

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2305

6 By: Pfeiffer

7 COMMITTEE SUBSTITUTE

8 An Act relating to environment and natural resources;
9 creating the Oklahoma PFAS Act; defining terms;
10 requiring promulgation of rules and regulations by
11 the Oklahoma Department of Environmental Quality on
12 PFAS waste; specifying content of certain rules;
13 requiring the creation of a fee schedule for the
14 disposal of PFAS substances; establishing certain
15 liability for PFAS waste generators; creating certain
16 liability exceptions for certain passive receivers of
17 PFAS substances; construing clause; requiring
18 application and authorization for certain activities;
19 authorizing Department to authorize certain
20 activities; providing for certain classification of
21 PFAS waste; providing for codification; and providing
22 an effective date.

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

24 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
Act".

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

4 A. As used in the Oklahoma PFAS Act:

5 1. "PFAS" means perfluoroalkyl and polyfluoroalkyl substances;
6 and

7 2. "PFAS waste" means the following materials containing high
8 concentrations of PFAS that are being abandoned, discarded, disposed
9 of, destroyed, or stored pending such disposal or destruction:

10 a. waste aqueous film-forming foam ("AFFF") containing
11 PFAS,

12 b. waste containing high concentrations of PFAS that is
13 generated at PFAS manufacturing and processing
14 facilities,

15 c. waste containing high concentrations of PFAS that is
16 generated at facilities using PFAS in the production
17 of products other than PFAS,

18 d. waste containing high concentrations of PFAS from
19 remediation projects,

20 e. any treatment waste containing high concentrations of
21 PFAS associated with the removal of PFAS including,
22 but not limited to, waste or waste streams from spent
23 water treatment materials used for the removal of PFAS
24 in drinking water or groundwater, and

1 f. any other waste that typically contains or is expected
2 to contain high concentrations of PFAS.

3 3. "High concentrations of PFAS" means a PFAS concentration
4 that poses an unacceptable risk to human health or the environment
5 as determined through criteria established by rules promulgated
6 pursuant to Section 2-3-402 of the Oklahoma Statutes and the
7 Administrative Procedures Act.

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

11 A. Subject to subsection B of this section, the following
12 protected passive receivers of PFAS waste that provide essential
13 services shall not be liable to the State of Oklahoma, or any
14 political subdivision of the state, for costs arising from a release
15 to the environment of a PFAS substance:

16 1. A public water system (as defined in Section 1401 of the
17 Federal Safe Drinking Water Act (42 U.S.C. 300f));

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

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

4 4. A political subdivision of the State of Oklahoma acting as a
5 wholesale water agency;

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

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 AFFF containing PFAS;

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

17 8. An owner or operator of a solid waste management facility
18 (as defined in Section 1004 of the Solid Waste Disposal Act (42
19 U.S.C. 6903)).

20 B. The exemption from liability contained in subsection A shall
21 only apply if the protected passive receiver of a PFAS substance
22 manages, transports, conveys, treats, disposes of, or arranges for
23 the transport, treatment, or disposal of the PFAS substance, in
24 accordance with all relevant and applicable federal, state, or local

1 permits or other legal requirements, and the most recently approved
2 engineering standards, at the time that the activity is carried out.

3 C. Nothing in this section precludes liability for damages or
4 costs associated with the release of a PFAS substance by a protected
5 passive receiver of a PFAS substance if the protected passive
6 receiver acted with gross negligence or willful misconduct in the
7 discharge, disposal, management, conveyance, or storage of the PFAS
8 substance.

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

12 A. The Environmental Quality Board shall adopt and promulgate
13 rules and regulations related to the receipt, storage, treatment,
14 and disposal of PFAS waste in this state.

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

23 C. The Environmental Quality Board shall establish a schedule
24 of fees, pursuant to Section 2-3-402 of the Oklahoma Statutes and

1 the Administrative Procedures Act, for the application to dispose,
2 and for disposal of, PFAS waste based on the type and amount of PFAS
3 waste disposed of at a facility in Oklahoma. The fees shall be
4 deposited into the Oklahoma Department of Environmental Quality
5 Revolving Fund.

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

9 A. A person shall submit an application for the activity to the
10 Oklahoma Department of Environmental Quality and shall receive
11 authorization from the Department prior to receiving, storing,
12 treating, or disposing of PFAS waste. The process and requirements
13 necessary for the authorization shall be governed by rules and
14 regulations adopted pursuant to Section 3 of this act. The
15 Department, in the exercise of its reasonable discretion, may waive
16 specific requirements of this act or the adopted rules where there
17 is no feasible alternative to the storage, treatment, or disposal at
18 issue and the action does not result in a greater risk to human
19 health and the environment. Prior to the adoption of such rules and
20 regulations, the Department may authorize the continuation of
21 activities covered under this subsection if it determines that the
22 activities will be conducted in a manner that is sufficiently
23 protective of human health and the environment as determined by the
24 Department.

1 B. Nothing in this section shall relieve the manufacturer of
2 PFAS-containing material from liability related to the storage,
3 treatment, and/or disposal of PFAS waste.

4 C. PFAS waste generated in or transported from another state
5 shall maintain the same classification or characterization it would
6 receive in the state of origin, unless such classification or
7 characterization is less protective of human health and the
8 environment than the classification or characterization it would
9 have received if generated in this state. If the PFAS waste
10 generated in or transported from another state is banned from
11 disposal in the state of origin, then the waste is similarly banned
12 from disposal in Oklahoma.

13 SECTION 6. This act shall become effective November 1, 2024.

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