

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 271

By: Rader

AS INTRODUCED

An Act relating to environment and natural resources; creating the Oklahoma Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Act; providing short title; defining terms; providing exemption from liability for certain passive receivers of PFAS; providing for liability in certain circumstances; requiring rule promulgation; requiring the creation of a fee schedule; requiring application and authorization for certain activities; providing for certain classification of waste; providing for codification; 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:

A. This act shall be known and may be cited as the "Oklahoma Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Act".

B. As used in the Oklahoma Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Act:

1. "AFFF" means aqueous film-forming foam containing intentionally added PFAS;

1 2. "AFFF waste" means AFFF, diluted AFFF, and water or soil
2 contaminated with AFFF containing intentionally added PFAS with a
3 concentration greater than one part per billion, which is abandoned,
4 discarded, disposed, destroyed, or stored pending disposal or
5 destruction; and

6 3. "PFAS" means perfluoroalkyl and polyfluoroalkyl substances.

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

10 A. Subject to subsection B of this section, the following
11 protected passive receivers of perfluoroalkyl and polyfluoroalkyl
12 substances (PFAS) that provide essential services shall not be
13 civilly liable to this state for costs arising from a release of
14 PFAS to the environment:

15 1. A public water system, as defined in Section 1401 of the
16 federal Safe Drinking Water Act, 42 U.S.C., Section 300f;

17 2. A publicly or privately owned or operated treatment works,
18 as defined in Section 212 of the Federal Water Pollution Control
19 Act, 33 U.S.C., Section 1292, or the owner of a site where biosolids
20 generated from a treatment works or a permitted municipal wastewater
21 lagoon, as defined by the administrative rules of the Department of
22 Environmental Quality, are applied;

1 3. A municipality to which a permit is issued for stormwater
2 discharges under Section 402 of the Federal Water Pollution Control
3 Act, 33 U.S.C., Section 1342;

4 4. A political subdivision of this state acting as a wholesale
5 water agency;

6 5. A contractor performing the management or disposal
7 activities described in subsection B of this section for an entity
8 described in paragraphs 1 through 4 of this subsection;

9 6. An entity with a fire suppression system installed or
10 otherwise in use, in accordance with applicable federal, state, and
11 local fire codes, that uses aqueous film-forming foam (AFFF)
12 containing PFAS;

13 7. A sponsor of the civilian portion of a joint-use airport or
14 a shared-use airport which releases PFAS as a result of the use of
15 AFFF pursuant to, and carried out in accordance with, Federal
16 Aviation Administration standards and guidance on the use of the
17 substances; and

18 8. An owner or operator of a solid waste management facility,
19 as defined in Section 1004 of the Solid Waste Disposal Act, 42
20 U.S.C., Section 6903, to the extent that the facility received
21 routine municipal solid waste, including commercial solid waste
22 containing incidental amounts of PFAS.

23 B. The exemption from liability contained in subsection A of
24 this section shall not apply if the release of PFAS resulted from a

1 material violation of relevant and applicable federal, state, or
2 other legal requirements or standards related to the management,
3 storage, transport, conveyance, treatment, discharge, and disposal
4 of PFAS, or of commonly accepted engineering standards in existence
5 at the time that the activity is carried out.

6 C. Nothing in this section shall preclude liability for damages
7 or costs associated with the release of PFAS by a protected passive
8 receiver of PFAS if the protected passive receiver acts with gross
9 negligence or willful misconduct in the discharge, disposal,
10 management, conveyance, or storage of PFAS.

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

14 A. 1. The Environmental Quality Board shall promulgate rules
15 related to the receipt, storage, treatment, and disposal of
16 perfluoroalkyl and polyfluoroalkyl substances (PFAS) in this state,
17 including rules related to a waste exclusion plan.

18 2. Rules promulgated under subsection A of this section shall
19 require that any person accepting aqueous film-forming foam (AFFF)
20 waste for storage, treatment, or disposal prove to the Department
21 that the manner of such storage, treatment, or disposal is
22 protective of human health and the environment. The Department
23 shall establish criteria and guidelines for determinations under
24 this subsection.

1 B. 1. The Board shall establish a schedule of fees, pursuant
2 to Section 2-3-402 of Title 27A of the Oklahoma Statutes and the
3 Administrative Procedures Act, for the application to dispose, and
4 for disposal of, AFFF waste at a facility in this state.

5 2. Any fees established pursuant to this subsection shall be in
6 lieu of any tonnage fees assessed to the holder of a permit by the
7 Department for solid or hazardous waste disposal. The fees shall be
8 deposited into the Department of Environmental Quality Revolving
9 Fund.

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

13 A. A person or entity seeking to receive, store, treat, or
14 dispose of more than two hundred (200) pounds of aqueous film-
15 forming foam (AFFF) waste per day shall submit an application to the
16 Department of Environmental Quality and receive authorization for
17 such action. The Department, in the exercise of its reasonable
18 discretion, may waive specific requirements of this act or rules
19 where there is no feasible alternative to the storage, treatment, or
20 disposal at issue and the action does not result in a greater risk
21 to human health and the environment. Prior to the promulgation of
22 rules in Section 3 of this act, the Department may authorize the
23 continuation of activities under this subsection if it determines
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1 that the activities will be conducted in a manner that is
2 sufficiently protective of human health and the environment.

3 B. Nothing in this section shall relieve the manufacturer of
4 perfluoroalkyl and polyfluoroalkyl substances (PFAS) containing
5 material from liability related to the storage, treatment, or
6 disposal of PFAS waste.

7 C. 1. AFFF waste generated in or transported from another
8 state shall maintain the same classification or characterization it
9 would receive in the state of origin, unless such classification or
10 characterization is less protective of human health and the
11 environment than the classification or characterization it would
12 have received if generated in this state.

13 2. If AFFF waste generated in or transported from another state
14 is banned from disposal in the state of origin, then the waste is
15 similarly banned from disposal in Oklahoma, unless the AFFF waste is
16 effectively banned from disposal in the state of origin due to a
17 lack of permitted hazardous waste landfills within the state. If
18 the AFFF waste is effectively banned from disposal in the state of
19 origin due to a lack of permitted hazardous waste landfills within
20 the state, then the AFFF waste may be disposed of in landfills
21 permitted under the Oklahoma Hazardous Waste Management Act pursuant
22 to Section 2-7-101 et seq. of Title 27A of the Oklahoma Statutes.

23 SECTION 5. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
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