

<DateSubmitted>

HOUSE OF REPRESENTATIVES  
CONFERENCE COMMITTEE REPORT

Mr. President:  
Mr. Speaker:

The Conference Committee, to which was referred

**HB2305**

By: Pfeiffer of the House and Rader of the Senate

Title: Environment and natural resources; creating the Oklahoma PFAS Act; requiring promulgation of rules and regulations by the Department of Environmental Quality on PFAS waste; emergency.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

**SENATE CONFEREES**

Rader \_\_\_\_\_  
Paxton \_\_\_\_\_  
Green \_\_\_\_\_  
Howard \_\_\_\_\_  
Jett \_\_\_\_\_  
Boren \_\_\_\_\_

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 2305

By: Pfeiffer and Alonso-  
Sandoval of the House

7 and

Rader of the Senate

8  
9  
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to environment and natural resources;  
12 creating the Oklahoma Perfluoroalkyl and  
13 Polyfluoroalkyl Substances (PFAS) Act; defining  
14 terms; providing exemption from liability for certain  
15 passive receivers of PFAS; providing when exemption  
16 from liability does not apply; requiring promulgation  
17 of rules and regulations by the Environmental Quality  
18 Board of the Oklahoma Department of Environmental  
19 Quality on PFAS waste; specifying content of certain  
20 rules; requiring the creation of a fee schedule for  
21 the disposal of certain substances; requiring  
22 application and authorization for certain activities;  
23 authorizing Department to authorize certain  
24 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:

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

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

6 As used in the Oklahoma Perfluoroalkyl and Polyfluoroalkyl  
7 Substances (PFAS) Act:

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

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

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

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

19 A. Subject to subsection B of this section, the following  
20 protected passive receivers of perfluoroalkyl and polyfluoroalkyl  
21 substances (PFAS) that provide essential services shall not be  
22 liable to this state for costs arising from a release of PFAS to the  
23 environment:

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

3        2. A publicly or privately owned or operated treatment works,  
4 as defined in Section 212 of the federal Water Pollution Control  
5 Act, 33 U.S.C., Section 1292, or the owner of a site where biosolids  
6 generated from a treatment works or a permitted municipal wastewater  
7 lagoon, as defined by the administrative rules of the Oklahoma  
8 Department of Environmental Quality, are applied;

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

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

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

17        6. An entity with a fire suppression system installed or  
18 otherwise in use, in accordance with applicable federal, state, and  
19 local fire codes, that uses aqueous film-forming foam containing  
20 PFAS;

21        7. A sponsor of the civilian portion of a joint-use airport or  
22 a shared-use airport with the release of PFAS resulting from the use  
23 of aqueous film-forming foam (AFFF) pursuant to, and carried out in  
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1 accordance with, Federal Aviation Administration standards and  
2 guidance on the use of the substances; and

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

8 B. The exemption from liability contained in subsection A of  
9 this section shall not apply if the release of PFAS resulted from a  
10 material violation of relevant and applicable federal, state, or  
11 other legal requirements or standards related to the management,  
12 storage, transport, conveyance, treatment, discharge, and disposal  
13 of PFAS, or of commonly accepted engineering standards, in existence  
14 at the time that the activity is carried out.

15 C. Nothing in this section precludes liability for damages or  
16 costs associated with the release of PFAS by a protected passive  
17 receiver of PFAS if the protected passive receiver acted with gross  
18 negligence or willful misconduct in the discharge, disposal,  
19 management, conveyance, or storage of PFAS.

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

23 A. The Environmental Quality Board of the Oklahoma Department  
24 of Environmental Quality shall promulgate rules related to the

1 receipt, storage, treatment, and disposal of perfluoroalkyl and  
2 polyfluoroalkyl substances (PFAS) in this state, including rules  
3 related to a waste exclusion plan.

4 B. Rules promulgated under subsection A of this section shall  
5 include provisions requiring that any person accepting aqueous film-  
6 forming foam waste for storage, treatment, or disposal shall prove  
7 to the Oklahoma Department of Environmental Quality that the manner  
8 in which the aqueous film-forming foam (AFFF) waste is to be stored,  
9 treated, or disposed of is protective of human health and the  
10 environment. The Department shall establish criteria and guidelines  
11 to assist in making a determination regarding this protection.

12 C. The Environmental Quality Board of the Oklahoma Department  
13 of Environmental Quality shall establish a schedule of fees,  
14 pursuant to Section 2-3-402 of Title 27A of the Oklahoma Statutes  
15 and the Administrative Procedures Act, for the application to  
16 dispose, and for disposal of, AFFF waste at a facility in Oklahoma.  
17 Provided, any fees established pursuant to this subsection shall be  
18 in lieu of any tonnage fees assessed to the holder of a permit by  
19 the Department for solid or hazardous waste disposal. The fees  
20 shall be deposited into the Oklahoma Department of Environmental  
21 Quality Revolving Fund.

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

1       A. A person shall submit an application to the Oklahoma  
2 Department of Environmental Quality and shall receive authorization  
3 from the Department prior to receiving, storing, treating, or  
4 disposing of more than two hundred (200) pounds of aqueous film-  
5 forming foam (AFFF) waste per day. The process and requirements  
6 necessary for the authorization shall be governed by the rules  
7 promulgated pursuant to Section 4 of this act. The Department, in  
8 the exercise of its reasonable discretion, may waive specific  
9 requirements of this act or rules where there is no feasible  
10 alternative to the storage, treatment, or disposal at issue and the  
11 action does not result in a greater risk to human health and the  
12 environment. Prior to the promulgation of rules in Section 4 of  
13 this act, the Department may authorize the continuation of  
14 activities covered under this subsection if it determines that the  
15 activities will be conducted in a manner that is sufficiently  
16 protective of human health and the environment as determined by the  
17 Department.

18       B. Nothing in this section shall relieve the manufacturer of  
19 perfluoroalkyl and polyfluoroalkyl substances (PFAS) containing  
20 material from liability related to the storage, treatment, or  
21 disposal of PFAS waste.

22       C. AFFF waste generated in or transported from another state  
23 shall maintain the same classification or characterization it would  
24 receive in the state of origin, unless such classification or



1 characterization is less protective of human health and the  
2 environment than the classification or characterization it would  
3 have received if generated in this state. If the AFFF waste  
4 generated in or transported from another state is banned from  
5 disposal in the state of origin, then the waste is similarly banned  
6 from disposal in Oklahoma unless the AFFF waste is effectively  
7 banned from disposal in the state of origin due to a lack of  
8 permitted hazardous waste landfills within the state. If the AFFF  
9 waste is effectively banned from disposal in the state of origin due  
10 to a lack of permitted hazardous waste landfills within the state,  
11 then the AFFF waste may be disposed of in landfills permitted under  
12 the Oklahoma Hazardous Waste Management Act (OHWMA) pursuant to  
13 Section 7-101 et seq. of Title 27A of the Oklahoma Statutes.

14 SECTION 6. It being immediately necessary for the preservation  
15 of the public peace, health or safety, an emergency is hereby  
16 declared to exist, by reason whereof this act shall take effect and  
17 be in full force from and after its passage and approval.

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19 59-2-11097 JL 05/09/24

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