

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 298

By: Bingman

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5
6 AS INTRODUCED

7 An Act relating to environment and natural resources;
8 amending 27A O.S. 2001, Section 2-7-103, as amended
9 by Section 2, Chapter 20, O.S.L. 2005 (27A O.S. Supp.
10 2008, Section 2-7-103), which relates to the Oklahoma
11 Hazardous Waste Management Act; defining terms;
12 authorizing the Environmental Quality Board to adopt
13 rules regarding reclamation of certain hazardous
14 secondary materials; requiring conformity of rules
15 with certain federal rules; authorizing fees for
16 generation and reclamation of certain secondary
17 hazardous waste materials; providing for
18 codification; providing an effective date; and
19 declaring an emergency.

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

21 SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-7-103, as
22 amended by Section 2, Chapter 20, O.S.L. 2005 (27A O.S. Supp. 2008,
23 Section 2-7-103), is amended to read as follows:

24 Section 2-7-103. As used in the Oklahoma Hazardous Waste
Management Act:

1. "Affected property owners" means all real property owners
within one (1) mile of the outer perimeter of a proposed hazardous
waste site;

1 2. "Affiliated person" means:

2 a. any officer, director or partner of the applicant,

3 b. any person employed by the applicant as a general or
4 key manager who directs the operations of the site or
5 facility which is the subject of the application, and

6 c. any person owning or controlling more than five
7 percent (5%) of the applicant's debt or equity;

8 3. "Council" means the Hazardous Waste Management Advisory
9 Council;

10 4. "Demonstrated pattern of prohibited conduct" means a series
11 of conduct of the same or like character in violation of state or
12 federal environmental laws which, as a result of the applicant's or
13 affiliated person's reckless disregard thereof, actually endangers,
14 or reasonably has the potential to endanger, human health or the
15 environment;

16 5. "Disclosure statement" means a written statement by the
17 applicant which contains:

18 a. the full name, business address, and social security
19 number of the applicant, and all affiliated persons,

20 b. the full name and address of any legal entity in which
21 the applicant holds a debt or equity interest of at
22 least five percent (5%), or which is a parent company
23 or subsidiary of the applicant, and a description of
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1 the on-going organizational relationships as they may
2 impact operations within the state,

3 c. a description of the experience and credentials of the
4 applicant, including any past or present permits,
5 licenses, certifications, or operational
6 authorizations relating to environmental facility
7 regulation,

8 d. a listing and explanation of any administrative, civil
9 or criminal legal actions against the applicant or any
10 affiliated person which resulted in a final agency
11 order or final judgment by a court of record
12 including, but not limited to, final orders or
13 judgments on appeal in the ten (10) years immediately
14 preceding the filing of the application relating to
15 the generation, transportation, storage, treatment,
16 recycling or disposal of "hazardous waste" as defined
17 by the Oklahoma Hazardous Waste Management Act or by
18 the United States Environmental Protection Agency
19 pursuant to the Federal Resource Conservation and
20 Recovery Act. Such actions shall include, without
21 limitation, any permit denial or any sanction imposed
22 by a state regulatory authority or the United States
23 Environmental Protection Agency, and
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1 e. a listing of any federal environmental agency and any
2 state environmental agency outside this state that has
3 or has had regulatory responsibility over the
4 applicant;

5 6. "Disposal" means the final disposition of hazardous waste;

6 7. "Disposal site" means the location where any final
7 disposition of hazardous waste occurs. Disposal sites include but
8 are not limited to injection wells and surface disposal sites;

9 8. "Guarantor" means any person other than the owner or
10 operator, who provides evidence of financial responsibility for an
11 owner or operator pursuant to the Oklahoma Hazardous Waste
12 Management Act;

13 9. "Hazardous secondary material" means a spent material, by-
14 product or sludge that, when discarded, would be considered a
15 hazardous waste under the provisions of the Oklahoma Hazardous Waste
16 Management Act;

17 10. "Hazardous waste" means waste materials and byproducts,
18 either solid or liquid or containerized gas, which are:

- 19 a. to be discarded by the generator or recycled,
20 b. toxic to human, animal, aquatic or plant life, and
21 c. generated in such quantity that they cannot be safely
22 disposed of in properly operated, state-approved solid
23 waste landfills or waste, sewage or wastewater
24 treatment facilities.

1 The term "hazardous waste" may include but is not limited to
2 explosives, flammable liquids, spent acids, caustic solutions,
3 poisons, containerized gases, sludges, tank bottoms containing heavy
4 metallic ions, toxic organic chemicals, and materials such as paper,
5 metal, cloth or wood which are contaminated with hazardous waste.

6 The term "hazardous waste" shall not include domestic sewage;

7 ~~10.~~ 11. "Hazardous waste facility" means and includes storage
8 and treatment facilities and disposal sites;

9 ~~11.~~ 12. "History of noncompliance" means any past operations by
10 an applicant or affiliated persons which clearly indicate a reckless
11 disregard for environmental regulation or demonstrate a pattern of
12 prohibited conduct which could reasonably be expected to result in
13 endangerment to human health or the environment if a permit were
14 issued, as evidenced by findings, conclusions and rulings of any
15 final agency order or final order or judgment of a court of record;

16 ~~12.~~ 13. "Multi-user on-site treatment facility" means a
17 treatment facility for hazardous waste generated by the co-owners of
18 the facility and which meets the criteria specified by the Oklahoma
19 Hazardous Waste Management Act;

20 ~~13.~~ 14. "Off-site treatment, storage, recycling or disposal"
21 means the treatment, storage, recycling or disposal at a hazardous
22 waste facility of hazardous waste not generated by the owner of the
23 facility;

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1 ~~14.~~ 15. "On-site treatment, storage, recycling or disposal"
2 means the treatment, storage, recycling or disposal at a hazardous
3 waste facility of hazardous waste generated by the owner of the
4 facility;

5 ~~15.~~ 16. "Person" means any individual, corporation, industry,
6 firm, partnership, association, venture, trust, institution,
7 federal, state or local governmental instrumentality, agency or body
8 or any other legal entity however organized;

9 ~~16.~~ 17. "Reclamation" means the processing of a hazardous
10 secondary material to recover a usable product, and is one form of
11 recycling;

12 18. "Recycling" means the reuse, processing, treating,
13 neutralizing or rerefining of hazardous waste into a product which
14 is being reused or which has been sold for beneficial use.
15 Hazardous waste which is intended for fuel is not deemed to be
16 recycled until it is actually burned;

17 ~~17.~~ 19. "Regeneration" or "regenerated" means the regeneration
18 of spent activated carbon to render it reusable, and any treatment,
19 storage or disposal associated therewith;

20 ~~18.~~ 20. "Site" or "proposed site" means the surface area of a
21 disposal site, or other hazardous waste facility, as applied for in
22 the application for a permit for the facility;

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1 ~~19.~~ 21. "Storage facility" means any location where the
2 temporary holding of hazardous waste occurs, including any tank,
3 pit, lagoon, pond, or other specific place or area;

4 ~~20.~~ 22. "Treatment" means the detoxification, neutralization,
5 incineration or biodegradation of hazardous waste in order to remove
6 or reduce its harmful properties or characteristics; and

7 ~~21.~~ 23. "Treatment facility" means any location where treating
8 or recycling of hazardous waste occurs.

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 2-7-106.1 of Title 27A, unless
11 there is created a duplication in numbering, reads as follows:

12 A. Notwithstanding any other provision of the Oklahoma
13 Hazardous Waste Management Act but subject to subsection B of this
14 section, the Environmental Quality Board may adopt rules regarding
15 hazardous secondary materials to be reclaimed and the generation,
16 handling, storage, transportation and reclamation of those materials
17 that differ from the requirements generally applicable to hazardous
18 wastes, hazardous waste generators and transporters, and hazardous
19 waste treatment, recycling, storage and disposal facilities pursuant
20 to the Oklahoma Hazardous Waste Management Act. Any such rules
21 regarding hazardous secondary materials shall be no less stringent
22 than the rules adopted by the United States Environmental Protection
23 Agency that would be applicable to such reclamation activities and
24 facilities.

1 B. Fees pursuant to the Oklahoma Hazardous Waste Management Act
2 applicable to hazardous waste generators and to hazardous waste
3 recycling facilities shall apply to hazardous secondary materials
4 generators and hazardous secondary materials reclamation facilities.

5 SECTION 3. This act shall become effective July 1, 2009.

6 SECTION 4. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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11 52-1-190 MJM 3/6/2009 3:40:05 AM

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