

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3019

By: Calvey of the House

and

Griffin of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to solid waste; amending 27A O.S.
12 2011, Section 2-10-501, which relates to permits for
13 landfill disposal sites; providing that certain
14 landfill disposal sites shall be subject to seismic
15 impact zone location restrictions; amending 45 O.S.
16 2011, Section 940, which relates to exemptions from
17 solid waste permitting requirements; providing that
18 the disposal of certain materials shall be subject to
19 certain permitting requirements; exempting the
20 generation of certain materials from certain
21 permitting requirements under certain circumstances;
22 and providing an effective date.

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

31 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-10-501,
32 is amended to read as follows:

33 Section 2-10-501. A. The Department of Environmental Quality
34 may issue a permit for a landfill disposal site, which is not a

1 hazardous waste facility, which accepts unspecified nonhazardous
2 industrial solid waste, only under the following circumstances:

3 1. The landfill is located outside of areas of principal
4 groundwater resource or recharge areas as determined and mapped by
5 the Oklahoma Geological Survey or is on a proposed site on property
6 owned or operated by a person who also owns or operates a hazardous
7 waste facility or solid waste facility, on or contiguous to property
8 on which a hazardous waste facility or solid waste facility is
9 operating pursuant to a permit and the site is designed to meet the
10 most environmentally protective solid waste rules promulgated by the
11 Environmental Quality Board and includes a leachate collection
12 system; or

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

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

20 4. The landfill is owned or operated by a municipality or is a
21 privately owned landfill which regularly serves one or more
22 municipalities and which has been accepting nonhazardous industrial
23 solid waste under approval of the Department.
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1 B. The provisions of this section shall apply to all pending
2 applications for which final agency action has not been taken,
3 future permit applications and facilities which are not fully
4 operational.

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

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

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

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

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

23 2. No nonhazardous industrial solid waste landfill shall be
24 located within five (5) miles of a known epicenter of an earthquake

1 of more than 4.0 on the Richter Scale or a number V on the modified
2 Mercalli Scale as recorded by the Oklahoma Geological Survey.

3 3. ~~Paragraphs~~ Landfill disposal sites that only receive ash
4 generated by the burning of coal for the purpose of generating
5 electricity by electric utilities and independent power producers
6 are subject to paragraph 1 of this subsection. Otherwise,
7 paragraphs 1 and 2 of this subsection shall not apply to a
8 nonhazardous industrial solid waste landfill which is owned or
9 operated by:

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

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

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

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

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

5 3. The Department shall not require composite liners and
6 leachate collection systems for any nonhazardous industrial solid
7 waste landfill initially licensed by the Department prior to July 1,
8 1992, which is owned and operated by an industry or manufacturer and
9 utilized for such industry's or manufacturer's exclusive
10 noncommercial use.

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

16 G. Solid waste disposal site operators shall submit to the
17 Department an itemized monthly report of the type, quantity and
18 source of nonhazardous industrial solid waste accepted the previous
19 month. Solid waste disposal sites that are owned and operated by an
20 industry or manufacturer which are utilized for such industry's or
21 manufacturer's exclusive noncommercial use are not required to
22 submit monthly reports to the Department but shall maintain in the
23 operating record information regarding the type and quantity of
24 nonhazardous industrial waste accepted each month. Information

maintained in the operating record shall be made available to the Department upon request.

H. 1. Before sending waste identified as nonhazardous industrial solid waste 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 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.

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

7 J. Unless otherwise specified in this section, by January 1,
8 1993, solid waste landfills existing on the effective date of this
9 section which are required by this section to utilize composite
10 liners and leachate collection systems and are not doing so shall
11 cease to accept nonhazardous industrial solid waste.

12 K. Notwithstanding any other provision of the Oklahoma Solid
13 Waste Management Act, no solid waste permit shall be required for an
14 incineration facility burning nonhazardous solid waste for the
15 purpose of disposing of the waste if:

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

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

23 3. The waste is stored at a location and managed in a manner
24 which minimizes the risk of a release, exposure or other incident

1 which could threaten human health or the environment, including the
2 storage of liquids within adequate secondary containment;

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

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

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

10 SECTION 2. AMENDATORY 45 O.S. 2011, Section 940, is
11 amended to read as follows:

12 Section 940. A. All fly ash, bottom ash or any other such
13 material produced by coal combustion, power-generating facilities
14 ~~and kiln dust generated by cement producing entities~~ shall be exempt
15 from all solid waste permitting requirements pursuant to Title 27A
16 of the Oklahoma Statutes, provided such ash ~~or dust~~ is
17 constructively reutilized, or disposed of in any active or inactive
18 coal ~~or noncoal~~ mining operation subject to the provisions contained
19 in Title 45 of the Oklahoma Statutes. The disposal of fly ash,
20 bottom ash or any other such material generated by the burning of
21 coal for the purpose of generating electricity by electric utilities
22 and independent power producers, in any noncoal mining operation
23 shall be subject to the solid waste permitting requirements in Title
24 27A of the Oklahoma Statutes.

1 B. All ash and kiln dust generated by cement-producing entities
2 shall be exempt from all solid waste permitting requirements
3 pursuant to Title 27A of the Oklahoma Statutes, provided such ash or
4 dust is constructively reutilized, or disposed of in any active or
5 inactive coal or noncoal mining operation subject to the provisions
6 contained in Title 45 of the Oklahoma Statutes.

7 SECTION 3. This act shall become effective November 1, 2016.

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9 COMMITTEE REPORT BY: COMMITTEE ON ENVIRONMENTAL LAW, dated
10 02/17/2016 - DO PASS, As Amended and Coauthored.