

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 622

By: Leewright

AS INTRODUCED

An Act relating to environment and natural resources; creating the Oklahoma PFAS Waste Act; defining terms; requiring promulgation of rules and regulations by Department of Environmental Quality on PFAS waste; specifying content of certain rules; establishing certain liability for PFAS waste generators; construing clause; requiring application and authorization for certain activities; authorizing Department to authorize certain activities; providing for certain classification of PFAS waste; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-7-501 of Title 27a, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma PFAS Waste Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-7-502 of Title 27a, unless there is created a duplication in numbering, reads as follows:

A. As used in the Oklahoma PFAS Waste Act:

1 1. "PFAS" means perfluoroalkyl and polyfluoroalkyl
2 substances; and

3 2. "PFAS waste" means:

- 4 a. aqueous film-forming foam ("AFFF") containing PFAS,
5 b. waste containing high concentrations of PFAS that is
6 generated at PFAS manufacturing and processing
7 facilities,
8 c. waste containing high concentrations of PFAS that is
9 generated at facilities using PFAS in the production
10 of products other than PFAS,
11 d. waste containing high concentrations of PFAS from
12 remediation projects,
13 e. any other treatment waste associated with the removal
14 of PFAS including but not limited to waste or waste
15 streams from spent water treatment materials used for
16 the removal of PFAS in drinking water, groundwater,
17 and/or leachate, and
18 f. any other waste that typically contains or is expected
19 to contain high concentrations of PFAS.

20 B. As used in the Oklahoma PFAS Waste Act, PFAS waste shall not
21 include consumer and industrial products that may incidentally
22 contain PFAS and are routinely discarded as part of the municipal
23 solid waste stream, unless the concentration of PFAS contained in
24 the waste substantially exceeds levels typically found or expected

1 in that type of waste or waste stream as determined by the
2 Department of Environmental Quality.

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2-7-503 of Title 27a, unless
5 there is created a duplication in numbering, reads as follows:

6 A. The Oklahoma Department of Environmental Quality shall adopt
7 and promulgate rules and regulations related to the receipt,
8 storage, treatment and disposal of PFAS waste in this state.

9 B. Rules and regulations adopted under subsection A of this
10 section shall include provisions requiring that any person accepting
11 PFAS waste for storage, treatment and/or disposal shall demonstrate
12 to the Department that the manner in which the PFAS waste is to be
13 stored, treated and/or disposed of is protective of human health and
14 the environment. The rules and regulations shall establish criteria
15 or guidelines to assist the Department in making a determination
16 regarding this protection.

17 C. Rules and regulations adopted under subsection A of this
18 section may require a person who stores, treats or disposes of PFAS
19 waste to provide financial assurance for applicable closure, post-
20 closure and corrective action requirements, or any potentially
21 necessary remedial or response actions. The rules and regulations
22 may establish requirements for types of financial assurance, methods
23 for calculating the necessary amounts of financial assurance,
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1 duration that the financial assurance shall be maintained and any
2 other requirements the Department deems appropriate.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2-7-504 of Title 27a, unless
5 there is created a duplication in numbering, reads as follows:

6 The generator of PFAS waste shall be responsible for ensuring
7 that the PFAS waste is disposed of properly and, in the event of a
8 spill, leak or release, shall be responsible for any necessary
9 removal or remedial action and any damages to persons, property or
10 natural resources resulting from such a release. A generator of
11 PFAS waste may not transfer this liability to any other person.
12 Nothing in this section shall prohibit any agreement to insure, hold
13 harmless, or indemnify a party to such agreement for any liability
14 under this section. Nothing in this section shall prohibit a cause
15 of action that the generator of the PFAS waste or any other person
16 subject to liability under this section, or a guarantor, may have or
17 would have, by reason of subrogation or otherwise, against such
18 person.

19 SECTION 5. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2-7-505 of Title 27a, unless
21 there is created a duplication in numbering, reads as follows:

22 A. A person shall submit an application for the activity to the
23 Department of Environmental Quality and shall receive authorization
24 from the Department prior to receiving, storing, treating or
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1 disposing of PFAS waste. The process and requirements necessary for
2 the authorization shall be governed by rules and regulations adopted
3 pursuant to Section 3 of this act. Prior to the adoption of such
4 rules and regulations , the Department may authorize the activities
5 covered under this subsection if it determines that the activities
6 will be conducted in a manner that is sufficiently protective of
7 human health and the environment as determined by the department.

8 B. PFAS waste generated in or transported from another state
9 shall maintain the same classification or characterization it would
10 receive in the state of origin, unless such classification or
11 characterization is less protective of human health and the
12 environment than the classification or characterization it would
13 have received if generated in this state.

14 SECTION 6. This act shall become effective July 1, 2021.

15 SECTION 7. 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.
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