

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 29

BY: GILES of the SENATE

and

WIDENER of the HOUSE

(AN ACT RELATING TO PUBLIC HEALTH AND SAFETY -

AMENDING 63 O.S. 1991, SECTION 1-2302 -

EMERGENCY)

AUTHOR: Add the following House Coauthor: LITTLEFIELD

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"AN ACT RELATING TO PUBLIC HEALTH AND SAFETY; AMENDING 63 O.S. 1991, SECTIONS 1-2002, 1-2005.3A, 1-2014.3, 1-1701 AND 1-1702, WHICH RELATE TO CONTROLLED INDUSTRIAL WASTE; DEFINING TERMS; MODIFYING CERTAIN FEES FOR WASTE DISPOSAL; PROVIDING FOR CERTAIN FEES TO BE ASSESSED TO WASTE GENERATED OUTSIDE OF THE STATE OF OKLAHOMA; STATING CERTAIN ANNUAL FEE FOR ON-SITE DISPOSAL OF CONTROLLED INDUSTRIAL WASTE BY UNDERGROUND INJECTION; STATING CERTAIN ANNUAL FEE FOR FACILITIES CONDUCTING RESEARCH AND DESIGN TESTS; AUTHORIZING OFF-SITE FACILITIES TO CHARGE PERSONS CONTRACTING FOR SERVICES THEIR PROPORTIONAL SHARE OF CERTAIN FEES; STATING FEES SHALL BE BASED ON PURPOSE FOR WHICH WASTE WAS GENERATED; STATING PROCEDURE FOR COMPUTING CERTAIN FEE; REQUIRING CERTAIN AMOUNT OF FEES COLLECTED FROM OFF-SITE CONTROLLED INDUSTRIAL WASTE FACILITIES TO BE DEPOSITED IN CERTAIN ECONOMIC DEVELOPMENT TRUST FUNDS; AUTHORIZING COMMISSIONER OF HEALTH TO EXPEND FUNDS FOR SPECIFIC PURPOSES; AUTHORIZING THE STATE DEPARTMENT OF HEALTH TO ENTER INTO CERTAIN AGREEMENTS WITH OTHER STATES TO ESTABLISH RECIPROCAL FEE SYSTEM RELATING TO IMPORTATION OF CONTROLLED INDUSTRIAL WASTE; PROHIBITING THE DEPARTMENT OF HEALTH FROM ISSUING, RENEWING OR TRANSFERRING PERMITS FOR CONTROLLED INDUSTRIAL WASTE FACILITIES UNDER CERTAIN CIRCUMSTANCES; DEFINING TERMS; REQUIRING APPLICANTS FOR PERMITS TO FILE DISCLOSURE STATEMENTS; STATING EXCEPTION; AUTHORIZING THE DEPARTMENT OF HEALTH TO REVOKE OR REFUSE PERMITS IF APPLICANTS ARE NOT IN COMPLIANCE WITH CERTAIN ORDERS OR HAVE EVIDENCED CERTAIN DISREGARD FOR PROTECTION OF PUBLIC HEALTH AND SAFETY; REQUIRING PERMIT APPLICANT TO SIGN APPLICATION UNDER OATH; AUTHORIZING DEPARTMENT OF HEALTH TO REFUSE CERTAIN PERMITS TO PERSONS GIVING FALSE

INFORMATION ON DISCLOSURE STATEMENTS; PROVIDING PENALTY FOR CONVICTION OF WILLFULLY FAILING TO DISCLOSE OR FALSELY STATING REQUIRED INFORMATION; STATING EXCEPTION; REQUIRING THE STATE BOARD OF HEALTH TO PROMULGATE CERTAIN RULES; STATING APPLICABILITY OF CERTAIN PROVISIONS; INCLUDING CERTAIN WASTES IN PROHIBITION OF FACILITIES LOCATED WITHIN CERTAIN DISTANCE FROM CITY LIMITS; STATING POLICY OF SOURCE REDUCTION OF HAZARDOUS WASTE; PROVIDING GOAL BY CERTAIN DATE; DEFINING TERMS; AUTHORIZING DEPARTMENT TO ADMINISTER OKLAHOMA HAZARDOUS WASTE REDUCTION PROGRAM; AUTHORIZING THE DEPARTMENT TO EVALUATE HAZARDOUS WASTE REDUCTION ACTIVITIES WITHIN THE STATE OF OKLAHOMA; AUTHORIZING THE STATE BOARD OF HEALTH TO PROMULGATE RULES TO PROVIDE ECONOMIC INCENTIVES TO ENCOURAGE WASTE REDUCTION; REQUIRING ANY FIRM SEEKING FEE REDUCTIONS TO SUBMIT A HAZARDOUS WASTE REDUCTION PLAN INCLUDING CERTAIN INFORMATION; REQUIRING PLAN TO BE UPDATED PERIODICALLY; REQUIRING CERTIFIED REPORTS OF HAZARDOUS WASTES GENERATED; STATING CERTAIN REPORTS SHALL BE PUBLIC RECORDS; AUTHORIZING THE DISTRICT ATTORNEY OR DEPARTMENT OF HEALTH TO FILE ACTIONS FOR INJUNCTIVE RELIEF OR REDRESS OR RESTRAIN A VIOLATION OF CERTAIN CODES; UPDATING STATUTORY REFERENCES; PROVIDING PENALTY FEE FOR FAILURE TO PAY CERTAIN LICENSE OR PERMIT RENEWAL FEES; PROHIBITING THE DEPARTMENT OF HEALTH FROM EXCEEDING CERTAIN AMOUNTS FOR CERTAIN ANNUAL ASSESSMENTS; PROVIDING FOR CODIFICATION; PROVIDING EFFECTIVE DATES; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-2002, is amended to read as follows:

Section 1-2002. As used in this act, unless the context otherwise requires:

1. "Controlled industrial waste" is defined as waste materials and byproducts, either solid or liquid, which are to be discarded by the generator or recycled and which are toxic to human, animal, aquatic or plant life and which are generated in such quantity that they cannot be safely disposed of in properly operated, state-approved sanitary land fills, waste or sewage treatment facilities. Controlled industrial waste may include but is not limited to explosives, flammable liquids, spent acids, caustic solutions, poisons, containerized gases, sludges, tank bottoms containing heavy metallic ions, toxic organic chemicals, and materials such as paper, metal, cloth or wood which are contaminated with controlled industrial waste, and excludes domestic sewage;

2. "Disposal" means the final disposition of controlled industrial waste;

3. "Department" means the State Department of Health;

4. "Disposal site" means the location where any final disposition of controlled industrial waste occurs. Disposal sites include but are not limited to injection wells and surface disposal sites;

5. "Person" means any individual, corporation, industry, firm, partnership, association, venture, trust, institution, federal, state or local governmental instrumentality, agency or body or any other legal entity however organized;

6. "Treatment" means the detoxification, neutralization, incineration or biodegradation of controlled industrial waste in order to remove or reduce its harmful properties or characteristics;

7. "Treatment facility" means any location where treating or recycling of controlled industrial waste occurs;

8. "Recycling" means the reuse, processing, treating, neutralizing or rerefining of controlled industrial waste into a product which is being reused or which has been sold for beneficial use. Controlled industrial waste which is intended for fuel is not deemed to be recycled until it is actually burned;

9. "Storage facility" means any location where the temporary holding of controlled industrial waste occurs, including any tank, pit, lagoon, pond, or other specific place or area;

10. "Controlled industrial waste facility" as used herein shall mean and include storage and treatment facilities and disposal sites;

11. "Board" means the State Board of Health;

12. "Council" means the Controlled Industrial Waste Management Council;

13. "Site" or "proposed site" means the surface area of a disposal site, or other controlled industrial waste facility, as applied for in the application for a permit for the facility;

14. "On-site treatment, storage, recycling or disposal" means the treatment, storage, recycling or disposal at a controlled

industrial waste facility of controlled industrial waste generated by the owner of the facility;

15. "Off-site treatment, storage, recycling or disposal" means the treatment, storage, recycling or disposal at a controlled industrial waste facility of controlled industrial waste not generated by the owner of the facility; ~~and~~

16. "Multi-user on-site treatment facility" means a treatment facility for controlled industrial waste generated by the co-owners of the facility and which meets the criteria specified by Section 1-2008.1 of this title; and

17. "Regeneration" or "regenerated" means the regeneration of spent activated carbon to render it reusable, and any treatment, storage or disposal associated therewith.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-2005.3A, is amended to read as follows:

Section 1-2005.3A A. Every controlled industrial waste treatment facility, storage facility, underground injection facility, disposal facility, or off-site facility that recycles controlled industrial waste subject to the provisions of the Oklahoma Controlled Industrial Waste Disposal Act shall pay an annual fee on the amount of controlled industrial waste managed by such facility to the State Department of Health for deposit in the Public Health Special Fund.

1. Such fees shall be, subject to the qualifications provided in ~~subparagraph~~ paragraph 2 of this subsection:

- a. ~~Six Dollars and fifty cents (\$6.50)~~ For controlled industrial waste generated within the State of Oklahoma, Nine Dollars (\$9.00) per ton for ~~the~~ on-site or off-site storage, treatment or land disposal ~~of controlled industrial waste.~~
- b. For controlled industrial waste generated within the State of Oklahoma, or elsewhere in the case of

regeneration, Four Dollars (\$4.00) per ton for the off-site recycling of controlled industrial waste or regeneration.

c. Three For controlled industrial waste generated within the State of Oklahoma, three cents (\$0.03) per gallon for the on-site or off-site underground injection of controlled industrial waste.

d. Except as provided in subparagraph b of this paragraph with respect to regeneration, for controlled industrial waste generated outside the State of Oklahoma, such fee shall be based upon the primary purpose for which the waste is imported into the State of Oklahoma, and shall be the greater of:

(1) the fee which would have been applicable under subparagraphs a, b, or c of this paragraph, if the waste had been both generated and stored, treated, land disposed, recycled or injected within the State of Oklahoma, or

(2) a reciprocal fee at the rate of and in accordance with the method of imposition of the tax or fee imposed on the storage, treatment, land disposal or recycling of imported waste in the state, country, or territory where the waste was generated, as determined by the State Department of Health. Any person storing, treating, disposing or recycling such waste in Oklahoma shall file with the State Department of Health an affidavit showing the applicable tax or fee for any waste received from another state, country, or territory had it been stored, treated or disposed of in a like manner in that state, country or territory. Provided, if the state,

country or territory where such waste is generated has no authorized commercial facility capable of treating, recycling or disposing of hazardous waste, the fee shall be equivalent to the average fee for such storage, treatment, land disposal or recycling for the states or territories within the same United States Environmental Protection Agency Region as the state or territory in which the waste originated, and which assess a volume-based fee for such activities. In the event the waste originates in a country or territory which has no commercial facilities and is not within a United States Environmental Protection Agency Region, the fee shall be equivalent to the average fee for such storage, treatment, land disposal or recycling for the states or territories within the same United States Environmental Protection Agency Region as the state or territory of the United States in which the waste is first received, and which assess a volume-based fee for such activities.

2. There shall be a minimum fee per facility as follows:
 - a. Any Except as provided in subparagraph d of this paragraph, any person owning, or operating, an off-site controlled industrial waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year.
 - b. Any person owning, or operating, an on-site controlled industrial waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less

than Twenty Thousand Dollars (\$20,000.00) each state fiscal year; provided, the annual fee for the on-site disposal of controlled industrial waste by underground injection shall not exceed Fifty Thousand Dollars (\$50,000.00).

c. Any person owning, or operating, an off-site facility for the recycling of controlled industrial waste shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year.

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

~~3. The minimum fees provided for in paragraph 2 of this subsection shall not apply to treatment facilities accepting controlled industrial waste exclusively for the purpose of conducting treatment research and design tests.~~

~~4. 3. Facilities are hereby authorized to~~ Off-site facilities ~~may charge the person~~ persons contracting for the services of the facility their proportional share of the fees required by the provisions of this section.

~~5. 4.~~ The facility shall become liable for payment of the fee on each ton or gallon of controlled industrial waste at the time it is received. The fee shall be payable by the facility to the Department of Health only as provided for in subsection C of this section.

~~6. 5.~~ The fee imposed by the provisions of this section shall be payable only once without regard to any subsequent handling ~~and~~ of the controlled industrial waste. The fee shall be based on the purpose for which the waste ~~has been~~ was generated by or brought to the facility. In no event shall a facility be required to pay a fee

on each step or process involved in the storage, treatment, or disposal of the waste at the facility or a related facility under common control.

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

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

1. ~~Those facilities~~ Facilities engaged only in the on-site recycling of controlled industrial waste; and

2. ~~Those facilities~~ Facilities which have not generated or received new controlled industrial waste within the preceding state fiscal year.

C. Payment of the fees required by this section shall be due quarterly for controlled industrial waste received by the facility during the prior quarter. Such quarterly payments shall be due on the first day of the month of the following quarter during the state fiscal year in which the controlled industrial waste is received. All payments shall be made within thirty (30) days from the date it becomes due.

D. The fees ~~provided for in~~ required by this section shall be paid in lieu of the monitoring fees imposed in paragraph 2 of subsection A of Section 1-2005.2 of this title. All facilities subject to the provisions of this section shall not be required to pay or collect any additional fees for waste disposal unless specifically ~~provided for in~~ required by the Oklahoma Controlled Industrial Waste Disposal Act.

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

1. Ten percent (10%) of the fees collected from an off-site controlled industrial waste facility pursuant to the provisions of this section shall be deposited to the credit of the Special Economic Development Trust Funds established pursuant to Section ~~6~~ 1-2005.3C of this ~~act~~ title. The funds for the Trusts accruing pursuant to the provisions of this section shall be distributed to each Trust established in proportion to the fees generated by the off-site controlled industrial waste facilities within the Trust area.

2. The State Commissioner of Health shall expend monies received pursuant to the provisions of this section for one or more of the following purposes:

- a. The administration of the provisions of the Oklahoma Controlled Industrial Waste Disposal Act,
- b. The development of an inventory of controlled industrial wastes currently produced in Oklahoma and management needs 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 controlled industrial waste facilities which may include full-time inspectors at off-site controlled industrial 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 Commissioner ~~may~~ 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 ~~the~~ emergency situations involving spillage, leakage, emissions or other discharge of controlled industrial waste or controlled industrial 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;

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

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

5. Financial assistance to municipalities or counties for the purposes and under the conditions specified in Section 1-2019 of this title.

G. Notwithstanding subparagraph d of paragraph 1 of subsection A of this section, the State Department of Health is hereby authorized, to the extent authorized by corresponding legislation in any other state, to enter into an agreement with the chief hazardous waste regulatory agency for such other state, establishing a reciprocal fee system for the import into the State of Oklahoma of controlled industrial waste from such state, and the export from the State of Oklahoma of controlled industrial waste to such state. Provided, in no event shall the fees established under such

agreement be less than the fees specified in subparagraphs a, b and c of paragraph 1 of subsection A of this section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2004.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. In order to protect the public health and safety and the environment of this state, the Oklahoma State Department of Health, pursuant to the Oklahoma Controlled Industrial Waste Disposal Act, shall not issue, renew, or transfer a permit for the construction or operation of a controlled industrial waste facility for treatment, storage, recycling or disposal to or from any person, who:

1. Is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to the generation, storage, transportation, treatment, recycling or disposal of "controlled industrial waste", as such term is defined by the Oklahoma Controlled Industrial Waste Disposal Act, or "hazardous waste", as such term is defined by the United States Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act, or "solid waste", as such term is defined by the Oklahoma Solid Waste Management Act;

2. Has evidenced a reckless disregard for the protection of the public and the environment as demonstrated by a history of noncompliance with environmental laws and regulations resulting in endangerment of human health or the environment; or

3. Has as an affiliated person any person who is described by paragraph 1 or 2 of this subsection.

B. For the purposes of this section:

1. "Affiliated person" includes but is not limited to:

a. any officer, director or partner of the applicant,

- b. any person employed by the applicant as a general or key manager who directs the operations of the site or facility which is the subject of the application, and
- c. any person owning or controlling more than five percent (5%) of the applicant's debt or equity;

2. "Disclosure statement" means a written statement by the applicant which contains:

- a. the full name, business address, and social security number of the applicant, and all affiliated persons,
- b. the full name and address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%), or which is a parent company or subsidiary of the applicant, and a description of the on-going organizational relationships as they may impact operations within the state,
- c. a description of the experience and credentials of the applicant, including any past or present permits, licenses, certifications, or operational authorizations relating to environmental facility regulation,
- d. a listing and explanation of any administrative, civil or criminal legal actions against the applicant or any affiliated person which resulted in a final agency order or final judgment by a court of record including, but not limited to, final orders or judgments on appeal in the ten (10) years immediately preceding the filing of the application relating to the generation, transportation, storage, treatment, recycling or disposal of "controlled industrial waste" as defined by the Oklahoma Controlled Industrial Waste Disposal Act or "hazardous waste" as defined by the United States Environmental Protection Agency pursuant

to the Federal Reserve Conservation and Recovery Act, or "solid waste" as defined by the Oklahoma Solid Waste Management Act. Such actions shall include, without limitation, any permit denial or any sanction imposed by a state regulatory authority or the United States Environmental Protection Agency, and

- e. a listing of any federal environmental agency and any state environmental agency outside this state that has or has had regulatory responsibility over the applicant;

3. "History of noncompliance" means any past operations by an applicant or affiliated persons which clearly indicate a reckless disregard for environmental regulation or demonstrate a pattern of prohibited conduct which could reasonably be expected to result in adverse environmental impact if a permit were issued, as evidenced by findings, conclusions and rulings of any final agency order or final order or judgment of a court of record; and

4. "Department" means the Oklahoma State Department of Health.

C. 1. Except as provided in paragraph 2 of this subsection, all applicants for the issuance, renewal or transfer of any controlled industrial waste permit, license, certification or operational authority issued by the Department shall file a disclosure statement with their applications.

2. If the applicant is a publicly held company required to file periodic reports under the Securities and Exchange Act of 1934, or a wholly owned subsidiary of a publicly held company, the applicant shall not be required to submit a disclosure statement, but shall submit the most recent annual and quarterly reports required by the Securities and Exchange Commission, which provide information regarding legal proceedings in which the applicant has been involved. The applicant shall submit such other relevant information as the Commissioner may require that relates to the

competency, reliability, or responsibility of the applicant and affiliated persons.

D. The Department is authorized to revoke, or to refuse to issue, to renew, or to transfer a permit for the construction or operation of a controlled industrial waste facility for treatment, storage, recycling or disposal to any person, who:

1. Is not due solely to the actions or inactions of the applicant or affiliated person, in substantial compliance with any final agency order or final order or judgment of a court of record secured by the Department issued pursuant to the provisions of the Oklahoma Controlled Industrial Waste Disposal Act or the Oklahoma Solid Waste Management Act;

2. Is not due solely to the actions or inactions of the applicant or affiliated person, in substantial compliance with any final agency order or final order or judgment of a court of record secured by any state or federal agency, as determined by that agency, relating to the generation, storage, transportation, treatment, recycling or disposal of any "controlled industrial waste", as such term is defined by the Oklahoma Controlled Industrial Waste Disposal Act, or "hazardous waste", as such term is defined by the United States Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act, or "solid waste" as such term is defined by the Oklahoma Solid Waste Management Act;

3. Has evidenced a history of a reckless disregard for the protection of the public health and safety or the environment through a history of noncompliance with state or federal environmental laws, including without limitation the rules and regulations of the Oklahoma State Department of Health or the United States Environmental Protection Agency regarding the generation, storage, transportation, treatment, recycling or disposal of any "controlled industrial waste", as such term is defined by the

Oklahoma Controlled Industrial Waste Disposal Act, or "hazardous waste", as such term is defined by the United States Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act, or "solid waste" as such term is defined by the Oklahoma Solid Waste Management Act; or

4. Has as an affiliated person any person who is described by paragraphs 1, 2 or 3 of this subsection.

E. 1. An application for a permit for the construction or operation of a controlled industrial waste facility for treatment, storage, recycling or disposal or a renewal thereof shall be signed under oath by the applicant.

2. The Department may refuse to renew, or may suspend or revoke, a permit issued pursuant to the Oklahoma Controlled Industrial Waste Disposal Act for the construction or operation of a controlled industrial waste facility for treatment, storage, recycling or disposal to any person who has failed to disclose or states falsely any information required pursuant to the provisions of this section. Any person who willfully fails to disclose or states falsely any such information, upon conviction, shall be guilty of a felony and may be punished by imprisonment for not more than five (5) years or fined not more than One Hundred Thousand Dollars (\$100,000.00) or both such fine and imprisonment.

F. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of such final order or judgment shall not be considered a final order or judgment for the purposes of this section.

G. The State Board of Health shall promulgate rules pursuant to the Administrative Procedures Act as may be necessary and appropriate to implement the provisions of this section.

H. The provisions of this section shall apply to:

1. Any pending or future application for a construction permit for land disposal or treatment of controlled industrial waste,

except treatment at a facility accepting controlled industrial waste exclusively for the purpose of conducting research and design tests; and

2. Any application for a construction or operations permit for controlled industrial waste treatment, storage, recycling or disposal which is initially submitted to the Department after July 31, 1992, or which has not been determined by the Department to be technically complete by December 31, 1993, regardless of the initial submittal date.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 1-2014.3, is amended to read as follows:

Section 1-2014.3 A. Except as provided in subsections B and C of this section, no construction or operation permit shall be issued for a new controlled industrial waste facility for the off-site disposal of controlled industrial waste or the off-site treatment of controlled industrial waste by incinerator to be located within eight (8) miles of the corporate limits of any incorporated city or town. For the purposes of this section the corporate limits of an incorporated city or town shall be the corporate limits in effect on January 1 of the year the application is filed, and a new controlled industrial waste facility means a controlled industrial waste facility that was not in operation and actively treating controlled industrial waste by incineration or disposing of controlled industrial waste during the year preceding the effective date of this act. Addition of new treatment, storage or disposal units to an existing controlled industrial waste facility does not constitute a new facility. For the purposes of this subsection, off-site disposal of controlled industrial waste shall include but not be limited to disposal of the wastes or residues resulting from the treatment at such facility of controlled industrial waste originating off-site regardless of whether such treatment removes its controlled industrial waste characteristics.

B. This section shall not apply to any facility accepting controlled industrial waste exclusively for the purpose of conducting treatment research and design tests.

C. This section shall not apply to a proposed site on property owned or operated by a person who also owns or operates a controlled industrial waste facility on contiguous property on which a controlled industrial waste facility was operating pursuant to a valid permit on the effective date of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2053 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. It is the policy of the State of Oklahoma to reduce or eliminate the production of hazardous waste at the source whenever possible; to recycle generated hazardous waste whenever feasible; to treat in an environmentally safe manner the hazardous waste that cannot be reduced or recycled; and that disposal should be employed only as a last resort and must be conducted in an environmentally safe manner.

B. The goal is by January 1, 1996, to reduce at least twenty-five percent (25%) of the amount and toxicity of hazardous waste generated in Oklahoma after the effective date of this act.

C. As used in this section:

1. "Department" means the Oklahoma State Department of Health;

2. "Facility" means the land and appurtenances on the land associated with a business that generates hazardous waste;

3. "Generator" means an owner or operator of a facility that generates hazardous waste;

4. "Hazardous waste" means any waste materials regulated as controlled industrial wastes under the Oklahoma Controlled Industrial Waste Disposal Act;

5. "Hazardous waste reduction" means the source reduction or the waste minimization of hazardous waste;

6. "Source reduction" means changes in processes that diminish the initial amount of hazardous waste generated; and

7. "Waste minimization" means any practice that reduces the volume or toxicity of hazardous waste that has been generated.

D. The Department shall administer the Oklahoma Hazardous Waste Reduction Program and is authorized to:

1. Compile and distribute information on hazardous waste reduction technologies and procedures;

2. Conduct conferences and workshops on hazardous waste reduction;

3. Promote the transfer of hazardous waste reduction technologies and procedures among business, industry, academic institutions, and governmental entities;

4. Provide funds as may be appropriated or otherwise made available to Oklahoma business, industry, academic institutions, private organizations and governmental entities to conduct demonstration or pilot programs using innovative hazardous waste reduction technologies and procedures and to defray costs of applied research on hazardous waste reduction; and

5. Study hazardous waste exchange programs.

E. The Department shall evaluate hazardous waste reduction activities in Oklahoma, including:

1. Types and quantities of hazardous wastes generated, the existing hazardous waste management system, and historical hazardous waste reduction efforts;

2. Feasibility and potential impact of required hazardous waste reduction;

3. Identification of key businesses, academic institutions and governmental entities that should receive technical assistance priorities; and

4. Establishment of the program priorities and goals.

F. 1. The State Board of Health may, according to the Oklahoma Administrative Procedures Act, promulgate rules to provide economic incentives as provided in this section to encourage hazardous waste reduction.

2. Such rules shall provide incentives for a proportional reduction of up to one-half of the in-state hazardous waste treatment or disposal fee specified in Section 1-2005.3A of this title for any Oklahoma hazardous-waste-generating business or industry which expands its full-time equivalent employment, up to a doubling of employees, while generating proportionally less hazardous waste than in the previous state fiscal year.

3. Such rules shall also provide incentives for a reduction of up to one-half of the in-state hazardous waste treatment or disposal fee specified in Section 1-2005.3A of this title for any Oklahoma hazardous-waste-generating business or industry which significantly reduces the toxicity of all or part of the hazardous waste which it generates, as demonstrated by a health-based risk analysis submitted by the applicant, which shall take into account concentrations of hazardous waste constituents and likely means of exposure to employees and to the public.

4. For purposes of determining hazardous waste volume or toxicity reduction under paragraphs 2 and 3 of this subsection, for any application for a reduction in fees filed prior to July 1, 1993 only, calendar year 1991 may be used as the baseline in lieu of the previous state fiscal year.

G. In order to qualify for the fee reductions described in this section, each large quantity hazardous waste generator shall, not later than January 1, 1993, prepare a hazardous waste reduction plan for each facility. Any hazardous waste generator electing not to seek fee reductions according to this section is excluded from the requirements of subsections H, J and K of this section. The plan is

not a public record but shall be available to the Department for inspection.

H. Hazardous waste reduction plans shall include at least:

1. A written policy describing ownership or management support for hazardous waste reduction and plan implementation;

2. Scope and objectives, including the evaluation of technology, procedures and personnel training programs to assure hazardous waste reduction;

3. Explanation and documentation of hazardous waste reduction efforts completed or in progress;

4. Analysis of hazardous waste streams, and identification of opportunities for source reduction;

5. Itemized hazardous waste management and hazardous waste reduction costs; and

6. Numeric goals for hazardous waste reduction.

I. The Department shall develop appropriate but lesser requirements for small quantity generator hazardous waste reduction plans.

J. Hazardous waste reduction plans shall be updated every two (2) years to include progress made for each performance goal and amendments, if any, to the hazardous waste reduction plan with an explanation of the need for the amendments.

K. 1. Within sixty (60) days after the preparation of the initial hazardous waste reduction plan and within that same period after each biennial update, each generator shall submit to the Department a certified report of the types and quantities of hazardous wastes generated and reduced based on the hazardous waste reduction plan and the biennial updates.

2. The certified report shall include a narrative summary explaining the hazardous waste generation and reduction data, a description of goals and progress made in reducing hazardous wastes and a description of any impediments to reduction.

3. The narrative summary and the biennial report shall be public records. On request, the generator shall make available to the public a copy of the summary or biennial report at cost.

SECTION 6. AMENDATORY 63 O.S. 1991, Section 1-1701, is amended to read as follows:

Section 1-1701. ~~(a)~~ A. Unless otherwise provided in the Oklahoma Public Health Code:

~~(1)~~ 1. Any person who willfully fails or refuses to comply with, or violates, a lawful order of the State Board of Health or the State Commissioner of Health, or his duly authorized representative, or of a local health officer, or who violates the terms and conditions of a quarantine or embargo, shall, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not to exceed One Hundred Dollars (\$100.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment ~~;~~;

~~(2)~~ 2. Any person who fails or refuses to make or file a report, or to file a certificate, or to keep a record, that is required by the provisions of this Code, or by rules ~~and regulations~~ of the State Board of Health, or the State Commissioner of Health, or who gives false information in or for such report, certificate or record, shall, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Two Hundred Dollars (\$200.00) ~~;~~;

~~(3)~~ 3. Any person who gives false information in an application for a license or permit, or to the Commissioner or a local health officer, shall, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Two Hundred Dollars (\$200.00) ~~;~~;

~~(4)~~ 4. Any person who does any act for which a license or permit is required by the provisions of this Code, and who is not at the time the holder of such a license or permit, shall, upon

conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment; and

~~(5)~~ 5. Any person who does any act that is made unlawful or a misdemeanor by the provisions of this Code, or who violates any of the other provisions of this Code, or any standard, rule or regulation authorized by this Code, shall, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Two Hundred Dollars (\$200.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

~~(b)~~ B. 1. Notwithstanding the penalties ~~hereinbefore~~ provided for in this section, district ~~and superior~~ courts may also grant injunctive relief to prevent a violation of, or to compel a compliance with, any of the provisions of this Code; ~~and the district attorney shall file and prosecute appropriate proceedings therefor in the name of the state, on request of the Commissioner or~~ any rule or order issued pursuant to this Code.

2. Any action for injunctive relief to redress or restrain a violation by any person of any provision of this Code, any rule or order issued pursuant to this Code, or recovery of any administrative or civil penalty assessed pursuant to Sections 1-1701.1A or 1-2012.1 of this title may be filed and prosecuted by:

- a. the district attorney in the appropriate district court of the State of Oklahoma, or
- b. the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.

3. As used in this subsection, the term "this Code" includes Section 1-101 et seq. of this title and those statutes codified in

Title 59 of the Oklahoma Statutes for the regulation of professions and occupations for which the Department issues a license.

~~(c)(1)~~ C. 1. Any person who violates any of the provisions of the Oklahoma Public Health Code relating to wastewater and pollution control, Sections 1-901 through 1-903, 1-908 and 1-909 of ~~Title 63 of the Oklahoma Statutes~~ this title, and the standards, and rules ~~and regulations adopted~~ promulgated by the State Board of Health pursuant to Section 1-904 of ~~Title 63 of the Oklahoma Statutes~~ this title, which relate to sewage and construction and operation of sewage works, industrial sewage discharge into sanitary sewers, and discharge of pollutants into the waters of the state, or who violates these provisions as hereafter amended, shall, upon conviction, be deemed guilty of a misdemeanor, and in addition to other penalties and liabilities imposed by law, may be punished by the assessment of a civil penalty of not more than Ten Thousand Dollars (\$10,000.00) for each violation, by a fine of not less than Two Hundred Dollars (\$200.00) for each violation and not more than Ten Thousand Dollars (\$10,000.00) for each violation, or by imprisonment in the county jail for not more than six (6) months for each violation, or by any of such civil penalties, fines and imprisonment. For the purposes of this section, each day in violation is considered a separate violation.

~~(2)~~ 2. Notwithstanding the provisions of paragraphs ~~(a)(2)~~ 2 and ~~(a)(3)~~ 3 of subsection A of this section, any person who knowingly makes any false statement, representation or certification in any discharge permit issued by the Commissioner pursuant to Section 1-909 of this title, or in any notice or report required by such permit, or who knowingly renders inaccurate any monitoring device or method required by the Commissioner to be maintained as a condition of the issuance of such permit, shall, upon conviction, be deemed guilty of a misdemeanor, and may be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) for each such violation.

SECTION 7. AMENDATORY 63 O.S. 1991, Section 1-1702, is amended to read as follows:

Section 1-1702. The holder of any renewable license or permit issued under the provisions of this Code shall be entitled to thirty (30) days after the expiration date thereof in which to renew the same, without penalty; and if he fails to pay the renewal fee within such thirty-day period, he shall, unless otherwise provided in this Code, be required to pay the renewal fee plus a penalty fee equal to the amount of the renewal fee, which penalty fees shall not exceed Ten Dollars (\$10.00) for a violation of the provisions of this Code in an amount as promulgated by the State Board of Health by rule. Such penalty fee shall not exceed the amount of the renewal fee. In the case of any renewal fee which shall exceed Ten Thousand Dollars (\$10,000.00), the penalty fee shall be one and one-half percent (1.5%) per month of the outstanding balance of the renewal fee. The Board may promulgate rules which prohibit the renewal of a license or permit which has expired by more than ninety (90) days.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2002.a of Title 63, unless there is created a duplication in numbering, reads as follows:

The Oklahoma State Department of Health shall not assess an annual fee for the on-site disposal of controlled industrial waste by underground injection which exceeds Fifty Thousand Dollars (\$50,000.00).

SECTION 9. The provisions of Sections 1, 3, 4, 5, 6 and 7 of this act shall become effective July 1, 1992.

SECTION 10. The provisions of Section 2 of this act shall become effective January 1, 1993.

SECTION 11. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the House of Representatives the 23rd day of April, 1992.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1992.

President of the Senate