

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1042

By: Justice

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5
6 AS INTRODUCED

7 An Act relating to solid waste management; amending
8 27A O.S. 2011, Section 2-10-103, which relates to the
9 Oklahoma Solid Waste Management Act; defining terms;
10 modifying certain definitions; stating applicability
11 of the Oklahoma Solid Waste Management Act to
12 recycling of certain roofing materials; requiring
13 owners to install scales and assess certain fees;
14 instructing owners to remit certain fees; providing
15 for retention of certain monies for certain purpose;
16 stating exception; authorizing Environmental Quality
17 Board to promulgate rules; providing for
18 codification; and declaring an emergency.

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

20 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-10-103,
21 is amended to read as follows:

22 Section 2-10-103. As used in the Oklahoma Solid Waste
23 Management Act:

24 1. "Affiliated person" means:

- a. any officer, director or partner of the applicant,
- b. any person employed by the applicant as general or key
manager who directs the operations of the site,

1 transfer station, or facility which is the subject of
2 the application, or

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

5 2. "Commercial composting facility" means a composting facility
6 that:

7 a. is not owned or operated by a governmental entity,

8 b. receives one hundred (100) tons or more per year of
9 material for composting, any part of which consists of
10 food waste, and

11 c. principally accepts material for composting that is
12 not agricultural in origin;

13 3. "Composting facility" means a facility in which material is
14 converted, under thermophilic conditions, to a product with a high
15 humus content for use as a soil amendment or to prevent or remediate
16 pollutants in soil, air, or stormwater run-off;

17 4. "Disclosure statement" means a written statement by the
18 applicant which contains:

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

21 b. the full name and business address of any legal entity
22 in which the applicant holds a debt or equity interest
23 of at least five percent (5%) or which is a parent
24 company or subsidiary of the applicant, and a

1 description of the ongoing organizational
2 relationships as they may impact operations within the
3 state,

4 c. a description of the experience and credentials of the
5 applicant, including any past or present permits,
6 licenses, certifications, or operational

7 authorizations relating to environmental regulation,

8 d. a listing and explanation of any administrative, civil
9 or criminal legal actions against the applicant and
10 affiliated person which resulted in a final agency
11 order or final judgment by a court of record,

12 including final order or judgment on appeal, in the
13 ten (10) years immediately preceding the filing of the
14 application relating to solid or hazardous waste.

15 Such action shall include, without limitations, any
16 permit denial or any sanction imposed by a state
17 regulatory agency or the United States Environmental
18 Protection Agency, and

19 e. a listing of any federal environmental agency and any
20 state environmental agency that has or has had
21 regulatory responsibility over the applicant;

22 5. "Disposal site" means any place, including, but not limited
23 to, a transfer station or a roofing material recycling facility, at
24 which solid waste is dumped, abandoned, or accepted or disposed of

1 by incineration, land filling, composting, shredding, compaction,
2 baling or any other method or by processing by pyrolysis, resource
3 recovery or any other method, technique or process designed to
4 change the physical, chemical or biological character or composition
5 of any solid waste so as to render such waste safe or nonhazardous,
6 amenable to transport, recovery or storage or reduced in volume. A
7 disposal site shall not include a manufacturing facility which
8 processes scrap materials which have been separated for collection
9 and processing as industrial raw materials;

10 6. "Dwelling" means a permanently-constructed, habitable
11 structure designed and constructed for full-time occupancy in all
12 weather conditions, which is not readily mobile and shall include
13 but not be limited to a manufactured home as such term is defined by
14 paragraph 16 of Section 1102 of Title 47 of the Oklahoma Statutes;

15 7. "Final closure" means those measures for providing final
16 capping material, proper drainage, perennial vegetative cover,
17 maintenance, monitoring and other closure actions required for the
18 site by rules of the Board;

19 8. "Inert waste" means any solid waste that is insoluble in
20 water, chemically inactive, that will not leach contaminants, or is
21 commonly found as a significant percentage of residential solid
22 waste;

23 9. "History of noncompliance" means any past operations by an
24 applicant or affiliated persons which clearly indicate a reckless

1 disregard for environmental regulation, or a demonstrated pattern of
2 prohibited conduct which could reasonably be expected to result in
3 adverse environmental impact if a permit were issued, as evidenced
4 by findings, conclusions and rulings of any final agency order or
5 final order or judgment of a court of record;

6 10. "Integrated solid waste management plan" means a plan that
7 provides for the integrated management of all solid waste within the
8 planning unit and embodies sound principles of solid waste
9 management, natural resources conservation, energy production, and
10 employment-creating opportunities;

11 11. "Lithified earth material" means all rock, including all
12 naturally occurring and naturally formed aggregates or masses of
13 minerals or small particles of older rock that formed by
14 crystallization of magma or by induration of loose sediments. The
15 term "lithified earth material" shall not include man-made
16 materials, such as fill, concrete, and asphalt, or unconsolidated
17 earth materials, soil, or regolith lying at or near the earth's
18 surface;

19 12. "Maximum horizontal acceleration in lithified earth
20 material" means the maximum expected horizontal acceleration
21 depicted on a seismic hazard map, with a ninety percent (90%) or
22 greater probability that the acceleration will not be exceeded in
23 two hundred fifty (250) years, or the maximum expected horizontal
24 acceleration based on a site-specific seismic risk assessment;

1 13. "Monofill" means a landfill which is used to dispose of a
2 single type of specified nonhazardous industrial solid waste, except
3 for other nonhazardous industrial solid wastes which are not readily
4 separable from the specified waste;

5 14. "Nonhazardous industrial solid waste" means any of the
6 following wastes deemed by the Department to require special
7 handling:

- 8 a. unusable industrial or chemical products,
- 9 b. solid waste generated by the release of an industrial
10 product to the environment, or
- 11 c. solid waste generated by a manufacturing or industrial
12 process.

13 The term "nonhazardous industrial solid waste" shall not include
14 waste that is regulated as hazardous waste or is commonly found as a
15 significant percentage of residential solid waste;

16 15. "Person" means any individual, corporation, company, firm,
17 partnership, association, trust, state agency, government
18 instrumentality or agency, institution, county, any incorporated
19 city or town or municipal authority or trust in which any
20 governmental entity is a beneficiary, venture, or other legal entity
21 however organized;

22 16. "Recycling" means to reuse a material that would otherwise
23 be disposed of as waste, with or without reprocessing;

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1 17. "Roofing Material" means all material associated with a
2 roofing project that is debris or is otherwise not intended for
3 future use by the roofer or the property owner, including but not
4 limited to shingles made from asphalt, fiberglass, composite, or
5 wood, as well as decking, flashing, fasteners, insulation, and
6 associated packaging materials;

7 18. "Roofing material recycling facility" means a site or
8 facility at which roofing material is processed for alternative
9 uses, or is accumulated for the purpose of processing or selling all
10 or parts of the roofing material for alternative uses, including but
11 not limited to road construction;

12 19. "Seismic impact zone" means an area with a ten percent
13 (10%) or greater probability that the maximum horizontal
14 acceleration in lithified earth material, expressed as a percentage
15 of the earth's gravitational pull (g), will exceed 0.10g in two
16 hundred fifty (250) years;

17 ~~18.~~ 20. "Solid waste" means all putrescible and nonputrescible
18 refuse in solid, semisolid, or liquid form including, but not
19 limited to, garbage, rubbish, ashes or incinerator residue, street
20 refuse, dead animals, demolition wastes, construction wastes,
21 roofing material, solid or semisolid commercial and industrial
22 wastes including explosives, biomedical wastes, chemical wastes,
23 herbicide and pesticide wastes. The term "solid waste" shall not
24 include:

- 1 a. scrap materials, not including roofing materials,
2 which are source separated for collection and
3 processing as industrial raw materials, except when
4 contained in the waste collected by or in behalf of a
5 solid waste management system, or
- 6 b. used motor oil, which shall not be considered to be a
7 solid waste, but shall be considered a deleterious
8 substance, if the used motor oil is recycled for
9 energy reclamation and is ultimately destroyed when
10 recycled;

11 ~~19.~~ 21. "Solid waste management system" means the system that
12 may be developed for the purpose of collection and disposal of solid
13 waste by any person engaging in such process as a business or by any
14 municipality, authority, trust, county or by any combination thereof
15 at one or more disposal sites;

16 ~~20.~~ 22. "Solid waste planning unit" means any county or any
17 part thereof, incorporated city or town, or municipal authority or
18 trust in which any governmental entity is a beneficiary, venture, or
19 other legal entity however organized, which the Department
20 determines to be capable of planning and implementing an integrated
21 solid waste management program;

22 ~~21.~~ 23. "Transfer station" means any disposal site, processing
23 facility or other place where solid waste is transferred from a
24 vehicle or container to another vehicle or container for

1 transportation, including but not limited to a barge or railroad
2 unloading facility where solid waste, in bulk or in containers, is
3 unloaded, stored, processed or transported for any purpose. The
4 term "transfer station" shall not include the following:

5 a. a facility, such as an apartment complex or a large
6 manufacturing plant, where the solid waste that is
7 transferred has been generated by the occupants,
8 residents, or functions of the facility,

9 b. a citizens' collection station, or

10 c. a waste collection system which leaves collected solid
11 waste in enclosed containers along the collection
12 route for later transport to a recycling or disposal
13 facility serving the area; and

14 ~~22.~~ 24. "Waste reduction" means to reduce the volume of waste
15 requiring disposal.

16 SECTION 2. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2-10-802.2 of Title 27A, unless
18 there is created a duplication in numbering, reads as follows:

19 A. In addition to meeting the requirements of the Oklahoma
20 Solid Waste Management Act generally applicable to solid waste
21 disposal sites, including but not limited to permitting, disclosure
22 statement, siting, closure plan and financial assurance, the owner
23 or operator of a roofing material recycling facility shall:

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1 1. Install scales, weigh roofing material received and record
2 weights in accordance with the provisions of paragraphs 1 and 2 of
3 subsection A of Section 2-10-802 of Title 27A of the Oklahoma
4 Statutes;

5 2. Assess a fee of One Dollar and fifty cents (\$1.50) per ton
6 of roofing material received, retaining twenty-five cents (\$0.25)
7 per ton for a period of time necessary to recoup a capital
8 investment plus the interest costs expended in purchasing the
9 scales, of Forty Thousand Dollars (\$40,000.00). At the end of such
10 period the fee shall revert to One Dollar and twenty-five cents
11 (\$1.25) per ton;

12 3. Remit the fee to the Department of Environmental Quality in
13 accordance with the provisions of paragraphs 7 through 12 of
14 subsection B of Section 2-10-802 of Title 27A of the Oklahoma
15 Statutes. For a return with remittance filed on or before the due
16 date, the owner or operator may deduct and retain ten percent (10%)
17 of the fees collected. Records documenting the capital investment
18 and the use of the funds shall be included with each return; and

19 4. Submit receipts for the payment for disposal of non-
20 recyclable materials at a permitted landfill or solid waste disposal
21 site in order to receive credit against the fee owed to the
22 Department of Environmental Quality for that tonnage.

23 B. An operation otherwise meeting the definition of a roofing
24 material recycling facility but that is included within and

1 regulated under a permit for a solid waste land disposal site is not
2 subject to the provisions of this section.

3 C. The Environmental Quality Board is authorized to adopt rules
4 recommended by the Solid Waste Management Advisory Council as needed
5 to implement the provisions of this section.

6 SECTION 3. 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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