

An Act

ENROLLED HOUSE
BILL NO. 1705

By: Newton of the House

and

Murdock of the Senate

An Act relating to environment and natural resources; amending 27A O.S. 2011, Section 2-7-105, which relates to the powers and duties of the Department of Environmental Quality; modifying powers and duties of the Department; amending 27A O.S. 2011, Section 2-7-119, which relates to permit fees; modifying certain fee ranges; limiting certain fee schedule; amending 27A O.S. 2011, Section 2-7-121, which relates to annual fees; modifying certain fee; providing an effective date; and declaring an emergency.

SUBJECT: Environment and natural resources

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

SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-7-105, is amended to read as follows:

Section 2-7-105. The Department of Environmental Quality shall have the power and duty to:

1. Issue permits for the construction and operation and for the post-closure, maintenance and monitoring of hazardous waste facilities;

2. Provide the owner or operator of a hazardous waste facility a list of all materials which the Department deems acceptable for treatment, recycling, storage, and disposal at the facility;

3. Make periodic inspections of hazardous waste facilities and recycling, transporting, and generating facilities to determine the extent of compliance with the Oklahoma Hazardous Waste Management Act and rules promulgated thereunder, and orders, permits and licenses issued pursuant thereto;

4. Develop, maintain, and monitor public records of the source and amount of hazardous waste generated in Oklahoma and the methods used to dispose of, recycle, or treat said waste or material;

5. Require and prescribe manifest forms to all persons generating and transporting hazardous waste off-site for storage, recycling, treatment, or disposal;

~~6. Require and approve or disapprove disposal plans from all persons generating hazardous waste or shipping hazardous waste within, from, or into Oklahoma indicating the amount of hazardous waste generated, the handling, storage, treatment, and disposal methods, and the hazardous waste facilities used. The disposal plans shall be kept current by the persons generating or shipping hazardous waste and the Department shall be advised within five (5) working days of any changes in the disposal plans;~~

~~7. Require reports from all persons generating hazardous waste, indicating the amount generated, the treatment and disposal methods, and the treatment, disposal, and recycling sites used. Such reports are to be made on at least a quarterly basis;~~

~~8. Require periodic reports or manifest certifications regarding such programs and efforts to reduce the volume or quantity and toxicity of such hazardous waste as may be required by or pursuant to authority of the Oklahoma Hazardous Waste Management Act;~~

~~9.~~ 7. Require reports from all operators of hazardous waste facilities who receive hazardous waste for treatment or storage or disposal, listing the amount, transporter, and generator of all hazardous waste received. Such reports are to be made on at least a monthly or quarterly basis, as designated by the Department;

~~10.~~ 8. Approve or disapprove methods of disposal of hazardous waste, and may prohibit certain specific disposal practices including, but not limited to, any type of land disposal of any form of such waste. Land disposal includes, but is not limited to, landfills, surface impoundments, waste piles, deep injection wells,

land treatment facilities, salt dome and bed formations and underground mines or caves;

~~11.~~ 9. Inform persons generating hazardous waste of available, alternative methods of disposal of such waste ~~and assist the persons in developing satisfactory disposal plans;~~

~~12.~~ 10. Develop a system to provide information on recyclable wastes to potential users of such materials. Such information shall not include any information which the Department deems confidential or private in nature;

~~13.~~ 11. Cooperate and share information with the U.S. Environmental Protection Agency;

~~14.~~ 12. Prepare an emergency response plan for spills of hazardous waste and for spills of hazardous materials;

~~15.~~ 13. Make information obtained by the Department regarding hazardous waste facilities and sites available to the public in substantially the same manner, and to the same degree, as would be the case if the hazardous waste program in this state were being carried out by the U.S. Environmental Protection Agency;

~~16.~~ 14. Develop rules with respect to any existing surface impoundment or landfill or class of surface impoundments or landfills from which the Department determines hazardous waste may migrate into groundwater, impose such requirements, including but not limited to double liners and leachate detection and collection systems, as may be necessary to protect human health and the environment;

~~17.~~ 15. Prohibit or restrict the use of any specific disposal methods or practices for specific hazardous waste material, substances or classes, as may be necessary to protect human health and the environment;

~~18.~~ 16. Identify areas within the state which are unsuitable for specific hazardous waste disposal methods, and deny permits for such disposal methods in such areas;

~~19.~~ 17. Issue a one-year research development and demonstration permit for any treatment facility which proposes an innovative and experimental hazardous waste treatment technology or process not yet

regulated. Permits may be renewed no more than three times. No renewal may exceed one (1) year;

~~20.~~ 18. Waive or modify general permit application and issuance requirements for research and development permits, except for financial responsibility and public participation requirements;

~~21.~~ 19. Terminate experimental activity if necessary to protect human health and the environment;

~~22.~~ 20. Require oil recycling facilities using hazardous waste to have a hazardous waste facility permit;

~~23.~~ 21. Issue permits containing any conditions necessary to protect human health and the environment;

~~24.~~ 22. Issue permits for the storage of hazardous waste in underground tanks;

~~25.~~ 23. Require groundwater monitoring for any landfill, surface impoundment, land treatment site or pile;

~~26.~~ 24. Determine and enforce penalties for violations of the Oklahoma Hazardous Waste Management Act and rules promulgated thereunder;

~~27.~~ 25. Evaluate the benefit of rules governing labeling practices for any containers used for the disposal, storage, or transportation of hazardous waste which accurately identify such waste, and govern the use of appropriate containers for such waste not otherwise regulated by the federal government;

~~28.~~ 26. Monitor research and development regarding methods of the handling, storage, use, processing, and disposal of hazardous waste;

~~29.~~ 27. Cooperate with existing technical reference centers on hazardous waste disposal, recycling practices, and related information for public and private use;

~~30.~~ 28. Monitor research in the technical and managerial aspects of management and use of hazardous waste and recycling and recovery of resources from hazardous wastes;

~~31.~~ 29. Determine existing rates of production of hazardous waste;

~~32.~~ 30. Promote recycling and recovery of resources from hazardous wastes;

~~33.~~ 31. Encourage the reduction or exchange, or both, of hazardous waste; and

~~34.~~ 32. Cooperate with an existing information clearinghouse, to develop records of recyclable waste. Every generator of hazardous waste shall supply the Department with information for the clearinghouse. Each generator shall not be required to supply any more information than is required by the manifests. The Department shall make this information available to persons who desire to recycle the wastes. The information shall be made available in such a way that the trade secrets of the producer are protected.

SECTION 2. AMENDATORY 27A O.S. 2011, Section 2-7-119, is amended to read as follows:

Section 2-7-119. A. The Environmental Quality Board shall establish a schedule of fees, pursuant to Section 2-3-402 of this title and the Administrative Procedures Act, to be charged for applications to issue and renew permits for hazardous waste facilities and for the regulation of hazardous waste. Such fees shall only be used for the implementation of the provisions of the Oklahoma Hazardous Waste Management Act pursuant to Section 2-3-402 of this title.

B. The Environmental Quality Board shall charge fees only within the following ranges:

For generator disposal plan:	\$100.00 to \$10,000.00 per year
For permit application:	\$5,000.00 to \$50,000.00
For application resubmittal:	\$100.00 to \$1,000.00
For monitoring:	\$100.00 to \$10,000.00
	<u>\$300.00 to \$2,000.00 per year.</u>

C. The Environmental Quality Board shall develop a separate schedule of reduced fees of not less than Twenty-five Dollars

(\$25.00) and no more than Seventy-five Dollars (\$75.00) for small quantity generators.

SECTION 3. AMENDATORY 27A O.S. 2011, Section 2-7-121, is amended to read as follows:

Section 2-7-121. A. Every hazardous waste treatment facility, storage facility, underground injection facility, disposal facility, or off-site facility that recycles hazardous waste subject to the provisions of the Oklahoma Hazardous Waste Management Act shall pay to the Department of Environmental Quality an annual fee on the amount of hazardous waste managed by such facility.

1. Subject to paragraphs 2 and 7 of this subsection, such fees shall be:

- a. ~~Nine Dollars (\$9.00)~~ Nine Dollars and fifty cents (\$9.50) per ton for on-site or off-site storage, treatment or land disposal,
- b. Four Dollars (\$4.00) per ton for off-site recycling, including regeneration, or
- c. three cents (\$0.03) per gallon for on-site or off-site underground injection.

2. There shall be a minimum fee per facility as follows:

- a. except as provided in subparagraph d of this paragraph, any person owning or operating an off-site hazardous waste treatment facility or disposal facility shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year,
- b. any person owning or operating an on-site hazardous waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Twenty Thousand Dollars (\$20,000.00) each state fiscal year. The annual fee for the on-site disposal of hazardous waste by underground injection shall not exceed Fifty Thousand Dollars (\$50,000.00),
- c. any person owning or operating an off-site facility for the storage or recycling of hazardous waste shall pay a total fee of not less than Twenty Thousand

Dollars (\$20,000.00) each state fiscal year; provided, any such off-site recycling facility which consistently recycles fewer than ten (10) tons of hazardous waste per calendar month shall not be subject to this minimum annual fee. For the purpose of this subparagraph, storage includes physical separation or combining of wastes solely to facilitate efficient storage at the facility and/or efficient transportation, and

- d. any person owning or operating an off-site facility which accepts hazardous waste exclusively for the purpose of conducting research and design tests shall pay a total fee of not less than Ten Thousand Dollars (\$10,000.00) each state fiscal year.

3. Off-site facilities may charge persons contracting for the services of the facility their proportional share of the fees required by the provisions of this section.

4. The facility shall become liable for payment of the fee on each ton or gallon of hazardous waste at the time it is received. For purposes of on-site facilities, receipt is deemed to have occurred when the waste is first managed in any unit or manner that requires a hazardous waste permit. The fee shall be payable by the facility to the Department only as provided for in subsection C of this section.

5. The fee imposed by the provisions of this section shall be payable only once without regard to any subsequent handling of the hazardous waste. The fee shall be based on the purpose for which the waste was received by the facility. In no event shall a facility be required to pay a fee on each step or process involved in the storage, treatment, or disposal of the waste at the facility or a related facility under common control.

6. In computing the amount of the fee specified in subparagraph b of paragraph 1 of subsection A of this section for the off-site recycling or regeneration of hazardous waste, the assessment for regeneration shall be made on a dry weight basis.

7. If a generator of characteristic hazardous waste or listed hazardous waste treats the waste on-site to meet Best Demonstrated Available Technology Standards and disposes of the waste on-site, the waste shall be subject to a reduced treatment or on-site

disposal fee of one-half (1/2) the rate required by subparagraph a of paragraph 1 of this subsection; provided, such rate reduction shall not exceed Twenty-two Thousand Dollars (\$22,000.00) per calendar year.

B. The following facilities shall not be required to pay the fee required by the provisions of this section:

1. Facilities engaged only in the on-site recycling of hazardous waste; and

2. Facilities which have not received new hazardous waste within the preceding state fiscal year.

C. Payment of the fees required by this section shall be due quarterly for hazardous waste received by the facility during the prior calendar quarter. Such quarterly payments shall be due on the first day of the month of the following quarter. All payments shall be made within thirty (30) days from the date they become due.

D. The fees required by this section shall be paid in lieu of the monitoring fees imposed in subsection B of Section 2-7-119 of this title. All facilities subject to the provisions of this section shall not be required to pay or collect any additional fees for waste disposal unless specifically required by the Oklahoma Hazardous Waste Management Act.

E. All fees and other monies received by the Department pursuant to the provisions of this section shall be expended solely for the purposes specified in this section.

1. Ten percent (10%) of the fees collected from an off-site hazardous waste facility pursuant to the provisions of this section shall be deposited to the credit of the Special Economic Development Trust Funds. The funds for the Trusts accruing pursuant to the provisions of this section shall be distributed to each Trust established in proportion to the fees generated by the off-site hazardous waste facilities within the Trust area.

2. The Department shall expend monies received pursuant to the provisions of this section for one or more of the following purposes:

a. the administration of the provisions of the Oklahoma Hazardous Waste Management Act,

- b. the development of an inventory of hazardous wastes currently produced in Oklahoma and management needs for the identified wastes,
- c. the implementation of information exchange, technical assistance, public information, and educational programs,
- d. the development and encouragement of waste reduction plans for Oklahoma waste generators, or
- e. increased inspection of hazardous waste facilities which may include full-time inspectors at off-site hazardous waste facilities.

F. To the extent that fees received pursuant to this section shall exceed the purposes specified in subsection E of this section, the Department shall only expend such funds for one or more of the following purposes:

1. Contributions required from the state pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act for remediation or related action upon a site within the state;

2. Response, including but not limited to containment and removal, to emergency situations involving spillage, leakage, emissions or other discharge of hazardous waste or hazardous waste constituents to the environment where a responsible party cannot be timely identified or found or compelled to take appropriate emergency action to adequately protect human health and the environment;

3. State-funded remediation of sites contaminated by hazardous waste or hazardous waste constituents so as to present a threat to human health or the environment, to the extent that a responsible party cannot be timely identified or found or compelled to take such action, or is unable to take such action;

4. Costs incurred in pursuing an enforcement action to compel a responsible party to undertake appropriate response or remedial actions, or to recover from a responsible party monies expended by the state, as described in paragraphs 1 through 3 of this subsection; or

5. Financial assistance to municipalities or counties for the purposes and under the conditions specified in Section 2-7-305 of this title.

SECTION 4. This act shall become effective July 1, 2021.

SECTION 5. It being immediately necessary for the preservation of the public peace, health or 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 1st day of March, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the 12th day of April, 2021.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____