

ENROLLED HOUSE
BILL NO. 1404

By: Rice, Adair and
Hutchison of the House

and

Easley of the Senate

An Act relating to environment and natural resources; authorizing the issuance of general permits; making certain rulemaking process not applicable to general permits; limiting certain activities; providing for issuance; amending 63 O.S. 1991, Section 1-2416.1, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 3, Chapter 341, O.S.L. 1995 (27A O.S. Supp. 1996, Section 2-10-501), which relates to nonhazardous industrial solid waste landfills; providing for certification that waste is nonhazardous; listing certifiers; making certain conditions not require solid waste permits; listing and specifying conditions; providing for codification; providing an effective date; and declaring an emergency.

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 2-14-305 of Title 27A, unless there is created a duplication in numbering, reads as follows:

For common and routine permit applications, the Department of Environmental Quality may expedite the permitting process by issuing permits of general applicability, hereafter identified as "general permits". General permits shall be subject to all the Tier II administrative procedures including the public participation requirements. The administrative process for rulemaking shall not be applicable to the issuance of general permits. Individual applicants may obtain authorization through the Tier I process to conduct an activity covered by a general permit. General permits are limited to activities under the Tier I and Tier II classifications.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-2416.1, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 3, Chapter 341, O.S.L. 1995 (27A O.S. Supp. 1996, Section 2-10-501), is amended to read as follows:

Section 2-10-501. A. The Department may issue a permit for a landfill disposal site, which is not a hazardous waste facility, which accepts unspecified nonhazardous industrial solid waste, only under the following circumstances:

1. The landfill is located outside of areas of principal groundwater resource or recharge areas as determined and mapped by the Oklahoma Geological Survey or is on a proposed site on property, owned or operated by a person who also owns or operates a hazardous waste facility or solid waste facility, on or contiguous to property

on which a hazardous waste facility or solid waste facility is operating pursuant to a permit and the site is designed to meet the most environmentally protective solid waste rules promulgated by the Board for the largest population category and includes a leachate collection system; or

2. The landfill complies with all siting and public participation requirements as though the solid waste landfill were a hazardous waste landfill; or

3. The site is proposed and designed as a nonhazardous industrial solid waste landfill which will be owned, operated, or owned and operated by an industry or manufacturer for its exclusive noncommercial use; or

4. The landfill is owned or operated by a municipality or is a privately owned landfill which regularly serves one or more municipalities and which has been accepting nonhazardous industrial solid waste under approval of the Department.

B. The provisions of this section shall apply to all pending applications for which final agency action has not been taken, future permit applications and facilities which are not fully operational.

C. Except as otherwise provided in subsection A of this section, the Department shall not allow a solid waste disposal site to accept any nonhazardous industrial solid waste type unless:

1. Said site is permitted by the Department to accept such waste type;

2. The landfill is owned or operated by a municipality or is a privately owned landfill which regularly serves one or more municipalities and which has been accepting nonhazardous industrial solid waste under approval of the Department; or

3. The site is proposed, designed, and permitted as a nonhazardous industrial solid waste monofill.

D. 1. New landfills which accept nonhazardous industrial solid waste shall not be constructed nor shall such existing landfills be expanded which are located within a seismic impact zone unless the applicant demonstrates that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site.

2. No nonhazardous industrial solid waste landfill shall be located within five (5) miles of a known epicenter of an earthquake of more than 4.0 on the Richter Scale or a number V on the modified Mercalli Scale as recorded by the Oklahoma Geological Survey.

3. Paragraphs 1 and 2 of this subsection shall not apply to a nonhazardous industrial solid waste landfill which is owned or operated by:

a. an industry or manufacturer and utilized for such industry's or manufacturer's exclusive noncommercial use, or

b. a municipality, or is a privately owned landfill which regularly serves one or more municipalities, and which has been accepting nonhazardous industrial solid waste under approval of the Department.

E. 1. Except as otherwise provided by this subsection, the Department shall not issue, amend or modify a permit to allow a solid waste landfill to accept more than one type of nonhazardous industrial solid waste for disposal unless said landfill is equipped with a composite liner and a leachate collection system designed and constructed in compliance with rules promulgated by the Board.

2. Any landfill which is owned, operated, or owned and operated by an industry or manufacturer and utilized for such industry's or

manufacturer's exclusive noncommercial use may be required to install a composite liner and a leachate collection system as determined to be necessary by the Department on a case-by-case basis.

3. The Department shall not require composite liners and leachate collection systems for any nonhazardous industrial solid waste landfill initially licensed by the Department prior to July 1, 1992, which is owned and operated by:

- a. an industry or manufacturer and utilized for such industry's or manufacturer's exclusive noncommercial use, or
- b. a municipality, or is a privately owned landfill which regularly serves one or more municipalities, and which has been accepting nonhazardous industrial solid waste under approval of the Department.

F. No limitation shall be placed on the percentage of nonhazardous industrial solid waste that may be accepted for disposal at solid waste landfills which have a composite liner and a leachate collection system designed and constructed in compliance with rules promulgated by the Board.

G. Solid waste disposal site operators shall submit to the Department an itemized monthly report of the type, quantity and source of nonhazardous industrial solid waste accepted the previous month.

H. The generator of a 1. Before sending waste identified as nonhazardous industrial solid waste or a party to a remediation project under an order of the Department shall certify to the Department for disposal in an Oklahoma solid waste landfill, a certification that the waste is not a hazardous waste as such term is defined in the Oklahoma Hazardous Waste Disposal Management Act shall be submitted to the Department. Such certification shall be made by:

- a. the original generator,
- b. a person who identifies and is under contract with a generator and whose activities under the contract cause the waste to be generated,
- c. a party to a remediation project under an order of the Department or under the auspices of the Oklahoma Energy Resources Board or other agencies of other states, or
- d. a person responding to an environmental emergency.

2. The Department may require the certifier to substantiate the certification by appropriate means, when it is reasonable to believe such waste may be hazardous. Such substantiation may include Material Safety Data Sheets, an explanation of specific technical process knowledge adequate to identify that the waste is not a hazardous waste, or laboratory analysis.

I. Any generator seeking to exclude a specific nonhazardous industrial solid waste, which is also an inert waste, from the provisions of this section may petition the Department for a regulatory exclusion. The generator shall demonstrate to the satisfaction of the Department that the waste is inert and that it may be properly disposed.

J. Unless otherwise specified in this section, by January 1, 1993, solid waste landfills existing on the effective date of this section which are required by this section to utilize composite liners and leachate collection systems and are not doing so shall cease to accept nonhazardous industrial solid waste.

K. Notwithstanding any other provision of the Oklahoma Solid Waste Management Act, no solid waste permit shall be required for an

incineration facility burning nonhazardous solid waste for the purpose of disposing of the waste if:

1. The incinerator has an air quality permit from the Department;

2. Storage of waste at the site prior to incineration is limited to the lesser of twenty (20) tons or the volume reasonably expected to be incinerated within ten (10) days, considering the nature of the waste and the manufacturer's approved charge rate for the incinerator;

3. The waste is stored at a location and managed in a manner which minimizes the risk of a release, exposure or other incident which could threaten human health or the environment, including the storage of liquids within adequate secondary containment;

4. All ashes and residues from the incineration process are managed in accordance with applicable statutes and rules; and

5. a. The incinerator is owned and operated by a business or industry for the incineration of its own waste exclusively, or

b. The waste feed rate of the incinerator does not exceed five (5) tons per day.

SECTION 3. This act shall become effective July 1, 1997.

SECTION 4. 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.

Passed the House of Representatives the 7th day of May, 1997.

Speaker of the House of
Representatives

Passed the Senate the 12th day of May, 1997.

President of the Senate