

ENROLLED SENATE
BILL NO. 28

BY: GILES and SHURDEN of the
SENATE

and

VAUGHN (George), JOHNSON
(Glen), LEIST and TAYLOR of
the HOUSE

AN ACT RELATING TO PUBLIC HEALTH AND SAFETY;
AMENDING 63 O.S. 1981, SECTIONS 1-2002, AS LAST
AMENDED BY SECTION 1, CHAPTER 296, O.S.L. 1990, 1-
2003, 1-2004, AS LAST AMENDED BY SECTION 2, CHAPTER
296, O.S.L. 1990, SECTION 9, CHAPTER 196, O.S.L.
1990, 1-2009.1, AS LAST AMENDED BY SECTION 3,
CHAPTER 296, O.S.L. 1990, 1-2012, SECTION 3,
CHAPTER 113, O.S.L. 1985, AS LAST AMENDED BY
SECTION 7, CHAPTER 196, O.S.L. 1990, AND SECTION 6,
CHAPTER 296, O.S.L. 1990 (63 O.S. SUPP. 1990,
SECTIONS 1-2002, 1-2003, 1-2004, 1-2005.3A, 1-
2009.1, 1-2012.1 AND 1-2014.2), WHICH RELATE TO THE
CONTROLLED INDUSTRIAL WASTE MANAGEMENT ACT;
DEFINING TERMS; DELETING CERTAIN REFERENCES AND
REQUIREMENTS FOR CONTROLLED INDUSTRIAL WASTE
MANAGEMENT DIVISION; AUTHORIZING THE STATE
DEPARTMENT OF HEALTH TO ISSUE CERTAIN POST-CLOSURE
PERMITS FOR CONTROLLED INDUSTRIAL WASTE FACILITIES;
AUTHORIZING DEPARTMENT TO REQUIRE CERTAIN REPORTS
ON A QUARTERLY BASIS AND REQUIRE LEACHATE DETECTION
AND COLLECTION SYSTEMS FOR CERTAIN LANDFILLS;
MODIFYING FEES FOR CERTAIN CONTROLLED INDUSTRIAL
WASTE FACILITIES; PROVIDING MINIMUM FEE FOR CERTAIN
FACILITIES; DELETING LIMIT OF CERTAIN FEES;
REQUIRING FEES TO BE PAID TO THE DEPARTMENT
QUARTERLY; PROVIDING EXEMPTION FOR CERTAIN
RECYCLING FACILITIES; STATING PURPOSES FOR FEES;
ALLOCATING CERTAIN AMOUNT OF FEES FOR SPECIFIC
PURPOSES; PROVIDING FOR CERTAIN COUNTY
COMMISSIONERS TO ESTABLISH SPECIAL ECONOMIC
DEVELOPMENT TRUST FUND; STATING PURPOSE,
MEMBERSHIP, TERMS, COMPENSATION AND DUTIES OF BOARD
OF TRUSTEES; PROVIDING CERTAIN EXCEPTION FOR
ALLOWANCE OF CONTINUED OPERATION ON INTERIM BASIS;
INCREASING AMOUNT OF FINES FOR VIOLATION OF ACT;
AUTHORIZING BOARD TO ISSUE CERTAIN ORDERS FOR
PERSONS IN VIOLATION OF ACT; AUTHORIZING THE
DEPARTMENT TO ADOPT CERTAIN RULES; REQUIRING OFF-
SITE CONTROLLED INDUSTRIAL WASTE RECYCLING
FACILITIES TO BE SUBJECT TO ACT; MODIFYING CRITERIA
FOR CERTAIN TREATMENT FACILITIES; PROHIBITING
CONSTRUCTION FOR OPERATION PERMITS FOR OFF-SITE
CONTROLLED INDUSTRIAL WASTE INCINERATION FACILITIES
WITHIN CERTAIN DISTANCE FROM INCORPORATED CITIES OR
TOWNS; PROVIDING EXCEPTIONS; PROVIDING FEE FOR
DISPOSAL OF CERTAIN LIQUID WASTE IN UNDERGROUND
INJECTION WELLS; PROVIDING FOR FEE TO BE PAID ON

QUARTERLY BASIS; PROVIDING LIMIT OF FEES; STATING FEES SHALL BE DEPOSITED IN CERTAIN FUND; CREATING SPECIAL JOINT COMMITTEE TO STUDY CERTAIN ISSUES RELATING TO CONTROLLED INDUSTRIAL WASTE; PROVIDING FOR APPOINTMENT OF MEMBERS; REQUIRING COMMITTEE TO MAKE REPORT BY CERTAIN DATE; PROVIDING FOR NONCODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 63 O.S. 1981, Section 1-2002, as last amended by Section 1, Chapter 296, O.S.L. 1990 (63 O.S. Supp. 1990, 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 landfills, 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, ~~sludge~~ sludges, tank bottoms containing heavy metallic ions, toxic organic chemicals, ~~infectious materials~~, 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. "Division" means the Controlled Industrial Waste Management Division;~~

~~6.~~ 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;

~~7.~~ 6. "Treatment" means the detoxification, neutralization, incineration or biodegradation of controlled industrial waste in order to remove or reduce its harmful properties or characteristics;

~~8.~~ 7. "Treatment facility" means any location where treating or recycling of controlled industrial waste occurs;

~~9.~~ 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;

~~10.~~ 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;

~~11.~~ 10. "Controlled industrial waste facility" as used herein shall mean and include storage and treatment facilities and disposal sites;

~~12.~~ 11. "Board" means the State Board of Health;

~~13.~~ 12. "Council" means the Controlled Industrial Waste Management Council;

~~14.~~ 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;

~~15.~~ 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;

~~16.~~ 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

~~17.~~ 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.

SECTION 2. AMENDATORY 63 O.S. 1981, Section 1-2003, is amended to read as follows:

Section 1-2003. ~~There is hereby created a Controlled Industrial Waste Management Division~~ A division responsible for the regulation and management of controlled industrial waste shall be maintained within the State Department of Health. The ~~Division~~ division shall consist of a ~~Director~~ director, who shall be hired by the Commissioner of Health, and additional employees to be hired by the Commissioner as he deems are necessary and duly qualified to carry out the provisions of this act. As a prerequisite for employment as a ~~Director~~ director, the ~~Director~~ director shall have expertise and at least two (2) years' experience in waste management, ~~and shall have a degree in chemistry or engineering.~~ The ~~Director~~ director and all employees of the division shall be subject to the Merit System of Personnel Administration, ~~and all employees hired by the Commissioner shall be subject to the Merit System.~~

SECTION 3. AMENDATORY 63 O.S. 1981, Section 1-2004, as last amended by Section 2, Chapter 296, O.S.L. 1990 (63 O.S. Supp. 1990, Section 1-2004), is amended to read as follows:

Section 1-2004. The Department shall have the following powers and duties:

1. Issue permits for the construction ~~and~~, operation and post-closure of controlled industrial waste facilities;

2. Provide the owner or operator of a controlled industrial waste facility a list of all materials which the Department deems acceptable for treatment, recycling, storage, and disposal at the facility;

3. Make periodic inspections of controlled industrial waste facilities and recycling, transporting, and generating facilities to determine the extent of compliance with the Department's rules and regulations and the Oklahoma Controlled Industrial Waste Disposal Act;

4. Develop, maintain, and monitor public records of the source and amount of controlled industrial waste generated in Oklahoma and the methods used to dispose of, recycle, or treat said waste or material;

5. Require and prescribe manifest forms to all persons generating and transporting controlled industrial waste off-site for storage, recycling, treatment, or disposal;

6. Require and approve or disapprove disposal plans from all persons generating controlled industrial waste or shipping controlled industrial waste within, from, or into Oklahoma

indicating the amount of controlled industrial waste generated, the handling, storage, treatment, and disposal methods, and the controlled industrial waste facilities used. The disposal plans shall be kept current by the persons generating or shipping controlled industrial waste and the Department shall be advised within five (5) working days of any changes in the disposal plans;

7. Require reports from all persons generating controlled industrial waste, indicating the amount generated, the treatment and disposal methods, and the treatment, disposal, and recycling sites used. Such reports are to be made on at least a quarterly basis;

8. Require periodic reports or manifest certifications regarding such programs and efforts to reduce the volume or quantity and toxicity of such controlled industrial waste as may be required by or pursuant to authority of the Oklahoma Controlled Industrial Waste Disposal Act;

9. Require reports from all operators of controlled industrial waste facilities who receive controlled industrial waste for treatment or storage or disposal, listing the amount, transporter, and generator of all controlled industrial waste received. Such reports are to be made on at least a monthly or quarterly basis, as designated by the Department;

10. Approve or disapprove methods of disposal of controlled industrial waste, and may prohibit certain specific disposal practices including, but not limited to, any type of land disposal of any form of such waste. Land disposal includes, but is not limited to, landfills, surface impoundments, waste piles, deep injection wells, land treatment facilities, salt dome and bed formations and underground mines or caves;

11. Inform persons generating controlled industrial waste of available, alternative methods of disposal of such waste and assist the persons in developing satisfactory disposal plans;

12. Develop a system to provide information on recyclable wastes to potential users of such materials. Such information shall not include any information which the Department deems confidential or private in nature;

13. Cooperate and share information with the U.S. Environmental Protection Agency;

14. Prepare an emergency response plan for spills of controlled industrial waste and for spills of hazardous materials;

15. Make information obtained by the Department regarding controlled industrial waste facilities and sites available to the public in substantially the same manner, and to the same degree, as would be the case if the controlled industrial waste program in this state were being carried out by the U.S. Environmental Protection Agency;

16. With respect to any existing surface impoundment or landfill or class of surface impoundments or landfills from which the Department determines controlled industrial waste ~~is likely to~~ may migrate into groundwater, impose such requirements, including double liners and leachate detection and collection systems, as may be necessary to protect human health and the environment;

17. Prohibit or restrict the use of any specific disposal methods or practices for specific controlled industrial waste material, substances or classes, as may be necessary to protect human health and the environment;

18. Identify areas within the state which are unsuitable for specific controlled industrial waste disposal methods, and deny permits for such disposal methods in such areas;

19. Issue a one-year research development and demonstration permit for any treatment facility which proposes an innovative and

experimental controlled industrial waste treatment technology or process not yet regulated. Permits may be renewed no more than three times. No renewal may exceed one (1) year;

20. Waive or modify general permit application and issuance requirements for research and development permits, except for financial responsibility and public participation requirements;

21. Terminate experimental activity if necessary to protect human health and the environment;

22. Require oil recycling facilities using controlled industrial waste to have a controlled industrial waste facility permit;

23. Issue permits containing any conditions necessary to protect human health and the environment;

24. Issue permits for the storage of controlled industrial waste in underground tanks;

25. Require groundwater monitoring for any landfill, surface impoundment, land treatment site or pile;

26. Determine and enforce penalties for violations of the Oklahoma Controlled Industrial Waste Disposal Act;

27. Evaluate the benefit of rules and regulations governing labeling practices for any containers used for the disposal, storage, or transportation of controlled industrial waste which accurately identify such waste, and govern the use of appropriate containers for such waste not otherwise regulated by the federal government. A report containing the evaluation of the benefit for rules and regulations governing such labeling practices shall be submitted by April 30, 1987, to the Speaker of the House of Representatives and the President Pro Tempore of the Senate;

28. Monitor research and development regarding methods of the handling, storage, use, processing, and disposal of controlled industrial waste;

29. Cooperate with existing technical reference centers on controlled industrial waste disposal, recycling practices, and related information for public and private use;

30. Monitor research in the technical and managerial aspects of management and use of controlled industrial waste and recycling and recovery of resources from controlled industrial wastes;

31. Determine existing rates of production of controlled industrial waste;

32. Promote recycling and recovery of resources from controlled industrial wastes;

33. Encourage the reduction or exchange, or both, of controlled industrial waste; and

34. Cooperate with an existing information clearinghouse, to develop records of recyclable waste. Every generator of controlled industrial waste shall supply the Department with information for the clearinghouse. Each generator shall not be required to supply any more information than is required by the manifests. The Department shall make this information available to persons who desire to recycle the wastes. The information shall be made available in such a way that the trade secrets of the producer are protected.

SECTION 4. AMENDATORY Section 9, Chapter 196, O.S.L. 1990 (63 O.S. Supp. 1990, 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 ~~which 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 to the Department of Health for deposit in the Public Health Special Fund.

1. Such fees shall be in the amounts stated in the following table, subject to the qualifications provided in subparagraph 2 of this subsection:

~~LOCATION OF WASTE GENERATION~~

DISPOSITION OF WASTE	ON SITE	OFF SITE	OUT OF STATE
Waste Storage Only		\$2.00 per ton	\$3.00 per ton
Waste Recycling		\$4.00 per ton	\$6.00 per ton
Waste Treatment	\$4.00 per ton	\$8.00 per ton	\$12.00 per ton
Land Disposal	\$6.00 per ton	\$12.00 per ton	\$18.00 per ton
Underground Injection	\$0.01 per gallon	\$0.02 per gallon	\$0.03 per gallon

- a. Six Dollars and fifty cents (\$6.50) per ton for the on-site or off-site storage, treatment or land disposal of controlled industrial waste.
- b. Four Dollars (\$4.00) per ton for the off-site recycling of controlled industrial waste.
- c. Three cents (\$0.03) per gallon for the on-site or off-site underground injection of controlled industrial waste.

2. There shall be a minimum fee per facility as follows:

- a. Any person or group of persons under common control owning, or operating, an off-site controlled industrial waste treatment facility, storage facility, or disposal facility, or facility which recycles controlled industrial waste 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.
- 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.

3. The minimum fee requirement 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. Any person or group of persons under common control owning a controlled industrial waste treatment facility, storage facility, disposal facility, or facility which recycles controlled industrial

~~waste shall pay a total fee of not more than Five Hundred Thousand Dollars (\$500,000.00) in any one state fiscal year for all such facilities under common control of the ultimate parent of the group. Facilities are hereby authorized to charge the person contracting for the services of the facility their proportional share of the fees required by the provisions of this section.~~

~~5. The amounts of annual fees to be paid as specified in paragraph 1 of this subsection shall be based upon the weight or volume of waste received into a facility during the preceding state fiscal year as reported to the Department of Health. 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. The fee imposed by the provisions of this section shall be payable only once without regard to any subsequent handling and shall be based on the purpose for which the waste has been 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.~~

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

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

~~2. Those 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 July 1 of each year quarterly for controlled industrial waste received by the facility during the prior ~~state fiscal year quarter~~. ~~At the discretion of the facility, payment of the estimated annual fee owed by the facility may be made by quarterly payments.~~ 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. ~~In the event that at the end of the year an estimated fee paid is not the same as owed, the Department shall provide procedures for reconciling the fee paid with the fee owed.~~~~

~~D. The fees provided for in this section shall be adjusted proportionally on an annual basis to reflect changes in the Producers Price Index as certified to the State Department of Health by the Oklahoma Department of Commerce on July 1 of each year.~~

~~E. The fees provided for in this section shall be paid in lieu of the monitoring fees imposed in paragraph 2 of subsection A of Section 1-2005.2 of Title 63 of the Oklahoma Statutes 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 the Oklahoma Controlled Industrial Waste Disposal Act.~~

~~F. 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 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 of this act. 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 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 ~~only~~ for one or more of the following purposes:

- ~~1.~~ a. The administration of the provisions of the Oklahoma Controlled Industrial Waste Disposal Act;
- ~~2.~~ b. The development of an inventory of controlled industrial wastes currently produced in Oklahoma and management needs for the identified wastes;
- ~~3.~~ c. The implementation of information exchange, technical assistance, public information, and educational programs;
- ~~4.~~ d. The development and encouragement of waste reduction plans for Oklahoma waste generators; or
- ~~5.~~ 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 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 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.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2005.3B of Title 63, unless there is created a duplication in numbering, reads as follows:

Any person subject to regulation under this title disposing of liquid waste other than controlled industrial waste in an underground injection well shall pay a fee of one-tenth of one cent (\$0.001) per gallon for such disposal, not to exceed Fifty Thousand Dollars (\$50,000.00) per year. Said fee shall be paid to the Department on a quarterly basis within one month following the close of each quarter for the waste disposed in that preceding quarter. Said fees shall be deposited into the Public Health Special Fund.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2005.3C of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The county commissioners of the counties which are within a ten-mile radius of a controlled industrial waste facility which is subject to the provisions of Section 1-2005.3A of Title 63 of the Oklahoma Statutes may establish one Special Economic Development Trust Fund for that area.

B. Such Trust shall be governed by a Board of Trustees of not less than six (6) nor more than ten (10) members. Each county within the Trust area shall be represented equally on the Board of Trustees.

C. Each Trustee shall be appointed by a majority vote of the county commissioners of the county that the Trustee represents. A Trustee may be removed prior to the expiration of the term of office by a majority vote of the county commissioners of the county that the Trustee represents. In the event there are two or more Trustees from each county, the initial appointments shall be made so that the terms are staggered. After the initial appointment, each Trustee shall serve a term of two (2) years and may be reappointed.

D. The Trustees shall receive no compensation for service on the Board of Trustees, but may be reimbursed for actual and necessary expenses incurred in the performance of their duties as a Trustee in accordance with the State Travel Reimbursement Act.

E. Any action of the Board of Trustees must be approved by a two-thirds (2/3) vote of the total authorized membership of the Board.

F. Each Board of Trustees established pursuant to the provisions of this section shall meet on or before November 1, 1991, and adopt rules for the operation of the Trust. The Trustees shall have authority to exercise such powers as are necessary to perform the duties and functions imposed by the provisions of this section.

G. Thereafter, the Board of Trustees shall meet not less than twice each calendar year. At the first meeting in a new calendar year the members shall elect a chairman, a vice chairman, a secretary, and a treasurer.

H. All funds allocated to the trusts established pursuant to the provisions of this section shall be used to market the advantages of industrial development and to promote industrial development within the Trust area. Such uses shall include the authority to acquire assets, develop property, provide financing for industrial development and to contract with local municipalities or economic development trusts or authorities to promote economic development in the area.

SECTION 7. AMENDATORY Section 2, Chapter 54, O.S.L. 1988 (63 O.S. Supp. 1990, Section 1-2008.1), is amended to read as follows:

Section 1-2008.1 A. Two or more persons generating controlled industrial waste ~~within the same county~~ may enter into a compact to construct and operate a multi-user on-site treatment facility for the exclusive use of the members of such compact. Such facility shall not be used as a controlled industrial waste facility for off-site treatment storage or disposal of controlled industrial waste.

B. To be eligible for a permit issued pursuant to the provisions of this section and the Oklahoma Controlled Industrial Waste Disposal Act, a multi-user on-site treatment facility shall meet the following criteria:

1. The facility ~~shall~~ may be co-owned by the generators of controlled industrial waste who are members of the compact;

2. Each member of the compact shall be identified in the application and permit. In addition, the individual controlled industrial waste generated by each member shall be separately and distinctly characterized in the application and in the permit and shall meet the compatibility requirements established by the Department;

3. The facilities generating controlled industrial waste which is to be treated at the multi-user on-site treatment facility shall be located within the same county as the multi-user on-site treatment facility;

4. The multi-user on-site treatment facility shall be located upon the property of one of the compact members;

5. Financial responsibility requirements shall be the responsibility of the compact members and shall be prorated according to the relative amount of controlled industrial waste of a generator to be treated at the facility; and

6. The Department may require such other criteria and information in order to determine if the multi-user on-site treatment facility is physically and technically suitable for the controlled industrial waste to be treated at the facility.

C. A multi-user on-site treatment facility located within an industrial park which treats, stores or disposes of wastes that are produced only by the industries located within that industrial park may be owned or operated by persons other than the generators of the waste.

~~C. D.~~ Upon compliance with the provisions of the Oklahoma Controlled Industrial Waste Disposal Act, this section and any rules ~~and regulations~~ promulgated pursuant thereto, the Department shall issue permits for the construction and operation of a multi-user on-site treatment facility.

~~D. E.~~ The board of county commissioners of the county in which such multi-user on-site treatment facility is located shall review all transportation routes from the facilities generating controlled industrial waste which are operated by members of the compact to the multi-user on-site treatment facility pursuant to the provisions of Section 1-2005.3 of Title 63 of the Oklahoma Statutes.

SECTION 8. AMENDATORY 63 O.S. 1981, Section 1-2009.1, as last amended by Section 3, Chapter 296, O.S.L. 1990 (63 O.S. Supp. 1990, Section 1-2009.1), is amended to read as follows:

Section 1-2009.1 A. Except as otherwise provided by subsection B of this section or any rules of the State Board of Health with respect to short-term storage, no person shall store, treat or dispose of controlled industrial waste materials or commence construction of or own or operate any premises or facility engaged in the operation of storing, treating or disposing of controlled industrial waste or storing recyclable materials, who does not possess a valid and appropriate controlled industrial waste facility permit.

B. 1. Any person who owned or operated a controlled industrial waste facility which was operating or under construction on November 19, 1980, and who has submitted notice and permit application to the U.S. Environmental Protection Agency or to the Department, and whose facility complies with the rules of the Board, may continue operation until such time as the permit application is determined.

2. The State Board of Health may by rule provide for continued operation on an interim basis pending permit determination of a facility in existence on the effective date of any statutory or regulatory amendments that would subject the facility to a permit requirement pursuant to the Oklahoma Controlled Industrial Waste Disposal Act.

3. The provisions for the allowance of continued operation on an interim basis under paragraphs 1 and 2 of this subsection shall not apply in the case of a facility for which a permit under this act has been previously denied or for which authority to operate has been terminated.

C. Facilities engaged in recycling which are not required to be permitted pursuant to the provisions of Section ~~6~~ 1-2014.2 of this ~~act~~ title shall operate in an environmentally acceptable manner and in accordance with the rules and regulations regarding the manifest, transportation and treatment, storage and disposal standards, and generators in the event a controlled industrial waste is generated therefrom.

SECTION 9. AMENDATORY 63 O.S. 1981, Section 1-2011, is amended to read as follows:

Section 1-2011. Any person who violates any of the provisions of this act or the rules, regulations or standards promulgated by the Department shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment in the county jail for not more than six (6) months, or a fine of not less than Two Hundred Dollars (\$200.00) nor more than ~~Ten Thousand Dollars (\$10,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00), or by both such fine and imprisonment. Each day or part of a day during which such violation is continued or repeated shall constitute a new and separate offense.

SECTION 10. AMENDATORY 63 O.S. 1981, Section 1-2012, is amended to read as follows:

Section 1-2012. In addition to any other remedies provided in this act, the Department shall, pursuant to rules and regulations adopted under Section ~~6~~ 1-2005 of this ~~act~~ title:

1. Temporarily suspend the permit of any operator of a controlled industrial waste facility until such facility conforms to the provisions of this act and the rules, regulations and standards promulgated by the Department;

2. Revoke the operating permit or license of any person who flagrantly and/or consistently violates the provisions of this act or the rules and regulations promulgated thereto, or which operates in such a manner as to cause or to continue in existence an environmentally unsafe condition. Such revocation may only take place following proper hearing, and will conform to provisions of the Administrative Procedures Act. Such person shall not be eligible for reissuance of a license when finally adjudicated as guilty of flagrant and consistent violations of this act;

3. Cause proceedings to be instituted in the district court having jurisdiction in the area where the alleged violation occurs seeking an injunction to restrain a violation of this act or the rules, regulations or standards adopted hereunder and to restrain the maintenance of a public nuisance; and

4. Cause proceedings to be instituted in the district court having jurisdiction in the area where the alleged violation of this act or the rules and regulations of the State Board of Health occurs seeking a civil penalty of not more than ~~Ten Thousand Dollars (\$10,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00) per day or part of a day such violation occurs.

SECTION 11. AMENDATORY Section 3, Chapter 113, O.S.L. 1985, as last amended by Section 7, Chapter 196, O.S.L. 1990 (63 O.S. Supp. 1990, Section 1-2012.1), is amended to read as follows:

Section 1-2012.1 In addition to any other remedies provided in the Oklahoma Controlled Industrial Waste Disposal Act, the Department, ~~pursuant to rules and regulations,~~ may issue a written order to any person whom the Department has reason to believe has

violated or is presently in violation of the Oklahoma Controlled Industrial Waste Disposal Act, Section 1-2001 et seq. of this title, or any rule or rules promulgated by the Board pursuant to the Oklahoma Controlled Industrial Waste Disposal Act and to whom the Department has served, no less than fifteen (15) days previously, a written notice of violation of such rule or rules this act.

1. Such order may require compliance with this act or such rule or rules immediately or within a specified time period or both. Such order may also assess an administrative fine for any past or current violation of this act or the rules and for each day or part of a day that such person fails to comply with such order.

- a. Any order issued pursuant to this section shall state with specificity the nature of the violation or violations.
- b. Any penalty assessed in the order shall not exceed ~~Ten Thousand Dollars (\$10,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00) per day of noncompliance ~~with~~ for each violation of the act, the rules or the order. In assessing such ~~a penalty~~ penalties, the Department shall consider the seriousness of the violation or violations and any good faith efforts to comply with applicable requirements.

2. Any order issued pursuant to this section shall become a final order unless, no later than fifteen (15) days after the order is served, the person or persons named therein request an administrative hearing. Upon such request the Department shall promptly conduct the hearing. The Department shall dismiss such proceedings where past and current compliance with the act, the rules and the order is demonstrated.

- a. Orders and hearings are subject to the Administrative Procedures Act.
- b. A final order following a hearing may assess an administrative fine of an amount based upon consideration of the evidence but not exceeding the amount stated in the written order.
- c. The Department may adopt procedural rules as necessary and appropriate to implement the provisions of this section.

3. Any order issued pursuant to this section may require that corrective action be taken beyond the controlled industrial waste facility boundary where necessary to protect human health and the environment, unless the owner or operator of the facility demonstrates that, despite the owner's or operator's best efforts, the owner or operator is unable to obtain the necessary permission to undertake such action.

SECTION 12. AMENDATORY Section 6, Chapter 296, O.S.L. 1990 (63 O.S. Supp. 1990, Section 1-2014.2), is amended to read as follows:

Section 1-2014.2 Facilities that recycle controlled industrial wastes are exempt from construction permit requirements specified by the provisions of the Oklahoma Controlled Industrial Waste Disposal Act for those units exclusively used in the recycling process. ~~Controlled~~ Off-site controlled industrial waste recycling facilities are subject to the requirements specified by the Oklahoma Controlled Industrial Waste Disposal Act for an operations permit, and shall also meet design standards as promulgated by the State Board of Health. ~~Recycling~~ Such recycling facilities which are in existence on the effective date of this act may but shall not be required to file an operations permit application pursuant to the provisions of the Oklahoma Controlled Industrial Waste Disposal Act. A permit

modification is not required for a permitted recycling facility to use new, improved, or better methods of recycling if the Department has approved the plans as being environmentally acceptable.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2014.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

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.

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 14. There is hereby created a special joint legislative committee to study and make legislative proposals concerning statutes related to the siting, permitting and fees for handling, disposal and recycling of controlled industrial waste and such other matters as the President Pro Tempore of the Senate and the Speaker of the House of Representatives may direct.

Membership of the special committee shall be determined by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The special committee shall schedule meetings as necessary following the sine die adjournment of the 1st Session of the 43rd Oklahoma Legislature and make a formal report to the Legislature no later than the first legislative day of the 2nd Session of the 43rd Oklahoma Legislature.

SECTION 15. The provisions of Section 14 of this act shall not be codified in the Oklahoma Statutes.

SECTION 16. The provisions of Sections 4 and 5 of this act shall become effective July 2, 1991.

Passed the Senate the 25th day of April, 1991.

President of the Senate

Passed the House of Representatives the 1st day of May, 1991.

Speaker of the House of
Representatives