

ENROLLED HOUSE
BILL NO. 2972

By: Roach of the House

and

Williams (Penny) and
Long (Lewis) of the
Senate

An Act relating to environment and natural resources; adding new article to the Oklahoma Environmental Quality Code; creating the Oklahoma Brownfields Voluntary Redevelopment Act; providing purpose and legislative intent; providing for construction of act; defining terms; providing for process; providing for voluntary programs; providing for authority of the Department of Environmental Quality; providing for administration of program; providing for promulgation of rules; authorizing emergency rules; providing for contents; providing certain procedures; providing specification; making certain actions unlawful; providing exceptions; providing for applications; providing for voluntary remediation plans; providing for contents; providing for certain considerations of certain factors; providing for release of certain liability; providing for remediation alternatives; prohibiting certain considerations; providing for certain presumptions; providing for approvals, denials and rejections; requiring compliance; providing for Certificate of Completion; providing for Certificate of No Action Necessary; specifying and providing for consent orders; providing for certain conclusions and determinations; specifying contents and provisions; providing for applicability and nonapplicability of certain named act; requiring land use disclosures; requiring submissions and filing; making certificates voidable for certain actions; specifying penalties for certain violations; setting conditions for liability releases; making certificates voidable for certain actions; releasing certain responsible parties from certain liabilities; providing for nonapplicability of liability; providing for payment of certain costs; providing for ratification of certain remediation activities; authorizing certain releases; making certain release of liability part of certain orders; providing for applicability of section; amending 63 O.S. 1991, Section 1-2005.3A, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 24, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1995, Section 2-7-121), which relates to certain annual hazardous waste fees; removing certain type of facilities from certain payments; adding certain facilities

and reducing fees for certain off-site facilities; providing for codification; and declaring an emergency.

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

ARTICLE XV

Oklahoma Brownfields Voluntary Redevelopment Act

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-15-101 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 10 of this act shall be known and may be cited as the "Oklahoma Brownfields Voluntary Redevelopment Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-15-102 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Legislature hereby declares that the purpose of the Oklahoma Brownfields Voluntary Redevelopment Act is to:

1. Provide for the establishment of a voluntary program by the Department of Environmental Quality;

2. Foster the voluntary redevelopment and reuse of brownfields by limiting the liability of property owners, lenders, lessees, and successors and assigns from administrative penalties assessed by the Department and civil liability with regard to the remedial actions taken by the applicant for environmental contamination caused by regulated substances, as required by a consent order, if the remedial action is not performed in a reckless or negligent manner; and

3. Provide for a risk-based system for all applicable sites based on the proposed use of the site.

B. The Oklahoma Brownfields Voluntary Redevelopment Act shall not be construed to authorize or encourage any person or other legal entity to cause or increase environmental contamination, to avoid compliance with state and federal laws and regulations concerning environmental contamination or to in any manner escape responsibility for maintaining environmentally sound operations.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-15-103 of Title 27A, unless there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Brownfields Voluntary Redevelopment Act:

1. "Applicant" means any person who or entity which:

- a. has acquired the ownership, operation, management, or control of a site through foreclosure or under the terms of a bona fide security interest in a mortgage or lien on, or an extension of credit for, a brownfields site and which forecloses on or receives an assignment or deed in lieu of foreclosure or other indicia of ownership and thereby becomes the owner of a brownfield,
- b. possesses a written expression of an interest to purchase a brownfield and the ability to implement a brownfield redevelopment proposal,
- c. is the legal owner in fee simple of a brownfield,
- d. is a tenant on or lessee of the brownfield site, or
- e. is undertaking the remediation of a brownfield site;

2. "Brownfield" means an abandoned, idled or underused industrial or commercial facility or other real property at which

expansion or redevelopment of the real property is complicated by environmental contamination caused by regulated substances;

3. "Certificate of Completion" means a document issued by the Department of Environmental Quality pursuant to Section 6 of this act upon a determination that an applicant has successfully completed agency-approved risk-based remediation;

4. "Certificate of No Action Necessary" means a document issued by the Department of Environmental Quality pursuant to Section 6 of this act upon a determination that no remediation is deemed necessary for the expansion or redevelopment of the property for a planned use;

5. "Consent order" means an order entered into by the Department of Environmental Quality and an applicant, binding an applicant and the Department to specified authorizations, activities, duties, obligations, responsibilities and other requirements;

6. "Demonstrated pattern of uncorrected noncompliance" means a history of noncompliance by the applicant with state or federal environmental laws or rules or regulations promulgated thereto, as evidenced by past operations clearly indicating a reckless disregard for the protection of human health and safety, or the environment;

7. "Land use disclosure" means the Certificate of Completion or the Certificate of No Action Necessary, issued by the Department of Environmental Quality, which is required to be filed in the office of the county clerk of the county wherein the site is situated pursuant to Section 7 of this act;

8. "Remediation" means activities necessary to clean up, mitigate, correct, abate, minimize, eliminate, control and contain environmental contamination caused by regulated substances in compliance with a consent order from the Department of Environmental Quality; and

9. "Risk-based remediation" means site assessment or site remediation, the timing, type, and degree of which are determined according to case-by-case consideration of actual or potential risk to human health and safety, or the environment from environmental contamination caused by regulated substances of a brownfield site.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-15-104 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. The Department of Environmental Quality may establish and implement a voluntary redevelopment program for brownfields. In administering the Oklahoma Brownfields Voluntary Redevelopment Act, the Department shall:

- a. approve site-specific remediation plans for each site as necessary, using a risk-based system,
- b. review and inspect site assessment and remediation activities and reports, and
- c. use risk-based remediation procedures as determined by the agency to establish cleanup levels.

B. Any brownfields program established pursuant to the Oklahoma Brownfields Voluntary Redevelopment Act shall be a voluntary program.

C. No state governmental entity regulating any person or institution shall require evidence of participation in the Oklahoma Brownfields Voluntary Redevelopment Act.

D. The provisions of the Oklahoma Brownfields Voluntary Redevelopment Act shall not apply to any person who is:

1. Responsible for taking corrective action on the real property pursuant to orders or agreements issued by the federal Environmental Protection Agency;

2. Not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to the generation, storage, transportation, treatment, recycling or disposal of regulated substances; or

3. Has a demonstrated pattern of uncorrected noncompliance.

E. 1. The Board of Environmental Quality shall promulgate rules necessary to implement the Oklahoma Brownfields Voluntary Redevelopment Act.

2. The Department is specifically authorized to promulgate emergency rules necessary pursuant to the Administrative Procedures Act to implement the provisions of the Oklahoma Brownfields Voluntary Redevelopment Act.

3. Such rules shall include but not be limited to provision for applications, consent orders, notice and public participation opportunities, brownfield remediation plans and no action necessary determinations issued by the Department.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-15-105 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. An applicant may apply to the Department of Environmental Quality for a consent order for risk-based remediation of a brownfield site or for a no action necessary determination.

B. The application shall, as a minimum, include:

1. A description of:

- a. the brownfield which is the subject of the application pursuant to the Oklahoma Brownfields Voluntary Redevelopment Act,
- b. the concentrations of contaminants in the soils, surface water, or groundwater at the site,
- c. the air releases which may occur during remediation of the site, and
- d. any monitoring of the brownfield which is to occur after issuance of the Certificate of Completion or Certificate of No Action Necessary;

2. A remediation plan for remediating any contamination caused by regulated substances on the brownfield or a proposal that no action is necessary to remediate the brownfield considering the present levels of regulated substances at the site and the proposed future use of the property;

3. The current and proposed use of groundwater on and near the site;

4. The operational history of the site and the current use of areas contiguous to the site;

5. The present and proposed uses of the site;

6. Information concerning the nature and extent of any contamination caused by regulated substances and releases of regulated substances which have occurred at the site and any possible impacts on areas contiguous to the site;

7. Any analytical results from a laboratory certified by the Department of Environmental Quality or other data which characterizes the soil, groundwater or surface water on the site; and

8. An analysis of the human and environmental pathways to exposure from contamination at the site based upon the property's future use as proposed by the applicant.

C. Remediation or proposal for a no action necessary determination shall be based on the potential risk to human health and safety and to the environment posed by the environmental

contamination caused by regulated substances at the site, considering the following factors:

1. The proposed use of the brownfield;
2. The possibility of movement of the regulated substances in a form and manner which would result in exposure to humans and to the surrounding environment at levels which exceed applicable standards or which represent an unreasonable risk to human health and safety, or the environment as determined by the Department; and
3. The potential risks associated with the remediation proposal or no action necessary determination and the economic and technical feasibility and reliability of such proposal or determination.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-15-106 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. The Department of Environmental Quality is not authorized to hold any public meeting or hearing to require information, make any determination, or in any manner consider the zoning or rezoning for any proposed redevelopment of a site. The Department shall assume that any proposed redevelopment of the site meets or will meet any zoning requirements.

B. The Department may reject or return an application if:

1. A federal requirement precludes the eligibility of the site;
2. The application is not complete and accurate; or
3. The applicant is ineligible under the provisions of the Oklahoma Brownfields Voluntary Redevelopment Act or any rules promulgated pursuant thereto.

C. The Department may enter into a consent order with the applicant for remediation of a site if the Department concludes that the remediation will:

1. Attain a degree of control of regulated substances pursuant to the Oklahoma Brownfields Voluntary Redevelopment Act, other applicable Department rules and standards, and all applicable state and federal laws as determined by the Department; and
2. For constituents not governed by paragraph 1 of this subsection, reduce concentrations such that the property does not present an unreasonable risk, as determined by the Department, to human health and safety or to the environment based upon the property's proposed use.

D. The Department may make a no action necessary determination if the application as required by the Oklahoma Brownfields Voluntary Redevelopment Act indicates the existence of contamination caused by regulated substances which, given the proposed use of the property, does not pose an unreasonable risk to human health and safety or to the environment as determined by the Department.

E. The consent order and the no action determination apply only to conditions caused by contamination on the property, to applicable state or federal laws and to applicable rules and standards promulgated by the Board of Environmental Quality that existed at the time of submission of the application.

F. If an application is disapproved by the Department, the Department shall promptly provide the applicant with a formal written statement of the reasons for such denial.

G. 1. If the Department determines that the applicant has successfully completed the requirements specified by the consent order, the Department shall certify the completion by issuing to the applicant a Certificate of Completion. The certificate shall list the use specified in the consent order for the site. The certificate shall also include provisions stating that:

- a. the Department shall not pursue administrative penalties and civil actions against the applicant,

lenders, lessees, and successors and assigns associated with actions taken to remediate the contamination caused by regulated substances which is the subject of the consent order,

- b. the applicant and all lenders, lessees, and successors and assigns shall not be subject to civil liability with regard to the remedial actions taken by the applicant for environmental contamination caused by regulated substances, as required by the consent order if the remedial action is not performed in a reckless or negligent manner,
- c. no person responsible for contamination caused by regulated substances who has not participated in the voluntary remediation process shall be released from any liability, and
- d. the Certificate of Completion shall remain effective as long as the property is in substantial compliance with the consent order.

2. If the Department determines that no remediation action is deemed necessary for the site, the Department shall issue the applicant a Certificate of No Action Necessary. The certificate shall list the use specified in the application for the site. The certificate shall also include provisions stating that:

- a. the Department shall not pursue any administrative penalties or civil actions against the applicant, lenders, lessees, and successors and assigns associated with the determination that no action is necessary to remediate the contamination caused by regulated substances which is the subject of the certificate,
- b. the applicant and all lenders, lessees, and successors and assigns shall not be subject to civil liability with regard to the determination that no action is necessary to remediate the site,
- c. no person responsible for contamination caused by regulated substances who has not participated in the application process for a no action necessary determination shall be released from any liability,
- d. the Certificate of No Action Necessary shall remain effective as long as the site is in substantial compliance with the certificate as determined by the Department, and
- e. the issuance of the Certificate of No Action Necessary shall not be construed or relied upon in any manner as a determination by the Department that the brownfield has not been or is not environmentally contaminated by regulated substances.

H. The Department shall keep and maintain a copy of the application, work plan, consent order, any other correspondence, record, authorization, and report received by the Department, and an official copy of the Certificate of Completion or the Certificate of No Action Necessary pursuant to the provisions of the Oklahoma Brownfields Voluntary Redevelopment Act relating to the site in an accessible location.

I. Chapter 10A of Title 67 of the Oklahoma Statutes shall not apply to any records or copies required to be kept and maintained pursuant to this section.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-15-107 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. 1. All land use disclosures shall be filed in the land records by the applicant in the office of the county clerk where the site is located.

2. Within thirty (30) days of receipt of the Certificate of Completion or the Certificate of No Action Necessary, the applicant shall submit to the Department of Environmental Quality an official copy of the land use disclosure filed with the county clerk in the county in which the site is located.

3. Failure to record the land use disclosure with the county clerk and submit the official copy to the Department as required by this section shall render the Certificate of Completion or Certificate of No Action Necessary voidable.

B. Whoever knowingly converts, develops or uses a brownfield site in violation of an authorized use as specified in the land use disclosure shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00), imprisonment in the county jail for not more than one (1) year, or both such fine and imprisonment. Each day such violation continues shall be considered a separate offense.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-15-108 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. 1. The Department of Environmental Quality shall not assess against an applicant administrative penalties or pursue civil actions associated with the contamination which is the subject of the consent order or no action necessary determination if:

- a. the applicant is in compliance with the consent order during remediation or with the Certificate of No Action Necessary, and
- b. the applicant is in compliance with any post-certification conditions or requirements specified in the consent order.

2. After issuance of the Certificate of Completion or Certificate of No Action Necessary, the Department shall not assess administrative penalties or pursue civil actions associated with the contamination which is the subject of the consent order or no action necessary determination against any lender, lessee, or successor or assign if the lender, lessee, or successor or assign is in compliance with any post-certification conditions or requirements as specified in the consent order or Certificate of No Action Necessary.

B. 1. Failure of the applicant and any lenders, lessees, or successors or assigns to materially comply with the consent order entered into pursuant to the Oklahoma Brownfields Voluntary Redevelopment Act shall render the consent order or the Certificate of Completion or the Certificate of No Action Necessary voidable.

2. Submission of any false or materially misleading information by the applicant knowing such information to be false or misleading shall render the consent order, Certificate of Completion, or Certificate of No Action Necessary voidable.

C. 1. An applicant to whom a Certificate of Completion or a Certificate of No Action Necessary has been issued pursuant to the Oklahoma Brownfields Voluntary Redevelopment Act and such applicant's lenders, lessees, or successors or assigns shall not be subject to civil liability with regard to the remedial actions taken by the applicant for environmental contamination caused by regulated substances as required by the consent order if the remedial action is not performed in a reckless or negligent manner.

2. Except as otherwise provided in this subsection, nothing in the Oklahoma Brownfields Voluntary Redevelopment Act shall be construed to limit or negate any other rights of any person from pursuing or receiving legal or equitable relief from the applicant or any other person or legal entity causing or contributing to the environmental contamination.

3. In those cases where an applicant conducts a voluntary remediation in conjunction with a party responsible for the contamination, the responsible party shall also be released from liability to the same extent as the applicant.

D. The release of liability from administrative penalties and any civil actions authorized by the Oklahoma Brownfields Voluntary Redevelopment Act shall not apply to:

1. Any environmental contamination and consequences thereof that the applicant causes or has caused outside the scope of the consent order or the certificate issued by the Department;

2. Any contamination caused or resulting from any subsequent redevelopment of the property;

3. Existing contamination caused by regulated substances not addressed prior to issuance of the Certificate of Completion or the Certificate of No Action Necessary; or

4. Any person responsible for contamination who has not participated in the voluntary remediation.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-15-109 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The Department of Environmental Quality may require the applicant to reimburse the Department for reasonable costs described in the consent order for the review and oversight of any remediation, reports, field activities or other services or duties of the Department pursuant to the Oklahoma Brownfields Voluntary Redevelopment Act which are performed by the Department prior to the issuance of the Certificate of Completion or the Certificate of No Action Necessary, unless otherwise authorized by the consent order.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-15-110 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise specified by this section, any application for remediation of a site submitted to the Department of Environmental Quality prior to the effective date of this act which results in a consent order, and any consent order issued by the Department prior to the effective date of this act meeting the conditions and requirements established by the Department or as otherwise determined by the Department to be in compliance for such site is hereby ratified.

B. Any person who has entered into a consent order with the Department pursuant to this section may continue to rely upon the consent order if the person has accepted the conditions of and in other respects complies with the requirements so established and with the provisions of the consent order as determined by the Department.

C. Any benefits and releases of liability from administrative penalties and from civil action as provided by the Oklahoma Brownfields Voluntary Redevelopment Act shall apply and be made part of the consent order.

D. The provisions of this section shall apply only to applications made and/or consent orders issued after January 1, 1988.

MISCELLANEOUS PROVISIONS

SECTION 11. AMENDATORY 63 O.S. 1991, Section 1-2005.3A, as renumbered by Section 359, Chapter 145, O.S.L. 1993 and as last amended by Section 24, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1995, Section 2-7-121), is amended to read as follows:

Section 2-7-121. A. Every hazardous waste treatment facility, storage facility, underground injection facility, disposal facility, or off-site facility that recycles hazardous waste subject to the provisions of the Oklahoma Hazardous Waste Management Act shall pay to the Department of Environmental Quality an annual fee on the amount of hazardous waste managed by such facility.

1. Except as otherwise provided by this subsection, such fees shall be, subject to the qualifications provided in paragraph 2 of this subsection:

- a. For hazardous waste generated within the State of Oklahoma, Nine Dollars (\$9.00) per ton for on-site or off-site storage, treatment or land disposal.
- b. For hazardous waste generated within the State of Oklahoma, or elsewhere in the case of regeneration, Four Dollars (\$4.00) per ton for off-site recycling.
- c. For hazardous waste generated within the State of Oklahoma, three cents (\$0.03) per gallon for on-site or off-site underground injection.
- d. (1) Effective May 1, 1993, the fee applicable to waste generated outside the State of Oklahoma except as provided in subparagraph b of this paragraph shall be based on the primary purpose for which the waste is imported into the State of Oklahoma, and shall be a reciprocal fee at the rate of and in accordance with the method of imposition of the tax or fee imposed on the storage, treatment, disposal or recycling of such waste in the state, country or territory where the waste was generated, as determined by the Department. In no case, however, shall the fee levied on hazardous waste generated outside the State of Oklahoma be less than the rate charged at the time of its storage, treatment, disposal or recycling for hazardous waste generated and stored, treated, disposed or recycled in the State of Oklahoma.
(2) Any person storing, treating, disposing, or recycling such hazardous waste in the State of Oklahoma shall file with the Department an affidavit showing the applicable tax or fee for any hazardous waste received from another state, country or territory had it been stored, treated, or disposed of in a like manner in that state, country or territory. In preparing the required affidavit, the recipient of the waste is legally entitled to rely upon all information contained in the manifest document accompanying the shipment of waste.

2. Except as otherwise provided by this subsection, there shall be a minimum fee per facility as follows:

- a. Except as provided in subparagraph d of this paragraph, any person owning or operating an off-site hazardous 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 hazardous waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Twenty Thousand Dollars (\$20,000.00) each state fiscal year; provided, the annual fee for the on-site disposal of hazardous waste by underground injection shall not exceed Fifty Thousand Dollars (\$50,000.00).
- c. Any person owning or operating an off-site facility for the storage or recycling of hazardous waste shall pay a total fee of not less than ~~Fifty Thousand Dollars (\$50,000.00)~~ Twenty Thousand Dollars (\$20,000.00) each state fiscal year; provided, any such off-site recycling facility which consistently recycles fewer than ten (10) tons of hazardous waste per calendar month shall not be subject to this minimum annual fee. For the purpose of this subparagraph, storage includes physical separation or combining of wastes solely to facilitate efficient storage at the facility and/or efficient transportation.
- d. Any person owning or operating an off-site facility which accepts hazardous waste exclusively for the purpose of conducting research and design tests shall pay a total fee of not less than Ten Thousand Dollars (\$10,000.00) each state fiscal year.

3. Off-site facilities may charge persons contracting for the services of the facility their proportional share of the fees required by the provisions of this section.

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

5. The fee imposed by the provisions of this section shall be payable only once without regard to any subsequent handling of the hazardous waste. The fee shall be based on the purpose for which the waste was generated by or brought to the facility. In no event shall a facility be required to pay a fee on each step or process involved in the storage, treatment, or disposal of the waste at the facility or a related facility under common control.

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

7. If a generator of characteristic hazardous waste or listed hazardous waste treats the waste on-site to meet Best Demonstrated Available Technology Standards and disposes of the waste on-site, the waste shall be subject to a reduced treatment or on-site disposal fee of one-half (1/2) the rate required by subparagraph a of paragraph 1 of this subsection; provided, such rate reduction shall not exceed Twenty-two Thousand Dollars (\$22,000.00) per calendar year.

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

1. Facilities engaged only in the on-site recycling of hazardous waste; and

2. Facilities which have not generated or received new hazardous waste within the preceding state fiscal year.

C. Payment of the fees required by this section shall be due quarterly for hazardous 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 hazardous waste is received. All payments shall be made within thirty (30) days from the date it becomes due.

D. The fees required by this section shall be paid in lieu of the monitoring fees imposed in subsection B of Section 2-7-119 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 required by the Oklahoma Hazardous Waste Management Act.

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

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

2. The Department 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 Hazardous Waste Management Act,
- b. the development of an inventory of hazardous 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 hazardous waste facilities which may include full time inspectors at off-site hazardous 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 Department 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 emergency situations involving spillage, leakage, emissions or other discharge of hazardous waste or hazardous 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 hazardous waste or hazardous 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 2-7-305 of this title.

SECTION 12. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 29th day of May, 1996.

Speaker of the House of
Representatives

Passed the Senate the 30th day of May, 1996.

President of the Senate