STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 590 BY: CAPPS

AS INTRODUCED

AN ACT RELATING TO CONTROLLED INDUSTRIAL WASTE; AMENDING 63 O.S. 1991, SECTION 1-2005.3A, WHICH RELATES TO THE OKLAHOMA CONTROLLED INDUSTRIAL WASTE DISPOSAL ACT; MODIFYING CERTAIN FEES FOR WASTE DISPOSAL AND RECYCLING; 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 to the 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)~~ Twenty Dollars ($20.00) per ton for the on-site or off-site storage,

treatment or land disposal of controlled industrial waste. If the controlled industrial waste is generated out of state and the generating state's fee for waste disposal is higher than Twenty Dollars ($20.00) per ton, the facility shall pay a fee equal to that which is charged in the generating state.

b. ~~Four Dollars ($4.00)~~ Ten Dollars ($10.00) per ton for the off-site recycling of controlled industrial waste.

c. ~~Three cents ($0.03)~~ Ten cents ($0.10) 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, 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.

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 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. 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 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 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 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 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 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 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 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 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 2. 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.

43-2-1360 MJM