

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2227

BY: HUDSON

AS INTRODUCED

AN ACT RELATING TO VARIOUS STATE ENVIRONMENTAL

AGENCIES; AMENDING 17 O.S. 1991, SECTION 51, WHICH RELATES TO THE CORPORATION COMMISSION; AMENDING 45 O.S. 1991, SECTION 1c, WHICH RELATES TO THE POWERS OF THE DIRECTOR OF THE OKLAHOMA MINING COMMISSION; AMENDING 52 O.S. 1991, SECTION 139, WHICH RELATES TO DELETERIOUS SUBSTANCES; AMENDING 63 O.S. 1991, SECTIONS 1-2004 AND 1-2005, WHICH RELATE TO DUTIES OF THE DEPARTMENT OF HEALTH; REMOVING OBSOLETE LANGUAGE; CLARIFYING LANGUAGE; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 17 O.S. 1991, Section 51, is amended to read as follows:

Section 51. The Corporation Commission is hereby empowered and authorized to create and establish an Oil and Gas Department under the jurisdiction and supervision of the Corporation Commission, ~~and.~~ The Commission is ~~hereby~~ authorized to appoint with the approval and consent of the Governor, a Chief Oil and Gas Conservation Agent who shall have charge of the oil and gas department ~~herein~~ authorized by this section.

SECTION 2. AMENDATORY 45 O.S. 1991, Section 1c, is amended to read as follows:

Section 1c. Subject to the policies, and rules ~~and regulations~~ of the Oklahoma Mining Commission, the Director shall:

1. Be responsible for organizing the Department of Mines in a manner efficiently to achieve the objectives of the Commission;

2. Prepare and submit plans for administering the programs of the Commission;

3. Prepare a personnel schedule, employ personnel, define duties, appoint technicians and consultants, and fix salaries or compensation, upon approval by the Commission; ~~and~~

4. Administer all policies formulated and adopted by the Commission; and

5. Have such other powers assigned to the Director by the Commission pursuant to this act.

SECTION 3. AMENDATORY 52 O.S. 1991, Section 139, is amended to read as follows:

Section 139. A. The Corporation Commission is vested with jurisdiction, power and authority, and it shall be its duty, to make and enforce such rules, regulations and orders governing and regulating the handling, storage and disposition of saltwater, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing, refining and processing of oil and gas ~~within the State of Oklahoma~~ or operation of oil or gas wells ~~in~~ within this state as are reasonable and necessary for the purpose of preventing the pollution of the surface and subsurface waters in the state, and to otherwise carry out the purpose of this act.

B. 1. For the purpose of immediately responding to emergency situations having potentially critical environmental or public safety impact and resulting from activities within its jurisdiction, the Commission may take whatever necessary action, without notice

and hearing, including the expenditure of monies from the Corporation Commission Revolving Fund, to promptly respond to the emergency. Such emergency expenditure shall be made pursuant to the provisions of the Oklahoma Central Purchasing Act, upon such terms and conditions established by the Office of Public Affairs to accomplish the purposes of this section. Thereafter, the Commission shall seek reimbursement from the responsible person, firm or corporation for all expenditures made from the Corporation Commission Revolving Fund. Any monies received as reimbursement shall be deposited to the credit of the Corporation Commission Revolving Fund.

2. The Commission shall not expend from any fund in the State Treasury, in any fiscal year, for the purposes herein provided, an amount of money in excess of the total sum specifically authorized annually by the Legislature for such purposes. Any monies received by the Commission through execution on any required surety shall not be subject to such limitation on expenditure for remedial action.

3. Neither the Commission nor any independent contractor of the Commission authorized to conduct remedial action under this section shall be held liable or responsible for any damages resulting from non-negligent actions reasonably necessary for conducting remedial work. Nothing in this section shall limit the authority of the Commission or relieve any person or persons otherwise legally responsible from any obligation to prevent or remediate pollution.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 1-2004, is amended to read as follows:

Section 1-2004. The Department shall have the following powers and duties:

1. Issue permits for the construction, operation and post-closure of controlled industrial waste facilities;

2. Provide the owner or operator of a controlled industrial waste facility a list of all materials which the Department deems

acceptable for treatment, recycling, storage, and disposal at the facility;

3. Make periodic inspections of controlled industrial waste facilities and recycling, transporting, and generating facilities to determine the extent of compliance with the Department's rules and regulations and the Oklahoma Controlled Industrial Waste Disposal Act;

4. Develop, maintain, and monitor public records of the source and amount of controlled industrial waste generated in ~~Oklahoma~~ this state and the methods used to dispose of, recycle, or treat said waste or material;

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

6. Require and approve or disapprove disposal plans from all persons generating controlled industrial waste or shipping controlled industrial waste within, from, or into ~~Oklahoma~~ this state indicating the amount of controlled industrial waste generated, the handling, storage, treatment, and disposal methods, and the controlled industrial waste facilities used. The disposal plans shall be kept current by the persons generating or shipping controlled industrial waste and the Department shall be advised within five (5) working days of any changes in the disposal plans;

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

8. Require periodic reports or manifest certifications regarding such programs and efforts to reduce the volume or quantity and toxicity of such controlled industrial waste as may be required by or pursuant to authority of the Oklahoma Controlled Industrial Waste Disposal Act;

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

10. Approve or disapprove methods of disposal of controlled industrial waste, and may prohibit certain specific disposal practices including, but not limited to, any type of land disposal of any form of such waste. Land disposal includes, but is not limited to, landfills, surface impoundments, waste piles, deep injection wells, land treatment facilities, salt dome and bed formations and underground mines or caves;

11. Inform persons generating controlled industrial waste of available, alternative methods of disposal of such waste and assist the persons in developing satisfactory disposal plans;

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

13. Cooperate and share information with the U.S. Environmental Protection Agency;

14. Prepare an emergency response plan for spills of controlled industrial waste and for spills of hazardous materials;

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

16. With respect to any existing surface impoundment or landfill or class of surface impoundments or landfills from which

the Department determines controlled industrial waste may migrate into groundwater, impose such requirements, including double liners and leachate detection and collection systems, as may be necessary to protect human health and the environment;

17. Prohibit or restrict the use of any specific disposal methods or practices for specific controlled industrial waste material, substances or classes, as may be necessary to protect human health and the environment;

18. Identify areas within the state which are unsuitable for specific controlled industrial waste disposal methods, and deny permits for such disposal methods in such areas;

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

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

21. Terminate experimental activity if necessary to protect human health and the environment;

22. Require oil recycling facilities using controlled industrial waste to have a controlled industrial waste facility permit;

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

24. Issue permits for the storage of controlled industrial waste in underground tanks;

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

26. Determine and enforce penalties for violations of the Oklahoma Controlled Industrial Waste Disposal Act;

27. Evaluate the benefit of rules and regulations governing labeling practices for any containers used for the disposal, storage, or transportation of controlled industrial waste which accurately identify such waste, and govern the use of appropriate containers for such waste not otherwise regulated by the federal government. ~~A report containing the evaluation of the benefit for rules and regulations governing such labeling practices shall be submitted by April 30, 1987, to the Speaker of the House of Representatives and the President Pro Tempore of the Senate;~~

28. Monitor research and development regarding methods of the handling, storage, use, processing, and disposal of controlled industrial waste;

29. Cooperate with existing technical reference centers on controlled industrial waste disposal, recycling practices, and related information for public and private use;

30. Monitor research in the technical and managerial aspects of management and use of controlled industrial waste and recycling and recovery of resources from controlled industrial wastes;

31. Determine existing rates of production of controlled industrial waste;

32. Promote recycling and recovery of resources from controlled industrial wastes;

33. Encourage the reduction or exchange, or both, of controlled industrial waste; and

34. Cooperate with an existing information clearinghouse, to develop records of recyclable waste. Every generator of controlled industrial waste shall supply the Department with information for the clearinghouse. Each generator shall not be required to supply any more information than is required by the manifests. The Department shall make this information available to persons who desire to recycle the wastes. The information shall be made

available in such a way that the trade secrets of the producer are protected.

SECTION 5. AMENDATORY 63 O.S. 1991, Section 1-2005, is amended to read as follows:

Section 1-2005. A. The Department shall prepare rules, regulations and minimum standards for the listing and characterization of controlled industrial waste, for the treatment, disposal, transportation, storage and recycling of controlled industrial waste and recyclable materials in Oklahoma with the exception of the following:

1. The controlled industrial waste component of mixed controlled industrial waste and radioactive waste shall be regulated as controlled industrial waste. The radioactive waste component shall be regulated as radioactive waste. Both the controlled industrial waste requirements and the radioactive waste requirements shall apply if physical separation of the two components is not accomplished;

2. The Corporation Commission ~~of Oklahoma~~ is hereby vested with exclusive jurisdiction, power and authority, and it shall be its duty to make and enforce such rules, regulations and orders governing and regulating the handling, hauling, storage and disposition of salt water, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing and processing of oil and gas, including reclaiming of oil from tank bottoms located on leases and tank farms located outside the boundaries of a refinery.

The Corporation Commission shall promulgate such rules and regulations as are reasonable and necessary for the purpose of preventing the pollution of the surface and subsurface waters in the state. The ~~Oklahoma~~ Corporation Commission shall, in no instance, issue a grant of operating authority to transport salt water or

deleterious substances to any applicant for such authority who cannot furnish written proof of access to a disposal well or wells within reasonable hauling distance of the territory proposed to be served. Said written proof of access shall be provided by the owner of the disposal well and said disposal well must first be approved by the Corporation Commission as adequate to meet the need for proper disposal of all salt water and deleterious substances which the applicant may reasonably be expected to transport as a common carrier. Provided that nothing herein shall be construed as prohibiting the disposition of salt water in a disposal well that is owned by a person other than the licensee.

Provided further, on or before December 31, 1982, existing carriers holding such operating authority shall furnish written proof of access to an approved disposal well within reasonable hauling distance. Failure to comply may, at the discretion of the Commission, result in suspension of carrier's operating authority.

The proven violation of ~~Oklahoma~~ Corporation Commission salt water and deleterious substance disposal rules and regulations by a carrier in any calendar year shall, in the first instance, result in a carrier being warned by the Commission and fined up to Two Thousand Five Hundred Dollars (\$2,500.00). A second proven violation in any calendar year shall result in a carrier being placed on probation and fined up to Five Thousand Dollars (\$5,000.00) by the Commission. A third proven violation in any calendar year shall result in a fine of up to Ten Thousand Dollars (\$10,000.00), and at the discretion of the Commission, suspension of the carrier's operating authority for a period of up to thirty (30) days. The driver of a truck, who is not the owner of the vehicle used in violation of this section or any of the rules and regulations of the Corporation Commission, shall be adjudicated a codefendant and subject to a fine equal to ten percent (10%) of the

fine assessed to the owner of such vehicle, up to Five Hundred Dollars (\$500.00);

3. The State Department of Agriculture is hereby vested with the exclusive jurisdiction, power and authority to make and enforce such rules, regulations and orders concerning those materials excluded by the U.S. Environmental Protection Agency pursuant to the small farmer exclusion, as it exists or may be amended; and

4. Rules and regulations pertaining to standards for the transportation of controlled industrial waste and recyclable materials shall not be more stringent than those of the U.S. Department of Transportation.

B. Before recommending such rules, regulations and standards, as set out in subsection A of this section, the Department shall consult with interested state and local governmental bodies and with federal regulatory agencies. At least one public hearing shall be held on the proposed rules, regulations and standards.

C. The present rules and regulations of the State Department of Health and the Oklahoma Water Resources Board shall remain effective until the adoption of new rules and regulations by the State Board of Health. Insofar as permitted by law, the rules and regulations promulgated by the Board shall be in reasonable accord with the hazardous waste regulations of the U.S. Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act. Such rules and regulations may incorporate by reference the hazardous waste regulations of the U.S. Environmental Protection Agency.

D. The provisions of this act shall be cumulative to the minimum requirements established by the Administrative Procedures Act.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-7261

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