

SHORT TITLE: Environment and natural resources; Pollution  
Prevention Incentive Act; income tax credit for development or  
implementation of pollution prevention plan; effective date.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 994

By: Muegge

AS INTRODUCED

An Act relating to environment and natural resources;  
creating the Pollution Prevention Incentive Act;  
providing short title; stating legislative  
declaration; allowing credit against income tax  
liability for cost of development or implementation  
of certain plan; specifying amount of such credit;  
subjecting credit to certain limitations; allowing  
certain cost to be treated as depreciable asset;  
providing application procedure; specifying duties  
of Department of Environmental Quality and Oklahoma  
Tax Commission and other state agencies; requiring  
certain certifications; providing for adjustments  
of estimate of certain cost; requiring submission  
of certain information; authorizing Department and  
Tax Commission to promulgate certain rules;  
providing for codification; and providing an  
effective date.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 2-11-601 of Title 27A, unless  
there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Pollution  
Prevention Incentive Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-602 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. The Legislature hereby declares that it is necessary in the public interest to reduce and prevent pollution by those manufacturing, service, and processing industries within the state whose operations produce air, water or land pollution.

B. It is equally necessary that Oklahoma be made and kept a safe, clean and healthy state in which to live and work and an attractive location for continued economic and industrial development, including the expansion of existing plants, thereby increasing the quality of life for residents of this state, increasing employment and payrolls and upgrading the state's natural resources, which public purposes and objectives will be aided and encouraged by the Pollution Prevention Incentive Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-603 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Any person, firm, corporation or other legal entity engaged, or proposing to engage, in the reduction or prevention of air, water or land pollution shall be entitled to a credit against its income tax liability for:

1. The cost of development of a plan approved by the Department of Environmental Quality for the reduction or prevention of air, water or land pollution. The amount of such credit shall not exceed Ten Thousand Dollars (\$10,000.00) for each facility included within the plan; or

2. The cost of implementation of a plan approved by the Department of Environmental Quality for the reduction or prevention of air, water or land pollution. The amount of such credit shall not exceed Fifty Thousand Dollars (\$50,000.00) for each facility included within the plan.

B. Credits allowed pursuant to subsection A of this section shall be subject to the following limitations:

1. The credit allowed to be taken shall not exceed the income tax liability for such year for such person, firm, corporation or legal entity;

2. The tax credit to be allowed shall not extend to or include plant operating expenses;

3. The tax credit shall be taken within three (3) years of the development or installation of such plan; and

4. The total amount of tax credits allowed to all persons, firms, corporations or other legal entities in this state shall not exceed a total of One Million Dollars (\$1,000,000.00).

C. The investment cost of implementation of such plan may be treated as a depreciable asset for income tax purposes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-604 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. In order to qualify for the income tax credit, said person, firm, corporation or other legal entity developing or implementing a pollution prevention plan shall first make application to the Department of Environmental Quality on forms to be provided by the Department and shall submit all available information relative to the applicant's operations bearing upon the nature and amount of pollution prevention resulting, or expected to result therefrom, the effectiveness of the proposed plan and such other relevant information bearing upon the plan as may be required by the Department. Upon receipt of such application for tax credit and supporting information, it shall be the duty of the Department to make as accurately as possible:

1. A verification of the accuracy of supporting information submitted by the applicant;

2. A determination of the most effective pollution prevention method, taking into consideration methods of pollution prevention other than those proposed in the plan, if any, and the relative cost of each such method;

3. A determination of the actual or approximate capital investment required to effectuate such method so as to arrive at an actual or estimated agreed, net, nonprofitable or profitable investment expense of developing or implementing such plan; and

4. A determination as to whether or not such plan will of itself be productive of additional income or savings and will result in a reduction or prevention of air, water or land pollution.

B. The actual or estimated agreed cost of development or implementation of such plan shall be certified to the Oklahoma Tax Commission by the Department. In no event shall the Oklahoma Tax Commission allow a tax credit to be taken in excess of the actual cost of developing or implementing such plan.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-605 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Upon a determination of all such facts posed by the applicant's pollution prevention plan, the Department of Environmental Quality shall certify to the Oklahoma Tax Commission the actual or estimated agreed cost of development or implementation of such plan and shall submit all such relevant information for use by the Tax Commission in allowing such tax credit and in auditing income tax returns subsequently filed by the applicant.

B. If an estimated agreed cost is certified to the Tax Commission, the Tax Commission shall subsequently adjust such estimate to the actual cost outlay by the applicant for development or implementation of the plan, not in excess of the certified estimate, at the time the tax credit is taken. The income tax return specifying the cost outlay for the process submitted by the

applicant may be accepted by the Tax Commission as the actual cost of development or implementation of the plan unless the Tax Commission determines that an audit of the income tax return or income tax liability of the applicant is warranted. In conducting an audit, the Tax Commission is authorized to request such records and documentation as they determine to be necessary to verify the accuracy of the return. The person, firm, corporation or other legal entity taking such tax credit shall be required to submit to the Tax Commission evidence of the actual capital outlay for the development or implementation of such plan at the time such credit is to be taken for income tax purposes or when otherwise requested by the Tax Commission.

C. The Commission shall allow the tax credit to be taken as and to the extent provided herein.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-606 of Title 27A, unless there is created a duplication in numbering, reads as follows:

It shall be the further duty of the Oklahoma Tax Commission, the Department of Environmental Quality, and any other state agency called upon for assistance in the proper enforcement of the Pollution Prevention Incentive Act, to cooperate each with the other in its administration so as to accomplish the purposes set forth in the Pollution Prevention Incentive Act. The Department shall inform manufacturing and processing industries within and without the state of this tax credit benefit, and in every way possible gain the most favorable publicity and increased industrial activity for Oklahoma resulting from this enactment.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-11-607 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The Department of Environmental Quality and the Oklahoma Tax Commission shall promulgate rules necessary to administer the Pollution Prevention Incentive Act.

SECTION 8. This act shall become effective January 1, 1995.

44-2-1775

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