

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 1225

By: Easley and Littlefield of
the Senate

and

Rice of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to environment, natural resources and water; amending Section 6, Chapter 398, O.S.L. 1992, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 24, Chapter 140, O.S.L. 1994, 82 O.S. 1991, Section 926.4, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 17, Chapter 353, O.S.L. 1994, 63 O.S. 1991, Section 1-2305, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 3 of Enrolled House Bill No. 1268 of the 2nd Session of the 45th Oklahoma Legislature, and 82 O.S. 1991, Sections 1501-103, as amended by Section 206, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 and 1501-205, as amended by Section 212, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1995, Sections 1-3-101, 2-6-501, 3-1-103 and 3-2-106), which relate to state environmental agencies; requiring certain environmental complaints to be first referred to certain political subdivisions; requiring written explanation of inability to resolve complaint; prohibiting certain increase and misrepresentation of certain fees; providing penalty and certain reimbursement; modifying jurisdictional areas of responsibility of certain state environmental agencies; defining terms; authorizing certain compliance schedules for certain political subdivisions in certain situations; providing for indications of excessive debt; prohibiting assessment of certain penalties; providing certain sewage disposal systems eligible for certain funds; providing certain waste manifest procedures; requiring certain permit or authorization from Department for certain waste treatment activities; modifying certain solid waste disposal fee; authorizing certain entities to expend certain percentage of fees for certain purpose; providing for certain excess funds to be designated as Infrastructure Matching Funds for certain uses; providing for certain funds to be transferred; defining terms; clarifying reference; modifying powers and duties of Oklahoma Conservation Commission relating to nonpoint source pollution; amending Section 320, Chapter 145, O.S.L. 1993, 82 O.S. 1991, Sections 1085.54, as amended by Section 326, Chapter 145, O.S.L. 1993 and 1085.65, as amended by Section 334, Chapter 145, O.S.L. 1993, Section 6, Chapter

191, O.S.L. 1994 and 82 O.S. 1991, Section 1106 (82 O.S. Supp. 1995, Sections 1085.29, 1085.54, 1085.65 and 1085.76), which relate to state environmental agency jurisdiction and port authorities; modifying powers and duties of Oklahoma Water Resources Board relating to clean lakes programs and certain federal funds; authorizing Board to obligate certain funds for correcting nonpoint source pollution; stating procedures; requiring state environmental agencies to promulgate rules for certain nonpoint source management programs; deleting certain requirement for Oklahoma Conservation Commission to consult with Department of Environmental Quality; requiring agencies to promulgate certain rules prior to receiving certain funds; requiring certain state environmental agencies to provide list of nonpoint source projects to the Oklahoma Water Resources Board for certain purpose; stating procedures; providing for monies to revert at certain time; updating statutory reference; clarifying statutory language; authorizing port authorities to enter into cooperative agreements to exercise certain powers and duties; stating exception for agreements; providing for codification; providing for recodification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1-207 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Environmental complaints arising within the jurisdiction of a political subdivision with appropriate enforcement powers shall first be referred to that political subdivision for corrective action. If a political subdivision refers an unresolved environmental complaint to a state environmental agency, it shall provide a written explanation of the reasons it was unable to resolve the problem. The explanation and identity of the political subdivision shall be available to the public under the Oklahoma Open Records Act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1-208 of Title 27A, unless there is created a duplication in numbering, reads as follows:

No person shall set or raise rates for environmental services and knowingly misrepresent the amount of fees authorized by law. Anyone who violates this provision shall be subject to an

administrative penalty not to exceed One Thousand Dollars (\$1,000.00) and shall reimburse all persons who were overcharged.

SECTION 3. AMENDATORY Section 6, Chapter 398, O.S.L. 1992, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 24, Chapter 140, O.S.L. 1994 (27A O.S. Supp. 1995, Section 1-3-101), is amended to read as follows:

Section 1-3-101. A. The provisions of this section specify the jurisdictional areas of responsibility for each state environmental agency. The jurisdictional areas of responsibility specified in this section shall be in addition to those otherwise provided by law and assigned to the specific state environmental agency; provided that any rule, interagency agreement or executive order enacted or entered into prior to the effective date of this section which conflicts with the assignment of jurisdictional responsibilities specified by this section is hereby superceded. The provisions of this subsection shall not nullify any financial obligation arising from services rendered pursuant to any interagency agreement or executive order entered into prior to July 1, 1993, nor nullify any obligations or agreements with private persons or parties entered into with any state environmental agency before July 1, 1993.

B. Department of Environmental Quality. The Department of Environmental Quality shall have the following jurisdictional areas of environmental responsibility:

1. All point source discharges of pollutants and storm water to waters of the state which originate from municipal, industrial, commercial, mining, transportation and utilities, construction, trade, real estate and finance, services, public administration, manufacturing and other sources, facilities and activities, except as provided in subsections D and E of this section;

2. All nonpoint source discharges and pollution except as provided in subsections D, E and F of this section;

3. Surface water and groundwater quality and protection and water quality certifications;

4. Waterworks and wastewater works operator certification;

5. Public and private water supplies;

6. Underground injection control except for brine recovery, saltwater disposal or secondary or tertiary oil recovery;

7. Air quality under the Federal Clean Air Act and applicable state law, except for indoor air quality and asbestos as regulated for worker safety by the federal Occupational Safety and Health Act and by Chapter 11 of Title 40 of the Oklahoma Statutes;

8. Hazardous waste and solid waste, including industrial, commercial and municipal waste;

9. Superfund responsibilities of the state under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and amendments thereto, except the planning requirements of Title III of the Superfund Amendment and Reauthorization Act of 1986;

10. Radioactive waste and all regulatory activities for the use of atomic energy and sources of radiation except for the use of sources of radiation by diagnostic x-ray facilities;

11. Water, waste, and wastewater treatment systems including but not limited to septic tanks or other public or private waste disposal systems;

12. Emergency response as specified by law;

13. Environmental laboratory services and laboratory certification;

14. Hazardous substances other than branding, package and labeling requirements;

15. Freshwater wellhead protection; and

16. Environmental regulation of any entity or activity, and the prevention, control and abatement of any pollution, not subject to the specific statutory authority of another state environmental agency.

C. Oklahoma Water Resources Board. The Oklahoma Water Resources Board shall have the following jurisdictional areas of environmental responsibility:

1. Water quantity including, but not limited to, water rights, surface water and underground water, planning, and interstate stream compacts;

2. Weather modification;

3. Dam safety;
4. Flood plain management;
5. State water/wastewater loans and grants revolving fund and other related financial aid programs;
6. Administration of the federal State Revolving Fund Program including, but not limited to, making application for and receiving capitalization grant awards, wastewater prioritization for funding, technical project reviews, environmental review process, and financial review and administration;
7. Water well drillers/pump installers licensing;
8. Technical lead agency for clean lakes eligible for funding under Section 314 of the Federal Clean Water Act ~~as specified by law~~ or other applicable sections of the Federal Clean Water Act or other subsequent state and federal clean lakes programs for clean lakes and implementation of a volunteer monitoring program to assess and monitor state water resources; and
9. Statewide water quality standards.

D. State Department of Agriculture. 1. The State Department of Agriculture shall have the following jurisdictional areas of environmental responsibility except as provided in subsection B of this section and paragraphs 2 and 3 of this subsection:

- a. point and nonpoint source discharges from agricultural crop production, agricultural services, livestock production, silviculture, feed yards, livestock markets and animal waste,
- b. pesticide control,
- c. forestry and nurseries,
- d. fertilizer,
- e. facilities which store grain, feed, seed, fertilizer and agricultural chemicals, and
- f. dairy waste and wastewater associated with milk production facilities.

2. In addition to the areas of jurisdictional responsibility specified in subsection B of this section, the Department of Environmental Quality shall have environmental jurisdiction over:

- a. (1) commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,
- (2) slaughterhouses, but not including feedlots at such facilities, and
- (3) animal aquiculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at such facilities, and
- b. facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal NPDES regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to such storm water discharges.

3. Any point source and nonpoint source discharges related to agriculture from sources specified in paragraph 1 of this subsection which require a federal National Pollutant Discharge Elimination Systems permit and which are not specified under paragraph 2 of this subsection as being subject to the jurisdiction of the Department of Environmental Quality shall continue to be subject to the direct jurisdiction of the federal Environmental Protection Agency for issuance and enforcement of such permit and shall not be required to be permitted by the Department of Environmental Quality or the Department of Agriculture.

E. Corporation Commission. 1. The Corporation Commission is hereby vested with exclusive jurisdiction, power and authority, and it shall be its duty to promulgate and enforce rules, and issue and enforce orders governing and regulating:

- a. the conservation of oil and gas,

- b. field operations for geologic and geophysical exploration for oil, gas and brine, including seismic survey wells, stratigraphic test wells and core test wells,
- c. the exploration, drilling, development, producing or processing for oil and gas on the lease site,
- d. the exploration, drilling, development, production and operation of wells used in connection with the recovery, injection or disposal of mineral brines produced from geological strata lying below three hundred (300) feet in depth from the surface,
- e. reclaiming facilities only for the processing of salt water, crude oil, natural gas condensate and tank bottoms or basic sediment from crude oil tanks, pipelines, pits and equipment associated with the exploration, drilling, development, producing or transportation of oil or gas,
- f. injection wells known as Class II wells under the federal Underground Injection Control Program. Any substance that the United States Environmental Protection Agency allows to be injected into a Class II well may continue to be so injected,
- g. tank farms for storage of crude oil and petroleum products which are located outside the boundaries of refineries, petrochemical manufacturing plants, natural gas liquid extraction plants, or other facilities which are subject to the jurisdiction of the Department of Environmental Quality with regard to point source discharges,
- h. the construction and operation of pipelines and associated rights-of-way, equipment, facilities or buildings used in the transportation of oil, gas, petroleum, petroleum products, anhydrous ammonia or mineral brine, or in the treatment of oil, gas or mineral brine during the course of transportation but not including line pipes in any:

- (1) natural gas liquids extraction plant,
 - (2) refinery,
 - (3) reclaiming facility other than for those specified within subparagraph e of this subsection,
 - (4) mineral brine processing plant, and
 - (5) petrochemical manufacturing plant,
- i. the handling, transportation, storage and disposition of saltwater, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing and operating of oil and gas wells, at:
- (1) any facility or activity specifically listed in paragraphs 1 and 2 of this subsection as being subject to the jurisdiction of the Commission, and
 - (2) other oil and gas extraction facilities and activities,
- j. spills of deleterious substances associated with facilities and activities specified in paragraph 1 of this subsection or associated with other oil and gas extraction facilities and activities, and
- k. subsurface storage of oil, natural gas and liquefied petroleum gas in geologic strata.

2. The exclusive jurisdiction, power and authority of the Corporation Commission shall also extend to the construction, operation, maintenance, site remediation, closure and abandonment of the facilities and activities described in paragraph 1 of this subsection.

3. When a deleterious substance from a Commission regulated facility or activity enters a point source discharge of pollutants or storm water from a facility or activity regulated by the Department of Environmental Quality, the Department shall have sole jurisdiction over the point source discharge of the commingled pollutants and storm water from the two facilities or

activities insofar as Department regulated facilities and activities are concerned.

4. For purposes of the Federal Clean Water Act, any facility or activity which is subject to the jurisdiction of the Corporation Commission pursuant to paragraph 1 of this subsection and any other oil and gas extraction facility or activity which requires a permit for the discharge of a pollutant or storm water to waters of the United States shall be subject to the direct jurisdiction of the federal Environmental Protection Agency and shall not be required to be permitted by the Department of Environmental Quality or the Corporation Commission for such discharge.

5. The Corporation Commission shall have jurisdiction over:

- a. underground storage tank regulation assigned to the Commission pursuant to other Oklahoma statutes, including but not limited to the Leaking Underground Storage Tank Trust Fund and Indemnity Fund programs, provided that any point source discharge of a pollutant to waters of the United States during site remediation shall be regulated by the Department of Environmental Quality, and
- b. aboveground storage tanks used in connection with the retail sale of flammable liquids into fuel tanks, provided that any point source discharge of a pollutant to waters of the United States during site remediation shall be regulated by the Department of Environmental Quality.

6. The Department of Environmental Quality shall have sole jurisdiction to regulate the transportation, discharge or release of deleterious substances or solid or hazardous waste or other pollutants from rolling stock and rail facilities.

7. The Department of Environmental Quality shall have sole environmental jurisdiction for point and nonpoint source discharges of pollutants and storm water to waters of the state from:

- a. refineries, petrochemical manufacturing plants and natural gas liquid extraction plants,
- b. manufacturing of oil and gas related equipment and products,
- c. bulk terminals, aboveground and underground storage tanks not subject to the jurisdiction of the Commission pursuant to this subsection,
- d. other facilities, activities and sources not subject to the jurisdiction of the Corporation Commission or the Department of Agriculture as specified by this section.

8. The Department of Environmental Quality shall have sole environmental jurisdiction to regulate air emissions from all facilities and sources subject to operating permit requirements under Title V of the Federal Clean Air Act as amended.

F. Conservation Commission. The Conservation Commission shall have the following jurisdictional areas of environmental responsibility:

- 1. Soil conservation and erosion control;
- 2. Monitoring, evaluation and assessment of waters to determine the extent of stream and river health and the impacts caused by nonpoint source pollution and the development of conservation plans. Serve. In carrying out this area of responsibility, the Conservation Commission shall serve as the technical lead agency for nonpoint source pollution categories as defined in Section 319 of the Federal Clean Water Act or other subsequent federal or state nonpoint source programs, except ~~for~~ activities related to industrial and municipal stormwater as otherwise provided by state law;
- 3. Wetlands strategy;
- 4. Abandoned mine reclamation;
- 5. Cost share program for land use activities;
- 6. Assessment and conservation plan development and implementation in watersheds of clean lakes, as specified by law;
- 7. Complaint data management;

8. Coordinate environmental and natural resources education;
and

9. Federal upstream flood control program.

As used in this subsection, "stream or river health" describes the ecological integrity of a flowing aquatic environment. Health relates to the structure and function of the ecosystem, where high levels of health imply sufficiently high levels of ecological complexity and high levels of community stability.

G. Department of Mines. The Department of Mines shall have the following jurisdictional areas of environmental responsibility:

1. Mining regulation; and
2. Mining reclamation of active mines.

H. Department of Wildlife Conservation. The Department of Wildlife Conservation shall have the following jurisdictional areas of environmental responsibilities:

1. Investigating wildlife kills; and
2. Wildlife protection and seeking wildlife damage claims.

I. Department of Public Safety. The Department of Public Safety shall have the following jurisdictional areas of environmental responsibilities:

1. Vehicle inspection for air quality;
2. Hazardous waste, substances and material transportation inspections as authorized by the Hazardous Materials Transportation Act; and

3. Inspection and audit activities of hazardous waste and materials carriers and handlers as authorized by the Hazardous Materials Transportation Act.

J. Department of Labor. The Department of Labor shall have the following jurisdictional areas of environmental responsibility:

1. Regulation of asbestos in the workplace pursuant to Chapter 11 of Title 40 of the Oklahoma Statutes;
2. Asbestos monitoring in public and private buildings; and
3. Indoor air quality as regulated under the authority of the Oklahoma Occupational Health and Safety Standards Act, except for

those indoor air quality issues specifically authorized to be regulated by another agency.

Such programs shall be a function of the Department's occupational safety and health jurisdiction.

K. Department of Civil Emergency Management. The Department of Civil Emergency Management shall have the following jurisdictional areas of environmental responsibilities:

1. Coordination of all emergency resources and activities relating to threats to citizens' life and property pursuant to the Oklahoma Civil Defense and Emergency Resources Management Act;

2. Administer and enforce the planning requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986 and develop such other emergency operations plans that will enable the state to prepare for, respond to, recover from and mitigate potential environmental emergencies and disasters pursuant to the Oklahoma Hazardous Materials Planning and Notification Act;

3. Administer and conduct periodic exercises of emergency operations plans provided for in this subsection pursuant to the Oklahoma Civil Defense and Emergency Resources Management Act;

4. Administer and facilitate hazardous materials training for state and local emergency planners and first responders pursuant to the Oklahoma Civil Defense and Emergency Resources Management Act; and

5. Maintain a computerized emergency information system allowing state and local access to information regarding hazardous materials' location, quantity and potential threat.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-3-507 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Political subdivisions may, when compliance with environmental standards would create excessive debt, enter into compliance schedules with the Department of Environmental Quality to prioritize compliance based on their greatest environmental or other public health and safety needs. Excessive debt is indicated when the work needed for compliance would require a capital cost or user charge significantly beyond the per-household cost for

similar-sized communities within the state. Penalties shall not be assessed under the compliance schedule if a political subdivision complies with the schedule authorized by the Department.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-6-107 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Any person who collects, transports, and disposes of or land-applies sludge in compliance with an approved sludge management plan from the Department according to Section 2-6-501.2 of Title 27A of the Oklahoma Statutes, and any state-licensed septic tank hauler who collects, transports, and disposes of or land-applies septage, wastewater or sludge and maintains a septage log in compliance with the septage program described in Section 2-6-801 of Title 27A of the Oklahoma Statutes, or maintains a company manifest, which must be approved by the Department and shall include, but not be limited to, the name and address of the generator, the location from which the waste is removed, the name and address of the transporter of the waste, the name and address of the treatment or disposal facility receiving the waste and the nature and quantity of waste transported, shall not be required to carry, maintain or use a manifest for such septage, wastewater or sludge which might otherwise be required under any municipal pretreatment program adopted to meet state requirements of Article 2 of the Oklahoma Environmental Code or federal requirements under the Clean Water Act or otherwise. Municipalities shall accept such Department-approved manifests in lieu of any other manifesting requirements. The Department shall not grant approval for any manifest which fails to meet state or federal requirements.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-6-404 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Residential sewage disposal systems which cause pollution may be eligible for any nonpoint source funds available in the

Wastewater Facility Construction Revolving Loan Account pursuant to Section 1085.54 of Title 82 of the Oklahoma Statutes.

SECTION 7. AMENDATORY 82 O.S. 1991, Section 926.4, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 17, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1995, Section 2-6-501), is amended to read as follows:

Section 2-6-501. A. It shall be unlawful for any person to carry on any of the following activities with regard to wastewater or sludge without first securing a water quality permit from the Department of Environmental Quality, unless such activity is approved in a permit issued by the Executive Director under Part 2, Article VI, Chapter 2 of this Code:

1. The construction, installation, operation and closure of any industrial surface impoundment, industrial septic tank or treatment system, or the use of any existing unpermitted surface impoundment, septic tank or treatment system that is within the jurisdiction of the Department and which is proposed to be used for the containment or treatment of industrial wastewater or sludge;

2. The construction, installation or operation of any industrial or commercial facility subject to the permitting authority of the Department, the operation of which would cause an increase in the discharge of waste into the waters of the state or would otherwise alter the physical, chemical or biological properties of any waters of the state in any manner not already lawfully authorized;

3. The construction or use of any new outfall for the discharge of any waste or pollutants into the waters of the state; or

4. The land application of any nonindustrial or industrial wastewater and the land application of sludge.

B. Any major addition, extension, operational change or other change proposed for a facility permitted pursuant to subsection A of this section shall require the approval of the Department through the major modification of the facility's permit prior to

construction or implementation of such addition, extension or change.

C. A permit for activities specified in ~~paragraph~~ subsection A of this section shall be issued by the Executive Director for no more than five (5) years and may be renewed pursuant to rules of the Board.

D. The discharge of domestic sewage except to a public or private disposal system approved or authorized by the Department or the surfacing of effluent from any domestic septic system shall be deemed pollution for purposes of the provisions of Section 2-6-105 of this title.

E. Commercial treatment works or off-site pretreatment activities generating waste, sludge or wastewater shall be required to obtain a permit or authorization from the Department pursuant to this article.

F. The Board may promulgate rules for the implementation of ~~the of~~ this part, including but not limited to the submission of applications, plans, specifications and other necessary information, and requirements for monitoring, reporting, operation and maintenance, corrective action, construction and closure. Such rules may incorporate by reference any applicable federal regulations.

SECTION 8. AMENDATORY 63 O.S. 1991, Section 1-2305, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 3 of Enrolled House Bill No. 1268 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 2-10-802. A. 1. Owners or operators of landfill disposal sites which are not generator owned and operated nonhazardous industrial waste monofills shall install scales by January 1, 1996. Such scales shall be tested and certified as required by Section 5-61e of Title 2 of the Oklahoma Statutes relating to the authority of the Oklahoma Board of Agriculture to test annually the standards of weights and measures used by any city or county within the state and to approve if found to be correct.

2. The owner or operator shall upon receipt weigh all waste received and record the weight in writing. If scales at a disposal site are not operative, tonnage shall be estimated on a volume basis whereby the volume reported shall be no less than the volume capacity of the containers or, if none, of the vehicles delivering the waste, and one cubic yard of solid waste shall be calculated to weigh one-third (1/3) ton. The owner or operator shall place notice in the disposal site's operating record of the time and date at which the scales became inoperable, describe the steps taken to repair them, and note the date use was resumed. If daily use has not resumed within thirty (30) days after the scales became inoperable, the owner or operator shall give written notice to the Department of Environmental Quality.

3. The owner or operator shall also maintain a written record of the weight or volume of any solid waste received which is productively reused or recovered and sold in accordance with the landfill disposal site's permit.

B. 1. Except as otherwise provided by this subsection, on and after January 1, 1996:

a. owners and operators of landfill disposal sites which receive an average of less than one hundred (100) tons of solid waste per operating day shall assess a fee of One Dollar and fifty cents (\$1.50) per ton of solid waste received for disposal. A total of fifty cents (\$.50) per ton of such fee shall be retained by the owner or operator and used exclusively for capital improvement to their facilities and for the projects required pursuant to the Solid Waste Management Act or the disposal site's permit for such period of time necessary to recoup a capital investment, plus the interest costs expended in purchasing the scales, of a total of Forty Thousand Dollars (\$40,000.00) 7

~~b. when the owner or operators have recouped a capital investment of the total specified in subparagraph a of this paragraph, the fee to be assessed shall be~~

~~One Dollar and twenty-five cents (\$1.25) per ton of solid waste received for disposal. At such time, for.~~ For a return with remittance filed on or before the due date, the owner or operator may deduct and retain ten percent (10%) of the fees collected, and

~~e.~~ b. records documenting the projects and use of the funds shall be included with each return.

2. a. Owners and operators of landfill disposal sites which receive an average of more than one hundred (100) tons of solid waste per operating day shall assess a fee of One Dollar and fifty cents (\$1.50) per ton of solid waste received for disposal, retaining twenty-five cents (\$0.25) per ton for a period of time necessary to recoup a capital investment, plus the interest costs expended in purchasing the scales, of Forty Thousand Dollars (\$40,000.00). ~~At the end of such period the fee shall revert to One Dollar and twenty-five cents (\$1.25) per ton.~~ For a return with remittance filed on or before the due date, the owner or operator may deduct and retain ten percent (10%) of the fees collected.

b. Records documenting the capital investment and the use of the funds shall be included with each return.

3. The fee shall not be imposed on:

a. the solid waste received which is productively reused or recovered in accordance with the landfill disposal site's permit. The owner or operator shall include records pertaining to this fee exemption in the quarterly return of fees to the Department, and

b. generator owned and operated nonhazardous waste land disposal monofills and waste subject to a fee pursuant to Section 2-10-803 of this title. For emergencies and other special events, the Department and the owner or operator of a site subject to this

section may enter into a formal agreement to waive the fee.

4. Large industrial waste generators who generate over ten thousand (10,000) tons of nonhazardous industrial solid waste in the state in a calendar year may annually apply to the Department for a certificate exempting the disposal of such generated waste in excess of ten thousand (10,000) tons from the disposal fee authorized by this section. An applicant must have implemented a pollution prevention plan for such waste and filed it with the Department, provided operational documentation regarding such plan and paid the disposal fee on ten thousand (10,000) tons of the waste during the calendar year of application. The Department-issued exemption certificates shall be valid for the remainder of the calendar year of application, may contain conditions, and, upon presentation by authorized persons, shall be recognized by owners or operators of landfill disposal sites subject to this section. If a generator operates a landfill solely for waste from that generator, and if that generator chooses to seek the exemption authorized by this paragraph, the generator shall not be required to install scales or keep records relative to quantity of waste received for the landfill.

5. The fee assessed by this subsection is to be a charge to waste producers in addition to any charges specified in any contract or elsewhere. The fee shall be imposed upon and passed through to disposers of waste using the facility.

6. The owner or operator of a solid waste disposal site shall collect the fee levied pursuant to this subsection as trustee for the state and shall prepare and file with the Department quarterly returns indicating:

- a. the total tonnage of solid wastes received for disposal at the gate of the site, and
- b. the total amount of the fees collected pursuant to this section.

7. Not later than thirty (30) days after the end of the quarter to which such a return applies, the owner or operator shall mail to the Department the return for that quarter together

with the fees collected during that quarter as indicated on the return.

8. The owner or operator may receive an extension of not more than thirty (30) days for filing the return and remitting the fees, provided that:

- a. the owner or operator has submitted a request for an extension in writing to the Department together with a detailed description of why the extension is requested,
- b. the Department has received the request not later than the day on which the return is required to be filed, and
- c. the Department has approved the request.

9. For any quarterly return filed more than thirty (30) days after the due date or extension date, the owner or operator shall remit an additional five percent (5%) of the fees collected during the month to which the return applies. If the fees are not remitted within sixty (60) days of the last day of the quarter during which they were collected, the owner or operator shall pay an additional fifty percent (50%) of the amount of the fees for each month that they are late.

10. If the owner or operator misrepresents, or fails to properly measure or record, the amount of waste received or fails to remit fees within sixty (60) days after the last day of the quarter during which they were collected, the landfill disposal site's permit shall be summarily suspended by order and the Department shall initiate the process of revoking the permit and may require closure of the landfill.

C. 1. The Department shall expend funds collected pursuant to the provisions of this section solely for the administration and enforcement of the provisions of the Oklahoma Solid Waste Management Act and for the development of solid waste technical assistance programs, solid waste public environmental education programs and educational curricula, solid waste studies, development of a statewide solid waste plan, and solid waste recycling and litter prevention programs.

2. In order to assist the Department of Environmental Quality regarding its responsibilities relating to the promotion of recycling of solid waste, beginning July 1, 1996, and each fiscal year thereafter, the Department shall contract with units of local government, political subdivisions of this state, components of The Oklahoma State System of Higher Education, local and statewide organizations representing municipalities or counties, or substate planning districts recognized by the Oklahoma Department of Commerce, for ~~up to a total of One Hundred Thousand Dollars (\$100,000.00) and to the extent such monies are available for an~~ amount equal to no more than ten percent (10%) of the annual income from the fees received pursuant to this section to fund no more than half the nonoperating costs to initiate projects promoting the recycling of solid waste. Local governments, political subdivisions of this state, components of The Oklahoma State System of Higher Education, local and statewide organizations representing municipalities and counties and substate planning districts recognized by the Oklahoma Department of Commerce desiring to contract with the Department for such projects shall meet the application requirements of rules promulgated by the Environmental Quality Board and the criteria established by a recycling priorities plan prepared annually by the Department after review and comment by the Solid Waste Management Advisory Council. Except as otherwise provided by this section, contracts for such projects shall not be granted to state agencies.

3. Any litter prevention program shall be developed by the Department in conjunction with the State Department of Transportation.

4. a. To the extent that funds are available, the Department may also reimburse any governmental entity for equipment other than motor vehicles or buildings to separate, process, modify, convert or treat solid waste or recovered materials so that the resulting product is being used in a productive manner.

- b. The reimbursements shall be from solid waste fee funds and shall not exceed twenty-five percent (25%) of the person's total project costs. No reimbursement may be larger than Twenty Thousand Dollars (\$20,000.00).
- c. Reimbursements must be expended in accordance with rules promulgated by the Environmental Quality Board and criteria established through the Department's annual recycling priorities plan. The Department shall not expend more than Two Hundred Thousand Dollars (\$200,000.00) in each fiscal year for such reimbursements, nor shall the Department reimburse waste tire facilities that may be eligible for compensation from the Waste Tire Recycling Indemnity Fund.

- 5. a. The Department, in conjunction with the Corporation Commission, the Energy Resources Board and the Conservation Commission, may develop a plan to use suitable portions of the solid waste stream to reclaim Oklahoma lands damaged by oil and gas exploration and production or by surface mining activities.
- b. To the extent that funds are available, the Department may use up to ten percent (10%) of the annual income from the fees received pursuant to the provisions of this section to implement the plan. The Department may use its discretion in administering the funds for the purpose of this paragraph, but shall keep records subject to audit by the State Auditor and Inspector for good business practices.

D. The provisions of this section shall not apply to landfill disposal sites that receive only ash generated by the burning of coal.

E. To further enhance the beneficial impact of solid waste management programs and resources upon the groundwater and surface

water quality within the state, solid waste fees received by the end of the state fiscal year that exceed the funds required to provide for the Department's official budget to operate its solid waste programs for that state fiscal year as authorized by subsection C of this section shall be designated as Infrastructure Matching Funds and shall, at the beginning of each federal fiscal year, be used to match federal funding made available under federal solid waste laws (Subtitle D of the Resource Conservation and Recovery Act), the federal Safe Drinking Water Act or the Federal Clean Water Act for infrastructure needs. Infrastructure Matching Funds shall be used to match solid waste funding first, public water supply funding second, and wastewater facilities funding third. Twenty-five percent (25%) of the Infrastructure Matching Funds shall be set aside to be available for state matching funds in systems serving less than ten thousand (10,000) population and shall be used in accordance with and apportioned equally among multi-county economic action plans should such plans exist. The total of Infrastructure Matching Funds shall not exceed the amount of state dollars needed to provide state matching funds. At the beginning of each federal fiscal year, Infrastructure Matching Funds available for public water supply shall be transferred to the Drinking Water Treatment Revolving Loan Account created in Section 1085.73 of Title 82 of the Oklahoma Statutes, and Infrastructure Matching Funds available for wastewater shall be transferred to the Wastewater Facility Construction Revolving Loan Account created in Section 1085.53 of Title 82 of the Oklahoma Statutes.

F. On or before September 1, 1996, and September 1 of each year thereafter, the Department of Environmental Quality shall prepare a report of income and expenditures for the period of each fiscal year in which solid waste fee monies authorized by this section were received and such report shall be distributed to members of the Solid Waste Management Advisory Council for review. By November 1 of each year the Council shall submit to the Executive Director, Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate, its

written comments on the comparison of income with program expenditures.

SECTION 9. AMENDATORY 82 O.S. 1991, Section 1501-103, as amended by Section 206, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1995, Section 3-1-103), is amended to read as follows:

Section 3-1-103. As used in the Conservation District Act:

1. "District" or "conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of the Conservation District Act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth-i

2. "Director" means a member of the governing body of a conservation district, elected or appointed in accordance with the provisions of the Conservation District Act-i

3. "Commission" means the Oklahoma Conservation Commission-i

4. "State" means the State of Oklahoma-i

5. "Agency of this state" includes the government of this state and any subdivision, agency or instrumentality, corporate or otherwise, of the government of this state-i

6. "United States" or "agencies of the United States" includes the United States of America, and any department, agency or instrumentality of the federal government-i

7. "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them-i

8. "Due notice" which shall be in conformance with the Administrative Procedures Act means notice published at least twice, with an interval of at least seven (7) days between the two publication dates, in a newspaper or other publication of general circulation within the district, or, if no such publication of general circulation be available, by posting at five conspicuous places within the district, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At

any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates-i

9. "District cooperator" means any person that has entered into a cooperative agreement with a conservation district for the purpose of protecting, conserving and practicing wise use of the renewable natural resources under his control-i

10. "Renewable natural resources", "natural resources" or "resources" include land, soil, excess surface water, vegetation, trees, natural beauty, scenery and open space-i

11. "Conservation" includes conservation, development, improvement, maintenance, preservation, protection and wise use of land, water and related natural resources; the control and prevention of floodwater and sediment damages; and the disposal of excess surface waters-i

12. "Cost/Share program" means the assumption by the state of a proportional share of the cost of installing conservation structures or management practices on lands for public and environmental benefits-i

13. "Management practices" means a control method or combination of control methods that is determined to be the most effective and practicable means of preventing soil loss from erosion or reducing the amount of nonpoint source pollution from a given land use-i

14. "Nonpoint source" shall have the same meaning as such word is defined by the Oklahoma Environmental Quality Act-i

15. "Pollution" shall have the same meaning as such word is defined by the Oklahoma Environmental Quality Act-i

16. "Load allocation" means the portion of a receiving water's loading capacity that is attributed either to nonpoint sources of pollution or natural background sources;

17. "Loading" means an amount of matter that is introduced into a receiving water;

18. "Loading capacity" means the greatest amount of loading that a water can receive without violating water quality standards;

19. "Nonpoint Source Working Group" means an advisory group established to provide input into the state's nonpoint source management and assessment program and is open to federal, state, and local natural resource agencies and other interested groups;

20. "Watershed" means an area of land that drains to a given point;

21. "Blue Thumb Program" means a nonpoint source educational program emphasizing water quality education, including volunteer monitoring;

22. "Soil science" means the science which:

- a. studies physical, chemical, and biological processes taking place in both naturally occurring and reconstructed unconsolidated material formed by the alteration of parent rock due to exposure at the earth's surface, and
- b. includes sampling, measuring, identification, characterization, classification, and mapping of soil materials and migration of water solute, air and other gaseous components in the unsaturated portion of the earth; and

23. "Soil scientist" means a person who:

- a. has earned a baccalaureate or higher degree in a field of soil science from an institution of higher education which is accredited by a regional or national accrediting agency, with a minimum of thirty (30) semester hours or forty-five (45) quarter hours of undergraduate work in a field of biological, physical, or earth science with a minimum of fifteen (15) semester hours of core soil science courses, and
- b. has a specific and continuous record of related and verifiable soil science work experience for two (2) years. Publications in a soil science publication

or prior qualifications as an expert witness in an administrative or judicial proceeding, hearing, or trial shall be prima facie evidence of experience related to soil science.

SECTION 10. AMENDATORY 82 O.S. 1991, Section 1501-205, as amended by Section 212, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1995, Section 3-2-106), is amended to read as follows:

Section 3-2-106. A. In addition to other powers and duties specified by law, the Oklahoma Conservation Commission shall have the power and duty to:

1. Offer the assistance as may be appropriate to the directors of conservation districts in the carrying out of any of their powers and programs and to:

- a. assist and guide districts in the preparation and carrying out of programs for resource conservation authorized under the Conservation District Act,
- b. review district programs,
- c. coordinate the programs of the several districts and resolve any conflicts in such programs, and
- d. facilitate, promote, assist, harmonize, coordinate and guide the resource conservation programs and activities of districts as they relate to other special purpose districts, counties and other public agencies-i

2. Keep the directors of each of the several districts informed of the activities and experience of all other districts, and to facilitate an interchange of advice and experience between such districts and cooperation between them-i

3. Review agreements, or forms of agreements, proposed to be entered into by districts with other districts or with any state, federal, or interstate, or other public or private agency, organization or individual, and advise the districts concerning such agreements or forms of agreements-i

4. Secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the

work of such districts and to accept donations, grants, gifts and contributions in money, services or otherwise from the United States or any of its agencies or from the state or any of its agencies in order to carry out the purposes of the Conservation District Act-; i

5. Disseminate information throughout the state concerning the activities and programs of the conservation districts and to make available information concerning the needs and the work of the conservation districts and Commission to the Governor, the Legislature, executive agencies of the government of this state, political subdivisions of this state, cooperating federal agencies and the general public-; i

6. Serve along with conservation districts as the official state agencies for cooperating with the Soil Conservation Service of the United States Department of Agriculture and carrying on conservation operations within the boundaries of conservation districts-; i

7. Cooperate with and give such assistance as they deem necessary and proper to conservancy districts, watershed associations and other special purpose districts in the State of Oklahoma for the purpose of cooperating with the United States through the Secretary of Agriculture in the furtherance of conservation pursuant to the provisions of the Federal Watershed Protection and Flood Prevention Act, as amended-; i

8. Recommend the inclusion in annual and longer term budgets and appropriation legislation of the State of Oklahoma of funds necessary for appropriation by the Legislature to finance the activities of the Commission and the conservation districts and to:

- a. administer the provisions of the Conservation District Act hereafter enacted by the Legislature appropriating funds for expenditure in connection with the activities of conservation districts,
- b. distribute to conservation districts funds, equipment, supplies and services received by the Commission for that purpose from any source, subject

to such conditions as shall be made applicable thereto in any state or federal statute or local ordinance making available such funds, property or services,

- c. issue regulations establishing guidelines and suitable controls to govern the use by conservation districts of such funds, property and services; and to review all budgets, administrative procedures and operations of such districts and advise the districts concerning their conformance with applicable laws and regulations-i

9. Enlist the cooperation and collaboration of state, federal, regional, interstate, local, public and private agencies with the conservation districts and to facilitate arrangements under which the conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of renewable natural resources-i

10. Pursuant to procedures developed mutually by the Commission and federal, state and local agencies that are authorized to plan or administer activities significantly affecting the conservation of renewable natural resources, receive from such agencies for review and comment suitable descriptions of their plans, programs and activities for purposes of coordination with district conservation programs and to arrange for and participate in conferences necessary to avoid conflict among such plans and programs, to call attention to omissions and to avoid duplication of effort-i

11. Compile information and make studies, summaries and analyses of district programs in relation to each other and to other resource conservation programs on a statewide basis-i

12. Except as otherwise assigned by law, carry out the policies of this state in programs at the state level for the conservation of the renewable natural resources of this state and represent the state in matters affecting such resources-i

13. Assist conservation districts in obtaining legal services from state and local legal officers;i

14. Require annual reports from conservation districts, the form and content of which shall be developed by the Commission in consultation with the district directors;i

15. Establish by regulations, with the assistance and advice of the State Auditor and Inspector, adequate and reasonably uniform accounting and auditing procedures which shall be used by conservation districts;i

16. Conduct workshops for district directors to instruct them on the subjects of district finances, the Conservation District Law and related laws, and their duties and responsibilities as directors;i

17. Assist and supervise districts in carrying out their responsibilities in accordance with the Oklahoma laws;i

18. Have power, by administrative order, upon the written request of the board of directors of the conservation district or districts involved, with a showing that such request has been approved by a majority vote of the members of each of the boards involved, to:

- (a) transfer lands from one district established under the provisions of the Conservation District Act to another,
- (b) divide a single district into two or more districts, each of which shall thereafter operate as a separate district under the provisions of the Conservation District Act, and
- (c) consolidate two or more districts established under the provisions of the Conservation District Act, which consolidated area shall operate thereafter as a single district under the provisions of the Conservation District Act;i

19. Except as otherwise provided by law, act as the management agency having jurisdiction over and responsibility for directing nonpoint source pollution prevention programs outside the jurisdiction or control of cities or towns in Oklahoma. The

Commission, otherwise, shall be responsible for all identified nonpoint source categories except silviculture, urban storm water runoff and industrial runoff-;

20. Administer a cost/share program which would provide state monies to local districts for the purpose of carrying out conservation or management practices on the land to benefit the public through the prevention of soil erosion and nonpoint source pollution and general resource enhancement. The Commission is not authorized to implement mandatory compliance with management practices except as otherwise provided by law to abate agricultural nonpoint source pollution-;

21. Plan watershed based nonpoint source pollution control activities, including the development and implementation of conservation plans for the improvement or protection of the resources of the state;

22. Provide assistance to the Oklahoma Water Resources Board on lake projects through stream and river monitoring, assessing watershed activities impacting lake water quality, and assisting in the development of a watershed management plan;

23. Maintain the activities of the state's Nonpoint Source Working Group;

24. Develop nonpoint source load allocations for pollutants found in priority watersheds and provide information to the Department of Environmental Quality and the Oklahoma Water Resources Board for use in determining total acceptable loads for those pollutants in receiving waters of priority watersheds;

25. Prepare, revise, and review the Nonpoint Source Management Program and Nonpoint Source Assessment Report in consultation with other state environmental and natural resource agencies and compile a comprehensive assessment for the state every five (5) years. Such management program and assessment report shall be distributed to the Governor, the Secretary of Environment, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives;

26. Manage under the direction of the Office of the Secretary of Environment, the development of the state's nonpoint source

water quality monitoring strategy in consultation with other environmental agencies;

27. Monitor, evaluate and assess waters to determine stream and river health and the impacts caused by nonpoint source pollution. In carrying out this area of responsibility the Conservation Commission shall serve as the technical lead agency for nonpoint source pollution categories as defined in Section 319 of the Federal Clean Water Act or other subsequent federal or state nonpoint source programs, except as otherwise provided by law;

28. Administer the Blue Thumb Program;

29. Enter into agreements or contracts for services with any of the substate planning districts recognized by the Oklahoma Department of Commerce;

~~22.~~ 30. Cooperate with the federal government, or any agency thereof, to participate in and coordinate with federal programs that will yield additional federal funds to the state for programs within the jurisdiction of the Conservation Commission. This participation shall be subject to the availability of state funds; and

~~23.~~ 30. Implement pilot projects and programs, subject to the availability of funds, that will demonstrate the latest technologies and applications in conservation programs that may provide direct or residual benefits to conservation practices in the state.

B. Nothing in this act shall take away any of the present duties or responsibilities delegated by law or constitution to other environmental agencies.

SECTION 11. AMENDATORY Section 320, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1995, Section 1085.29), is amended to read as follows:

Section 1085.29 ~~The~~ In addition to other powers and duties as provided by law, the Oklahoma Water Resources Board is hereby designated as the state technical lead agency to administer, receive, and manage all programs and funds associated with for funding under Section 314 of the federal Federal Clean Water Act

Program or other applicable sections of the Federal Clean Water Act or other subsequent state and federal clean lakes programs for clean lakes and implementation of a volunteer monitoring program to assess and monitor state water resources. In conducting the clean lakes program, the Board shall employ a cooperative agreement with the Conservation Commission with regard to lake watersheds. The Conservation Commission may cooperate with Oklahoma Water Resources Board in providing land use inventory/assessment and stream monitoring portion of the clean lakes program. The Water Resources Board may enter into cooperative agreements with other federal, state and local agencies as necessary. Any Phase II Clean Lakes projects which require watershed implementation of nonpoint source pollution control practices shall be carried out by the Conservation Commission.

SECTION 12. AMENDATORY 82 O.S. 1991, Section 1085.54, as amended by Section 326, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1995, Section 1085.54), is amended to read as follows:

Section 1085.54 A. ~~All funds~~ Funds available in the Wastewater Facility Construction Revolving Loan Account shall first be used to assure maintenance of progress towards compliance with enforceable deadlines, goals, and requirements of the Oklahoma Environmental Quality Code, Oklahoma's Water Quality Standards, and Federal Clean Water Act. ~~Upon the determination by the Board that all enforceable requirements have been met by Oklahoma communities and all other eligible wastewater projects have been funded, funds in the account may be used for the implementation of the nonpoint source management program pursuant to Section 1085.65 of this title~~ The Oklahoma Water Resources Board shall allot annually an amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) from the Wastewater Facility Construction Revolving Loan Account in order to provide financial assistance for correction of nonpoint source pollution which may impact water quality standards.

Prior to the beginning of each funding year, the responsible state environmental agencies will identify and provide to the

Oklahoma Water Resources Board, a list of nonpoint source projects, for which that environmental agency has statutory authority, which the Board shall include in the annual intended use plan established under Section 1085.63 of this title. The responsible environmental agencies and the Oklahoma Water Resources Board will jointly establish goals, objectives, and the criteria and method for distributing the nonpoint source funds, prior to providing financial assistance to nonpoint source projects. At the end of each funding year, any portion of the Two Hundred Fifty Thousand Dollars (\$250,000.00) not encumbered for nonpoint source projects shall be released for other wastewater projects.

B. The Board shall use the Wastewater Facility Construction Revolving Loan Account only as provided by the federal Water Quality Act of 1987 for the following purposes:

1. To make a loan to an eligible entity if:
 - a. the loan application, project and planning documents have been approved by the Board pursuant to Section 1085.58 of this title or ~~the Oklahoma Conservation Commission~~ other applicable state environmental agencies pursuant to Section 1085.65 of this title,
 - b. the loan is made at or below market interest rates, including interest-free loans, at terms consistent with the federal Water Quality Act of 1987,
 - c. principal and interest payments will begin not later than one year after completion of any wastewater project and all loans will be fully amortized consistent with the federal Water Quality Act of 1987,
 - d. the Wastewater Facility Construction Revolving Loan Account will be credited with all payments of principal of and interest on all loans,
 - e. the applicant demonstrates to the satisfaction of the Board the financial capability to assure sufficient revenues to pay debt service,

- f. the recipient of the loan establishes a dedicated source of revenue for payment of debt service for the loan, and
- g. the recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the treatment works, and to submit the audit report to the Board on a scheduled annual basis;

2. To buy or refinance eligible entity obligations at or below market rates if the eligible entity obligations were incurred in construction which began after March 7, 1985;

3. To guarantee or purchase insurance for eligible entities if the guarantee or insurance would improve access to market credit or reduce interest rates;

4. As a source of revenue or security for the payment of principal of and interest on any investment certificate issued by the Board. The proceeds of the sale of such investment certificates shall be deposited in the Wastewater Facility Construction Revolving Loan Account in compliance with applicable bond resolutions or indentures authorizing the sale;

5. To provide loan guarantees to similar revolving loan accounts or funds established by eligible entities;

6. To earn interest on accounts established under the Wastewater Facility Construction Revolving Loan Account;

7. To administer the Wastewater Facility Construction Revolving Loan Account ~~pursuant to the provisions of this act.~~

All funds to be utilized for administrative costs from the Wastewater Facility Construction Revolving Loan Account shall be subject to annual designation by the State Legislature; and

8. For such other purpose or in such other manner, as is determined by the Board to be an appropriate use of the Wastewater Facility Construction Revolving Loan Account and which has been specifically approved by the Environmental Protection Agency pursuant to the federal Water Quality Act of 1987.

SECTION 13. AMENDATORY 82 O.S. 1991, Section 1085.65, as amended by Section 334, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1995, Section 1085.65), is amended to read as follows:

Section 1085.65 A. ~~The Oklahoma Conservation Commission~~ appropriate state environmental agency shall ~~adopt~~ promulgate rules to receive, process, and review loan applications for implementation of nonpoint source management programs as allowed by the federal Water Quality Act of 1987 for those activities subject to its jurisdiction as specified in the Oklahoma Environmental Quality Act.

B. The rules shall require that to be eligible for financial assistance, the proposed project:

1. Meets or will meet a critical local or state need, as defined in the State Nonpoint Source Assessment and Management Report;

2. Is needed or will be needed to comply with the State Nonpoint Source Assessment and Management Report;

3. Is designed to prevent, reduce or halt the pollution of the waters of this state and comply with Oklahoma's Water Quality Standards; and

4. Is cost-effective.

~~C. The Commission shall consult with and obtain comments of the Executive Director of the Department of Environmental Quality prior to making a recommendation on all loan applications and programs which may involve nonpoint sources subject to the jurisdiction of the Department of Environmental Quality. The Department of Environmental Quality's comments shall be addressed in the recommendation or attached thereto.~~

~~D.~~ Upon determination that the proposed project meets the minimum criteria, the ~~Commission~~ appropriate state environmental agency shall forward the application, plans and specifications and other documents to the Board, with a recommendation that a loan be made for the project.

D. The state revolving funds for the implementation of management practices to reduce nonpoint sources of pollution shall not be available to a state environmental agency until such agency

promulgates rules which guide the use of those funds for the implementation of the most cost-effective solutions where nonpoint sources are known or identified as potential causes of a violation of water quality standards in a specific stream. The state revolving funds for the reduction of nonpoint source pollution shall not be available unless the applicable state environmental agency has promulgated rules requiring implementation of corrective actions.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.66 of Title 82, unless there is created a duplication in numbering, reads as follows:

Prior to the beginning of each fiscal year, the responsible state environmental agency will identify and provide to the Oklahoma Water Resources Board a list of nonpoint source projects, for which such agency has statutory authority, which the Board shall include in the annual Intended Use Plan established under Section 1085.63 of Title 82 of the Oklahoma Statutes. The responsible environmental state agencies and the Oklahoma Water Resources Board will jointly establish goals, objectives, and the criteria and method for distributing the nonpoint source funds, prior to providing financial assistance to nonpoint source projects. At the end of each fiscal year, any portion of the funds not encumbered for nonpoint source projects shall revert back to their intended purposes.

SECTION 15. AMENDATORY Section 6, Chapter 191, O.S.L. 1994 (82 O.S. Supp. 1995, Section 1085.76), is amended to read as follows:

Section 1085.76 The Environmental Quality Board shall prescribe such rules as may be necessary for determining the eligibility and priority of entities for drinking water treatment projects in order to receive loans made pursuant to the federal Safe Drinking Water Act and from the Drinking Water Treatment Revolving Loan Account. At a minimum, such rules shall:

1. Ensure the fair and equitable prioritization of entities eligible for loans made pursuant to the provisions of ~~this act~~ Section 1085.71 et seq. of this title;

2. Be in conformance with applicable provisions of the Oklahoma Environmental Quality Code and the federal Safe Drinking Water Act;

3. Require that to be approved, an applicant needs or will need the drinking water treatment project loan to comply with rules adopted by the Environmental Quality Board pursuant to the Oklahoma Environmental Quality Code; and

4. Require the drinking water treatment project to:

- a. comply with minimum standards and requirements of the federal Safe Drinking Water Act or any similar or successor statute,
- b. meet the ~~Department's~~ Board's rules for drinking water and established environmental review criteria as provided for by applicable federal law, and
- c. meet any other consideration deemed necessary by the Department.

SECTION 16. AMENDATORY 82 O.S. 1991, Section 1106, is amended to read as follows:

Section 1106. A port authority established ~~by~~ pursuant to Section ~~1102~~ 1101 et seq. of this title shall have full power and authority to:

~~(a)~~ 1. Purchase, construct, reconstruct, sell, lease, operate, and otherwise contract concerning docks, wharves, warehouses, piers, and other port, terminal, industrial, or transportation facilities within its jurisdiction consistent with the purposes of the port authority, and to make charges for the use thereof;

~~(b)~~ 2. Borrow money from either public or private financial institutions, sources or any agency of the State of Oklahoma or of the United States of America, and to issue therefor such notes or other evidence of indebtedness as may be required and to mortgage, pledge, or otherwise encumber the assets of the authority as security therefor;

~~(c)~~ 3. Apply for, receive, and participate in any grants from the State of Oklahoma or from the United States of America;

~~(d)~~ 4. Straighten, deepen, improve, construct, reconstruct, or extend any canal, channel, river, stream, basin, or other watercourse or way which may be necessary or proper in the development of the facilities of ~~such~~ the port;

~~(e)~~ ~~acquired~~ 5. Acquire, own, hold, sell, lease, operate, or otherwise contract concerning real or personal property for the authorized purposes of the port authority;

~~(f)~~ 6. Acquire, own, maintain, sell, or lease ~~such~~ land within its jurisdiction as it may deem desirable for the development, planning, construction, operation, or leasing of land or completed industrial facilities for industrial use which ~~exercise of such authorization~~ is hereby declared to be for a public purpose;

~~(g)~~ 7. Apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones within the limits of the port authority and to establish, operate, and maintain ~~such~~ foreign trade zones;

~~(h)~~ 8. Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property, necessary or proper for the construction or the efficient operation of any facility of the port authority and included in its official plan, pursuant to the procedure provided by law for railroad companies, if funds equal to the appraised value of the property to be acquired as the result of such proceedings shall be on hand and available for such purposes, except that:

- ~~(1)~~ a. nothing contained in Sections 1101 to 1114, inclusive, of this title shall authorize a port authority to take or disturb property or facilities belonging to any public corporation, public utility, or common carrier, which property or facilities are necessary and convenient in the operation of ~~such~~ the public

corporation, public utility, or common carrier, unless provision is made for the restoration, relocating, or duplication of such property or facilities, or upon the election of such public corporation, public utility, or common carrier for the payment of compensation, if any, at the sole cost of the port authority; provided that:

~~(A)~~ (1) if any restoration or duplication proposed to be made hereunder shall involve a relocation of ~~such~~ property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and ~~such~~ relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation~~;~~,

~~(B)~~ (2) if any restoration or duplication made hereunder shall involve a relocation of such property or facilities, the port authority shall acquire no interest or right in or to the appropriated property or facilities, except as provided in ~~subsection (c)~~ paragraph 3 of this section, until the relocated property or facilities are available for use and until marketable title thereto has been transferred to the public utility or common carrier~~;~~, and

~~(C)~~ (3) provisions for restoration or duplication shall be described in detail in the resolution for appropriation passed by the port authority;

~~(i)~~ 9. Maintain such funds as it deems necessary;

~~(j)~~ 10. Direct its agents or employees, when properly identified in writing, and after at least five (5) days' written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary

to location and construction of works for the purposes of the port authority, without liability of the port authority or its agents or employees except for actual damage done;

~~(k)~~ 11. Sell or lease real and personal property not needed for the operation of the port authority and grant easements or rights-of-way over property of the port authority;

~~(l)~~ 12. Promote, advertise, and publicize the port and its facilities; ~~l~~ provide traffic information and rate information to shippers and shipping interests; ~~l~~ and appear before rate making authorities to represent and promote the interests of the port;

~~(m)~~ 13. Repay grants or loans made prior to the effective date of this act where the funds have been expended for a proper purpose of the authority as originally authorized; and

14. Enter into cooperative agreements with one or more other port authorities to exercise any of the powers or to perform any of the duties conferred by this section. Cooperative agreements authorized by this paragraph need not comply with the provisions of the Interlocal Cooperation Act, Section 1001 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 17. RECODIFICATION Section 1, Chapter 386, O.S.L. 1994, as amended by Section 1, Chapter 150, O.S.L. 1995 and Section 2, Chapter 150, O.S.L. 1995 (82 O.S. Supp. 1995, Sections 1501-205.1 and 1501-205.2) shall be recodified as Sections 3-4-101 and 3-4-102 of Title 27A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 18. This act shall become effective July 1, 1996.

SECTION 19. 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.

45-2-2874

MJM