

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 1994

BY: REESE

AS INTRODUCED

AN ACT RELATING TO PUBLIC HEALTH; AMENDING 63 O.S.

1991, SECTION 1-2005.3A, WHICH RELATES TO
CONTROLLED INDUSTRIAL WASTE; MODIFYING FEES FOR
DISPOSAL AND RECYCLING OF CONTROLLED INDUSTRIAL
WASTE; CREATING THE OKLAHOMA RECYCLING AND
CONSERVATION FUND; PROVIDING FOR CERTAIN COSTS;
PROVIDING FOR DEPOSITS; PROHIBITING CERTAIN USES;
PROVIDING FOR ELIGIBILITY; PROVIDING FOR
APPLICATIONS AND COMPENSATION; PROVIDING FOR RULES;
PROVIDING FOR APPLICABILITY OF ACT; PROVIDING FOR
CODIFICATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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 Oklahoma State Department of Health for deposit
in the Public Health Special Fund.

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

- a. ~~Six Dollars and fifty cents (\$6.50)~~ Fifty-six Dollars and fifty cents (\$56.50) 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 owning~~g~~ or operating~~g~~ 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~~g~~ or operating~~g~~ 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~~g~~ or operating~~g~~ 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 fees ~~provided for in~~ specified by 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. Facilities ~~are hereby authorized to~~ 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. 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~~ 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.

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

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

2. ~~These 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~~ Fifty Dollars (\$50.00) per ton of the fees collected pursuant to subparagraph a of paragraph 1 of subsection A of this section shall be deposited to the credit of the Oklahoma Recycling and Conservation Fund created pursuant to Section 2 of this act.

2. Of the remaining amount of fees collected pursuant to the provisions of this section, ten percent (10%) of the such 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 1-2005.3C of this 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 controlled industrial waste facilities within the Trust area.

~~2.~~ 3. 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.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2005.3D of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Oklahoma Recycling and Conservation Fund. The fund shall be administered by the Oklahoma State Department of Health. The fund shall consist of:

1. Monies received by the Department pursuant to paragraph 1 of subsection E of Section 1-2005.3A of Title 63 of the Oklahoma Statutes; and

2. Interest attributable to investment of monies in the fund.

B. The monies deposited in the fund shall at no time become part of the general budget of the Department or any other state agency. Except as otherwise authorized by this section, no monies from the fund shall be transferred for any purpose to any other state agency or any account of the Department or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

C. 1. Of the monies accruing annually to the Oklahoma Recycling and Conservation Fund, four percent (4%) thereof shall be available to the State Department of Health for the purpose of administering the requirements of this section.

2. The remaining monies in the Oklahoma Recycling and Conservation Fund shall be allocated pursuant to the provisions of this section to eligible in-state facilities which, through the filing of appropriate applications, reports, and other documentation that may be required by the State Department of Health, demonstrate that such facilities have, over a three-year period:

1. Spent at least five percent (5%) of their gross income toward reducing or recycling their controlled industrial waste; or

2. Reduced the amount of controlled industrial waste generated by such company by five percent (5%).

D. A facility desiring to be compensated from the Oklahoma Recycling and Conservation Fund for the purposes of this section shall first make application to the State Department of Health on forms prescribed by that Department and through reports containing such information as that Department determines is needed in order to verify that the facility has, over a three-year period:

1. Spent at least five percent (5%) of its gross income toward reducing or recycling its controlled industrial waste; or

2. Reduced the amount of controlled industrial waste generated by the facility by five percent (5%).

E. Facilities shall be compensated from the Oklahoma Recycling and Conservation Fund to the extent that funds are therein contained, at a rate not to exceed Fifty Dollars (\$50.00) per ton of controlled industrial waste, paid by the facility for on-site or off-site storage, treatment or land disposal of controlled industrial waste over a three-year period as demonstrated through the application and submission of documentation to the State Department of Health.

F. The Oklahoma State Board of Health shall promulgate rules and regulations to carry out the provisions of this act which pertain to the remittance of fees and to the allocation of monies accruing to the Oklahoma Recycling and Conservation Fund.

G. The provisions of this section shall apply only to in-state facilities which generate controlled industrial waste for on-site or off-site storage, treatment or land disposal of controlled industrial waste.

SECTION 3. 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.

43-2-7715

KSM