

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 58th Legislature (2021)

4   HOUSE BILL 1705

By: Newton of the House

5   and

6   **Murdock** of the Senate

7  
8  
9   AS INTRODUCED

10           An Act relating to environment and natural resources;  
11           amending 27A O.S. 2011, Section 2-7-105, which  
12           relates to the powers and duties of the Department of  
13           Environmental Quality; modifying powers and duties of  
14           the Department; amending 27A O.S. 2011, Section 2-7-  
15           119, which relates to permit fees; modifying certain  
16           fee ranges; limiting certain fee schedule; amending  
17           27A O.S. 2011, Section 2-7-121, which relates to  
18           annual fees; modifying certain fee; providing an  
19           effective date; and declaring an emergency.

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21  
22   BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

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

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

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

18       6. ~~Require and approve or disapprove disposal plans from all~~  
19 ~~persons generating hazardous waste or shipping hazardous waste~~  
20 ~~within, from, or into Oklahoma indicating the amount of hazardous~~  
21 ~~waste generated, the handling, storage, treatment, and disposal~~  
22 ~~methods, and the hazardous waste facilities used. The disposal~~  
23 ~~plans shall be kept current by the persons generating or shipping~~

1 ~~hazardous waste and the Department shall be advised within five (5)~~  
2 ~~working days of any changes in the disposal plans;~~

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

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

12 ~~9.~~ 7. Require reports from all operators of hazardous waste  
13 facilities who receive hazardous waste for treatment or storage or  
14 disposal, listing the amount, transporter, and generator of all  
15 hazardous waste received. Such reports are to be made on at least a  
16 monthly or quarterly basis, as designated by the Department;

17 ~~10.~~ 8. Approve or disapprove methods of disposal of hazardous  
18 waste, and may prohibit certain specific disposal practices  
19 including, but not limited to, any type of land disposal of any form  
20 of such waste. Land disposal includes, but is not limited to,  
21 landfills, surface impoundments, waste piles, deep injection wells,  
22 land treatment facilities, salt dome and bed formations and  
23 underground mines or caves;

1       ~~11.~~ 9. Inform persons generating hazardous waste of available,  
2 alternative methods of disposal of such waste ~~and assist the persons~~  
3 ~~in developing satisfactory disposal plans;~~

4       ~~12.~~ 10. Develop a system to provide information on recyclable  
5 wastes to potential users of such materials. Such information shall  
6 not include any information which the Department deems confidential  
7 or private in nature;

8       ~~13.~~ 11. Cooperate and share information with the U.S.  
9 Environmental Protection Agency;

10       ~~14.~~ 12. Prepare an emergency response plan for spills of  
11 hazardous waste and for spills of hazardous materials;

12       ~~15.~~ 13. Make information obtained by the Department regarding  
13 hazardous waste facilities and sites available to the public in  
14 substantially the same manner, and to the same degree, as would be  
15 the case if the hazardous waste program in this state were being  
16 carried out by the U.S. Environmental Protection Agency;

17       ~~16.~~ 14. Develop rules with respect to any existing surface  
18 impoundment or landfill or class of surface impoundments or  
19 landfills from which the Department determines hazardous waste may  
20 migrate into groundwater, impose such requirements, including but  
21 not limited to double liners and leachate detection and collection  
22 systems, as may be necessary to protect human health and the  
23 environment;

1       ~~17.~~ 15. Prohibit or restrict the use of any specific disposal  
2 methods or practices for specific hazardous waste material,  
3 substances or classes, as may be necessary to protect human health  
4 and the environment;

5       ~~18.~~ 16. Identify areas within the state which are unsuitable  
6 for specific hazardous waste disposal methods, and deny permits for  
7 such disposal methods in such areas;

8       ~~19.~~ 17. Issue a one-year research development and demonstration  
9 permit for any treatment facility which proposes an innovative and  
10 experimental hazardous waste treatment technology or process not yet  
11 regulated. Permits may be renewed no more than three times. No  
12 renewal may exceed one (1) year;

13       ~~20.~~ 18. Waive or modify general permit application and issuance  
14 requirements for research and development permits, except for  
15 financial responsibility and public participation requirements;

16       ~~21.~~ 19. Terminate experimental activity if necessary to protect  
17 human health and the environment;

18       ~~22.~~ 20. Require oil recycling facilities using hazardous waste  
19 to have a hazardous waste facility permit;

20       ~~23.~~ 21. Issue permits containing any conditions necessary to  
21 protect human health and the environment;

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

1       ~~25.~~ 23.   Require groundwater monitoring for any landfill,  
2 surface impoundment, land treatment site or pile;  
3       ~~26.~~ 24.   Determine and enforce penalties for violations of the  
4 Oklahoma Hazardous Waste Management Act and rules promulgated  
5 thereunder;  
6       ~~27.~~ 25.   Evaluate the benefit of rules governing labeling  
7 practices for any containers used for the disposal, storage, or  
8 transportation of hazardous waste which accurately identify such  
9 waste, and govern the use of appropriate containers for such waste  
10 not otherwise regulated by the federal government;  
11       ~~28.~~ 26.   Monitor research and development regarding methods of  
12 the handling, storage, use, processing, and disposal of hazardous  
13 waste;  
14       ~~29.~~ 27.   Cooperate with existing technical reference centers on  
15 hazardous waste disposal, recycling practices, and related  
16 information for public and private use;  
17       ~~30.~~ 28.   Monitor research in the technical and managerial  
18 aspects of management and use of hazardous waste and recycling and  
19 recovery of resources from hazardous wastes;  
20       ~~31.~~ 29.   Determine existing rates of production of hazardous  
21 waste;  
22       ~~32.~~ 30.   Promote recycling and recovery of resources from  
23 hazardous wastes;  
24

1       ~~33.~~ 31. Encourage the reduction or exchange, or both, of  
2 hazardous waste; and

3       ~~34.~~ 32. Cooperate with an existing information clearinghouse,  
4 to develop records of recyclable waste. Every generator of  
5 hazardous waste shall supply the Department with information for the  
6 clearinghouse. Each generator shall not be required to supply any  
7 more information than is required by the manifests. The Department  
8 shall make this information available to persons who desire to  
9 recycle the wastes. The information shall be made available in such  
10 a way that the trade secrets of the producer are protected.

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

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

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

23       ~~For generator disposal plan:       \$100.00 to \$10,000.00 per year~~

24       For permit application:       \$5,000.00 to \$50,000.00

1 For application resubmittal: \$100.00 to \$1,000.00

2 For monitoring: ~~\$100.00 to \$10,000.00~~

3 \$300.00 to \$2,000.00 per year.

4 C. The Environmental Quality Board shall develop a separate  
5 schedule of reduced fees of not less than Twenty-five Dollars  
6 (\$25.00) and no more than Seventy-five Dollars (\$75.00) for small  
7 quantity generators.

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

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

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

18 a. ~~Nine Dollars (\$9.00)~~ Nine Dollars and fifty cents  
19 (\$9.50) per ton for on-site or off-site storage,  
20 treatment or land disposal,

21 b. Four Dollars (\$4.00) per ton for off-site recycling,  
22 including regeneration, or

23 c. three cents (\$0.03) per gallon for on-site or off-site  
24 underground injection.



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

- 2            a. except as provided in subparagraph d of this  
3                paragraph, any person owning or operating an off-site  
4                hazardous waste treatment facility or disposal  
5                facility shall pay a total fee of not less than Fifty  
6                Thousand Dollars (\$50,000.00) each state fiscal year,  
7            b. any person owning or operating an on-site hazardous  
8                waste treatment facility, storage facility, or  
9                disposal facility shall pay a total fee of not less  
10              than Twenty Thousand Dollars (\$20,000.00) each state  
11              fiscal year. The annual fee for the on-site disposal  
12              of hazardous waste by underground injection shall not  
13              exceed Fifty Thousand Dollars (\$50,000.00),  
14            c. any person owning or operating an off-site facility  
15                for the storage or recycling of hazardous waste shall  
16                pay a total fee of not less than Twenty Thousand  
17                Dollars (\$20,000.00) each state fiscal year; provided,  
18                any such off-site recycling facility which  
19                consistently recycles fewer than ten (10) tons of  
20                hazardous waste per calendar month shall not be  
21                subject to this minimum annual fee. For the purpose  
22                of this subparagraph, storage includes physical  
23                separation or combining of wastes solely to facilitate

1           efficient storage at the facility and/or efficient  
2           transportation, and

3           d.   any person owning or operating an off-site facility  
4           which accepts hazardous waste exclusively for the  
5           purpose of conducting research and design tests shall  
6           pay a total fee of not less than Ten Thousand Dollars  
7           (\$10,000.00) each state fiscal year.

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

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

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

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

5       7. If a generator of characteristic hazardous waste or listed  
6 hazardous waste treats the waste on-site to meet Best Demonstrated  
7 Available Technology Standards and disposes of the waste on-site,  
8 the waste shall be subject to a reduced treatment or on-site  
9 disposal fee of one-half (1/2) the rate required by subparagraph a  
10 of paragraph 1 of this subsection; provided, such rate reduction  
11 shall not exceed Twenty-two Thousand Dollars (\$22,000.00) per  
12 calendar year.

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

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

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

19       C. Payment of the fees required by this section shall be due  
20 quarterly for hazardous waste received by the facility during the  
21 prior calendar quarter. Such quarterly payments shall be due on the  
22 first day of the month of the following quarter. All payments shall  
23 be made within thirty (30) days from the date they become due.  
24

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

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

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

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

- 20 a. the administration of the provisions of the Oklahoma  
21 Hazardous Waste Management Act,
- 22 b. the development of an inventory of hazardous wastes  
23 currently produced in Oklahoma and management needs  
24 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;

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

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

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

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

15        SECTION 5. It being immediately necessary for the preservation  
16 of the public peace, health or safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

19  
20 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
21 dated 02/18/2021 - DO PASS, As Coauthored.  
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