

13 ~~23.~~ 21. Issue permits containing any conditions necessary to
14 protect human health and the environment;

15 ~~24.~~ 22. Issue permits for the storage of hazardous waste in
16 underground tanks;

17 ~~25.~~ 23. Require groundwater monitoring for any landfill,
18 surface impoundment, land treatment site or pile;

19 ~~26.~~ 24. Determine and enforce penalties for violations of the
20 Oklahoma Hazardous Waste Management Act and rules promulgated
21 thereunder;

22 ~~27.~~ 25. Evaluate the benefit of rules governing labeling
23 practices for any containers used for the disposal, storage, or
24 transportation of hazardous waste which accurately identify such

1 waste, and govern the use of appropriate containers for such waste
2 not otherwise regulated by the federal government;

3 ~~28.~~ 26. Monitor research and development regarding methods of
4 the handling, storage, use, processing, and disposal of hazardous
5 waste;

6 ~~29.~~ 27. Cooperate with existing technical reference centers on
7 hazardous waste disposal, recycling practices, and related
8 information for public and private use;

9 ~~30.~~ 28. Monitor research in the technical and managerial
10 aspects of management and use of hazardous waste and recycling and
11 recovery of resources from hazardous wastes;

12 ~~31.~~ 29. Determine existing rates of production of hazardous
13 waste;

14 ~~32.~~ 30. Promote recycling and recovery of resources from
15 hazardous wastes;

16 ~~33.~~ 31. Encourage the reduction or exchange, or both, of
17 hazardous waste; and

18 ~~34.~~ 32. Cooperate with an existing information clearinghouse,
19 to develop records of recyclable waste. Every generator of
20 hazardous waste shall supply the Department with information for the
21 clearinghouse. Each generator shall not be required to supply any
22 more information than is required by the manifests. The Department
23 shall make this information available to persons who desire to
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1 recycle the wastes. The information shall be made available in such
2 a way that the trade secrets of the producer are protected.

3 SECTION 2. AMENDATORY 27A O.S. 2011, Section 2-7-119, is
4 amended to read as follows:

5 Section 2-7-119. A. The Environmental Quality Board shall
6 establish a schedule of fees, pursuant to Section 2-3-402 of this
7 title and the Administrative Procedures Act, to be charged for
8 applications to issue and renew permits for hazardous waste
9 facilities and for the regulation of hazardous waste. Such fees
10 shall only be used for the implementation of the provisions of the
11 Oklahoma Hazardous Waste Management Act pursuant to Section 2-3-402
12 of this title.

13 B. The Environmental Quality Board shall charge fees only
14 within the following ranges:

15 ~~For generator disposal plan: \$100.00 to \$10,000.00 per year~~
16 For permit application: \$5,000.00 to \$50,000.00
17 For application resubmittal: \$100.00 to \$1,000.00
18 For monitoring: ~~\$100.00 to \$10,000.00~~
19 \$300.00 to \$2,000.00 per year.

20 C. The Environmental Quality Board shall develop a separate
21 schedule of reduced fees of not less than Twenty-five Dollars
22 (\$25.00) and no more than Seventy-five Dollars (\$75.00) for small
23 quantity generators.

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1 SECTION 3. AMENDATORY 27A O.S. 2011, Section 2-7-121, is
2 amended to read as follows:

3 Section 2-7-121. A. Every hazardous waste treatment facility,
4 storage facility, underground injection facility, disposal facility,
5 or off-site facility that recycles hazardous waste subject to the
6 provisions of the Oklahoma Hazardous Waste Management Act shall pay
7 to the Department of Environmental Quality an annual fee on the
8 amount of hazardous waste managed by such facility.

9 1. Subject to paragraphs 2 and 7 of this subsection, such fees
10 shall be:

- 11 a. ~~Nine Dollars (\$9.00)~~ Nine Dollars and fifty cents
12 (\$9.50) per ton for on-site or off-site storage,
13 treatment or land disposal,
- 14 b. Four Dollars (\$4.00) per ton for off-site recycling,
15 including regeneration, or
- 16 c. three cents (\$0.03) per gallon for on-site or off-site
17 underground injection.

18 2. There shall be a minimum fee per facility as follows:

- 19 a. except as provided in subparagraph d of this
20 paragraph, any person owning or operating an off-site
21 hazardous waste treatment facility or disposal
22 facility shall pay a total fee of not less than Fifty
23 Thousand Dollars (\$50,000.00) each state fiscal year,
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1 b. any person owning or operating an on-site hazardous
2 waste treatment facility, storage facility, or
3 disposal facility shall pay a total fee of not less
4 than Twenty Thousand Dollars (\$20,000.00) each state
5 fiscal year. The annual fee for the on-site disposal
6 of hazardous waste by underground injection shall not
7 exceed Fifty Thousand Dollars (\$50,000.00),

8 c. any person owning or operating an off-site facility
9 for the storage or recycling of hazardous waste shall
10 pay a total fee of not less than Twenty Thousand
11 Dollars (\$20,000.00) each state fiscal year; provided,
12 any such off-site recycling facility which
13 consistently recycles fewer than ten (10) tons of
14 hazardous waste per calendar month shall not be
15 subject to this minimum annual fee. For the purpose
16 of this subparagraph, storage includes physical
17 separation or combining of wastes solely to facilitate
18 efficient storage at the facility and/or efficient
19 transportation, and

20 d. any person owning or operating an off-site facility
21 which accepts hazardous waste exclusively for the
22 purpose of conducting research and design tests shall
23 pay a total fee of not less than Ten Thousand Dollars
24 (\$10,000.00) each state fiscal year.

1 3. Off-site facilities may charge persons contracting for the
2 services of the facility their proportional share of the fees
3 required by the provisions of this section.

4 4. The facility shall become liable for payment of the fee on
5 each ton or gallon of hazardous waste at the time it is received.
6 For purposes of on-site facilities, receipt is deemed to have
7 occurred when the waste is first managed in any unit or manner that
8 requires a hazardous waste permit. The fee shall be payable by the
9 facility to the Department only as provided for in subsection C of
10 this section.

11 5. The fee imposed by the provisions of this section shall be
12 payable only once without regard to any subsequent handling of the
13 hazardous waste. The fee shall be based on the purpose for which
14 the waste was received by the facility. In no event shall a
15 facility be required to pay a fee on each step or process involved
16 in the storage, treatment, or disposal of the waste at the facility
17 or a related facility under common control.

18 6. In computing the amount of the fee specified in subparagraph
19 b of paragraph 1 of subsection A of this section for the off-site
20 recycling or regeneration of hazardous waste, the assessment for
21 regeneration shall be made on a dry weight basis.

22 7. If a generator of characteristic hazardous waste or listed
23 hazardous waste treats the waste on-site to meet Best Demonstrated
24 Available Technology Standards and disposes of the waste on-site,

1 the waste shall be subject to a reduced treatment or on-site
2 disposal fee of one-half (1/2) the rate required by subparagraph a
3 of paragraph 1 of this subsection; provided, such rate reduction
4 shall not exceed Twenty-two Thousand Dollars (\$22,000.00) per
5 calendar year.

6 B. The following facilities shall not be required to pay the
7 fee required by the provisions of this section:

8 1. Facilities engaged only in the on-site recycling of
9 hazardous waste; and

10 2. Facilities which have not received new hazardous waste
11 within the preceding state fiscal year.

12 C. Payment of the fees required by this section shall be due
13 quarterly for hazardous waste received by the facility during the
14 prior calendar quarter. Such quarterly payments shall be due on the
15 first day of the month of the following quarter. All payments shall
16 be made within thirty (30) days from the date they become due.

17 D. The fees required by this section shall be paid in lieu of
18 the monitoring fees imposed in subsection B of Section 2-7-119 of
19 this title. All facilities subject to the provisions of this
20 section shall not be required to pay or collect any additional fees
21 for waste disposal unless specifically required by the Oklahoma
22 Hazardous Waste Management Act.

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1 E. All fees and other monies received by the Department
2 pursuant to the provisions of this section shall be expended solely
3 for the purposes specified in this section.

4 1. Ten percent (10%) of the fees collected from an off-site
5 hazardous waste facility pursuant to the provisions of this section
6 shall be deposited to the credit of the Special Economic Development
7 Trust Funds. The funds for the Trusts accruing pursuant to the
8 provisions of this section shall be distributed to each Trust
9 established in proportion to the fees generated by the off-site
10 hazardous waste facilities within the Trust area.

11 2. The Department shall expend monies received pursuant to the
12 provisions of this section for one or more of the following
13 purposes:

- 14 a. the administration of the provisions of the Oklahoma
15 Hazardous Waste Management Act,
- 16 b. the development of an inventory of hazardous wastes
17 currently produced in Oklahoma and management needs
18 for the identified wastes,
- 19 c. the implementation of information exchange, technical
20 assistance, public information, and educational
21 programs,
- 22 d. the development and encouragement of waste reduction
23 plans for Oklahoma waste generators, or
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1 e. increased inspection of hazardous waste facilities
2 which may include full-time inspectors at off-site
3 hazardous waste facilities.

4 F. To the extent that fees received pursuant to this section
5 shall exceed the purposes specified in subsection E of this section,
6 the Department shall only expend such funds for one or more of the
7 following purposes:

8 1. Contributions required from the state pursuant to the
9 federal Comprehensive Environmental Response, Compensation and
10 Liability Act for remediation or related action upon a site within
11 the state;

12 2. Response, including but not limited to containment and
13 removal, to emergency situations involving spillage, leakage,
14 emissions or other discharge of hazardous waste or hazardous waste
15 constituents to the environment where a responsible party cannot be
16 timely identified or found or compelled to take appropriate
17 emergency action to adequately protect human health and the
18 environment;

19 3. State-funded remediation of sites contaminated by hazardous
20 waste or hazardous waste constituents so as to present a threat to
21 human health or the environment, to the extent that a responsible
22 party cannot be timely identified or found or compelled to take such
23 action, or is unable to take such action;

1 4. Costs incurred in pursuing an enforcement action to compel a
2 responsible party to undertake appropriate response or remedial
3 actions, or to recover from a responsible party monies expended by
4 the state, as described in paragraphs 1 through 3 of this
5 subsection; or

6 5. Financial assistance to municipalities or counties for the
7 purposes and under the conditions specified in Section 2-7-305 of
8 this title.

9 SECTION 4. This act shall become effective July 1, 2021.

10 SECTION 5. It being immediately necessary for the preservation
11 of the public peace, health or safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

14 Passed the House of Representatives the 1st day of March, 2021.

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Presiding Officer of the House
of Representatives

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19 Passed the Senate the ___ day of _____, 2021.

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Presiding Officer of the Senate

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