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**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 205. HAZARDOUS WASTE MANAGEMENT**

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SUBCHAPTER 1. GENERAL PROVISIONS

Section

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252:205-1-1. Purpose, authority and applicability

(a) **Purpose.** The rules in this Chapter implement the Oklahoma Hazardous Waste Management Act, 27A O.S. § 2-7-101 *et seq.*, the Hazardous Waste Fund Act, 27A O.S. § 2-7-301 *et seq.*, and the Recycling, Reuse and Source Reduction Incentive Act, 27A O.S. § 2-11-301 *et seq.*

(b) **Authority.** OAC 252:205 was promulgated and adopted under the Oklahoma Environmental Quality Code, 27A O.S. § 2-1-101 *et seq.*, and the laws set forth in paragraph (a) above.

(c) **Applicability.** The rules in this Chapter apply to:

- (1) Any person who handles, transports, treats, stores, recycles, and/or disposes of hazardous wastes pursuant to the OHWMA;
- (2) Any municipality or county seeking a matching grant for emergency response training and protective equipment pursuant to the Hazardous Waste Fund Act; and
- (3) Any person seeking a tax credit pursuant to the Recycling, Reuse and Source Reduction Incentive Act.

252:205-1-2. Definitions

In addition to the definitions contained in the statutes specified in OAC 252:205-1-1(a) above, the following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Off-site recycling facility" means any facility which receives off-site shipments of hazardous waste to be recycled or processed for recycling, through any process conducted at the facility including fuel blending or burning;

"OHWMA" means the Oklahoma Hazardous Waste Management Act, 27A O.S. § 2-7-101 *et seq.*;

"Post closure permit" means the same as "operations permit" for procedural purposes except the assessment of permitting fees;

"RRSIA" means the Recycling, Reuse and Source Reduction Incentive Act, 27A O.S. § 2-11-301 *et seq.*;

"Reuse" for the purpose of applying for a tax credit under RRSIA, means the introduction of a material into a manufacturing process that, if discarded, would be classified as a hazardous waste. A material is "reused" if it is:

- (A) Used as an ingredient (including use as an intermediate) in an industrial process to make a product; or
- (B) Used in a particular function or application as an effective substitute for a commercial product;

"Speculative accumulation" is defined at 40 CFR 261.1(c)(8);

"Transfer facility" as used in the following definition of "transfer station", means any transportation-related facility, including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation;

"Transfer station" as used in Subchapter 15, means any transfer facility where hazardous waste is transferred from one container or tank to another or where hazardous waste in separate containers or tanks is combined.

252:205-1-3. Consideration of other laws

(a) **Permitting.** All applicants seeking licenses, permits, certificates, registration, approval, charter or similar form of permission by law required by any of the statutes specified in OAC

252:205-1-1(a) are also subject to the Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-14-101 *et seq.*, and the Environmental Permit Process of Subchapter 7 of OAC 252:4.

(b) **Zoning.** This Chapter does not abrogate in any way the zoning authority of any duly constituted zoning agency.

(c) **Other.** Persons subject to this Chapter must also comply with all applicable state and Federal laws and rules.

252:205-1-4. Public records and confidential information

(a) **Public record.** Information obtained by the DEQ and copies of official records of the DEQ regarding hazardous waste facilities and sites shall be made available to the public in accordance with the Oklahoma Open Records Act, 51 O.S. § 24A.1, Rules of Practice and Procedure (OAC 252:4), and in substantial accordance with 40 CFR Part 2.

(b) **Availability to the public.** Information about facilities and sites for treatment, storage and disposal of hazardous waste shall be made available to the public in substantially the same manner, and to the same degree, as would be the case if the EPA were carrying out the provisions of federal law in Oklahoma. [Also see Rules of Practice and Procedure, Availability of a Record, OAC 252:4-1-5.]

(c) **Availability to EPA.** All records submitted to the DEQ shall be available to the EPA unless they are submitted under a claim of confidentiality separate and distinct from State Program Requirements in 40 CFR Part 271.

(d) **Disclaimer.** The DEQ expressly disclaims and denies any duties, responsibilities or obligations other than as stated in (a) and (b) of this Section. Submitters of records claimed to be confidential are advised that it is their responsibility, not the DEQ's responsibility, to monitor and/or defend claims of confidentiality with the EPA. The DEQ expressly disclaims and denies responsibility or liability for any disclosure by the EPA of records claimed by the submitter to be confidential.

(e) **Applications for Tax Credit.** An application for a tax credit is a public record. If the applicant demonstrates that the application contains information that is a trade secret, the applicant shall provide a general summary description that can be made available to the public. Although the detailed financial data contained in the application may be declared confidential, the dollar amount of any tax credit allowed will be public information.

SUBCHAPTER 3. INCORPORATION BY REFERENCE

Section

- 252:205-3-1. Reference to 40 CFR
- 252:205-3-2. Incorporation by reference
- 252:205-3-3. Subsequent incorporations [REVOKED]
- 252:205-3-4. Terminology related to 40 CFR
- 252:205-3-5. Inclusion of CFR citations and definitions
- 252:205-3-6. Inconsistencies or duplications
- 252:205-3-7. Mercury-containing lamps [REVOKED]

252:205-3-1. Reference to 40 CFR

(a) **Incorporation date.** Except as provided in subsection (b), when reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified) the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through July 1, 2014.

(b) **Excluded provisions.** None of the revisions to 40 CFR published at 73 FR 64668 - 64788 (October 30, 2008), "Revisions to the Definition of Solid Waste: Final Rule" are incorporated herein.

252:205-3-2. Incorporation by reference

(a) **Part 124.** Procedures For Decision Making, those sections required by 40 CFR 271.14, with the following additions:

- (1) § 124.19(a) through (c) and (e);
 - (2) §§ 124.31, 124.32, & 124.33, substituting DEQ for EPA, and deleting the following sentence from paragraph (a) of each section: "For the purposes of this section only, 'hazardous waste management units over which EPA has permit issuance authority' refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR Part 271"; and
 - (3) Subpart G.
- (b) **Part 260.** Hazardous Waste Management System: General, except 260.21.
- (1) In 260.20, "Federal Register" is synonymous with "The Oklahoma Register."
 - (2) In 260.20(e), strike the words "or a denial."
 - (3) In 260.22, references to the lists in Subpart D of Part 261 and the reference to § 261.3(a)(2)(ii) or (c) shall mean the lists in Subpart D of Part 261 and §261.3(a)(2)(ii) or (c) as adopted by reference and applicable in Oklahoma.
 - (4) In the 260.10 definitions of "new tank system" and "existing tank system", the reference to "July 14, 1986" for commencement of tank installation applies only to tank regulations promulgated pursuant to the federal Hazardous and Solid Waste Amendment ("HSWA") requirements. The following categories outline HSWA requirements:
 - (A) interim status and permitting requirements applicable to tank systems owned and operated by small quantity generators [3001(d)];
 - (B) leak detection requirements for all new underground tank systems [3004(o)(4)]; and
 - (C) permitting standards for underground tanks that cannot be entered for inspection [3004(w)]. For tank regulations promulgated pursuant to statutory authority other than HSWA, the date relative to the commencement of installation is November 2, 1987.
- (c) **Part 261.** Identification and Listing of Hazardous Waste except 261.4(b)(18) which pertains to Utah only, thus should be excluded.
- (1) In 261.4(e)(3)(iii) delete "in the Region where the sample is collected".
 - (2) In 261.5(f)(3)(iv), and (v), and in 261.5(g)(3)(iv), and (v) add "other than Oklahoma" after the word "State".
 - (3) In 261.31(a), the listing for F019, add at the end: "Zinc phosphate sludges meeting exemption conditions remain subject to regulation as hazardous waste if the waste exhibits a hazardous waste characteristic."
- (d) **Part 262.** Standards Applicable to Generators of Hazardous Waste except Subpart E and Subpart H. In 262.42(a)(2) and 262.42(b) delete "for the Region in which the generator is located".
- (e) **Part 263.** Standards Applicable to Transporters of Hazardous Waste.
- (f) **Part 264.** Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. The following sections and subsections are not adopted by reference: 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), and 264.1080(g).
- (1) In 264.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.
 - (2) In 264.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987.
 - (3) In 264.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.
 - (4) In 264.570(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.
- (g) **Part 265.** Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except 265.1(c)(4), 265.1(g)(12), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g).
- (1) In 265.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.

(2) In 265.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987.

(3) In 265.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.

(4) In 265.440(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

(h) **Part 266.** Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities. Due to an early incorporation by reference, for purposes of Part 266 only, HSWA and non-HSWA dates are the same. In 266.325, the reference to 10 CFR 1.5 is changed to 10 CFR 71.5.

(i) **Part 267.** Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standardized Permit. This permit option shall only be available to:

(1) those persons who generate hazardous waste on-site through, or as a result of, industrial production processes;

(2) wholly owned subsidiaries, owners, or sister companies of those persons specified in paragraph (1); and

(3) agencies, departments, or units of the federal government or the State of Oklahoma.

(j) **Part 268.** Land Disposal Restrictions, except 268.5, 268.6, 268.13, 268.42(b) and 268.44(a) through (g). In 268.7 (a)(9)(iii) exclude D009 from the list of alternative treatment standards for lab packs.

(k) **Part 270.** The Hazardous Waste Permit Program, except 270.1(c)(2)(ix), and 270.14(b)(18).

(l) **Part 273.** Standards for Universal Waste Management.

(m) **Part 279.** Standards for the Management of Used Oil, except that 279.82 is revised to read in its entirety, "The use of used oil as a dust suppressant is prohibited."

(n) **Excepted CFR Regulations.** Authority for carrying out excepted CFR regulations remains with EPA.

252:205-3-3. Subsequent incorporations [REVOKED]

252:205-3-4. Terminology related to 40 CFR

(a) For purposes of interfacing with 40 CFR, the following terms apply:

(1) "**Administrator**" is synonymous with Executive Director except in §§ 262.12, 262.55, 262.56, 262.57, 262.87, 263.11, 270.5, 270.10(e)(2) and (3) and (f)(2) and (3), and 270.32(b)(2). In 260.10 and 270.2, the definition of "Administrator" is not synonymous with "Director". The terms as used in the excepted sections retain the meanings as defined in the CFR;

(2) "**Regional Administrator**" and "**EPA Regional Administrator**" are synonymous with Executive Director except in §§ 124.5(d), 124.10(b), 262.55, 262.56, 262.57, Item 19 of the Appendix to Part 262, 270.5, 270.10(f)(2) and (3) and (g)(1)(i) & (iii), 270.11(3) and 270.14(b)(20). See also §§ 264.12(a) and 265.12(a) where "Regional Administrator" should be replaced with "Regional Administrator and Executive Director". In 260.10 and 270.2, the definition of "Regional Administrator" is not synonymous with "Executive Director". The terms as used in the excepted sections retain the meanings as defined in CFR;

(3) "**Act**" is synonymous with the Oklahoma Hazardous Waste Management Act;

(4) "**State**" is synonymous with the DEQ;

(5) "**EPA**" is the United States Environmental Protection Agency, except in § 124.6 where "EPA" should be replaced with "DEQ", and as otherwise indicated in subparagraph 252:205-3-2(a)(2);

(6) "**Environmental Appeals Board**" is synonymous with Executive Director;

(7) §§ **3008, 3013 and 7003** of the federal Resource Conservation and Recovery Act when referenced in the CFR should be read as including the analogous state enforcement authority set forth in the Oklahoma Environmental Quality Code; and

(8) **"DOT"** and **"Department of Transportation"** is the U.S. Department of Transportation.

(b) **Financial security mechanisms.** The owner shall word the financial assurance instruments as provided in 40 CFR 264.151, except that:

- (1) the phrase "Department of Environmental Quality" ("DEQ" or "the Department"), an agency of the State of Oklahoma" shall be used instead of "Environmental Protection Agency";
- (2) "Director" shall be used instead of "Regional Administrator";
- (3) "DEQ" shall replace "EPA";
- (4) "Act" shall replace § 3008 of the Resource Conservation and Recovery Act"; and
- (5) the certification in each instrument that the language is identical to respective provisions of 40 CFR 264.151 shall include the phrase "United States Environmental Protection Agency approved amendment, for the State of Oklahoma."

252:205-3-5. Inclusion of CFR citations and definitions

When a provision of the Code of Federal Regulations is incorporated by reference, all citations contained therein are also incorporated by reference.

252:205-3-6. Inconsistencies or duplications

In the event that there are inconsistencies or duplications in the requirements of those rules incorporated by reference in 252:205-3-2, and the rules in this Chapter, the federal rules incorporated by reference shall prevail, except where the state rules in this Chapter are more stringent.

252:205-3-7. Mercury-containing lamps [REVOKED]

SUBCHAPTER 5. ADDITIONAL GENERATOR REQUIREMENTS

Section

- 252:205-5-1. Disposal plans
- 252:205-5-2. SQG exemption from disposal plan requirements
- 252:205-5-3. Quarterly reporting requirements
- 252:205-5-4. No endangerment provisions for generators
- 252:205-5-5. Manifest requirements

252:205-5-1. Disposal plans

All persons generating hazardous waste in Oklahoma or generating hazardous waste to be stored, treated, recycled or disposed of in Oklahoma shall file a disposal plan with the DEQ on DEQ forms and shall obtain the DEQ's approval prior to offering the waste for transport.

- (1) The generator must update the disposal plan as needed and must notify the DEQ at least five working days before any changes are implemented. The DEQ requires a minimum of five (5) working days to process and approve new or amended disposal plans. Changes shall not be implemented until approved by the DEQ.
- (2) One-time disposal plans may be issued for emergency clean-up or waste removal.
- (3) The DEQ may require supporting documentation including but not limited to, laboratory analyses and Material Safety Data Sheets to verify information submitted. If specific technical process knowledge is provided which the Department determines adequately identifies the waste, laboratory analysis will not be required.
- (4) If a disposal plan is canceled for non-payment of fees, the generator must complete a new application and re-submit supporting documentation to the DEQ for approval.

252:205-5-2. SQG exemption from disposal plan requirements

Small quantity generators and conditionally exempt small quantity generators are not required to file disposal plans (252:205-5-1) or quarterly reports (252:205-5-3) with the DEQ.

252:205-5-3. Quarterly reporting requirements

(a) **General.** All persons generating hazardous waste within Oklahoma including on-site treatment, storage, recycling, or disposal facilities, shall submit a report to the DEQ in a prescribed format which may include electronic submissions. The quarterly report shall be submitted no later than 60 days after the end of each quarter.

(b) **Content.** Quarterly reports shall include the total amount of hazardous waste generated and, when applicable, for each hazardous waste generated in a quarter:

- (1) The appropriate waste stream number from the generator's disposal plan;
- (2) The EPA ID number of all transporters who transported the waste;
- (3) The EPA ID number of the receiving facility; and
- (4) The handling code(s) corresponding to the method the generator expects the designated receiving facility to use.

(c) **Characteristic hazardous waste.** If characteristic hazardous waste is treated on-site to render it non-hazardous, the quarterly report shall so indicate.

(d) **Reporting exclusions.** This section does not apply to waste which is not subject to the substantive federal regulations adopted by reference by 252:205-3-2. There are many such exclusions, including but not limited to:

- (1) Hazardous wastewater which is properly disposed of on-site in facilities permitted under the Clean Water Act;
- (2) Hazardous wastewater which is properly disposed of on-site in Class I injection wells permitted under the Safe Drinking Water Act; and
- (3) Hazardous wastes which are treated in elementary neutralization units to render them non-hazardous.

252:205-5-4. No endangerment provisions for generators

All generators must comply with 252:205-9-1.

252:205-5-5. Manifest requirements

Oklahoma large quantity generators shall, on at least a quarterly basis, submit copies of manifests signed by receiving facilities for wastes transported outside the United States.

SUBCHAPTER 7. ADDITIONAL TRANSPORTER RULES

Section

- 252:205-7-1. Transporters required to register [REVOKED]
- 252:205-7-2. Leakage, other releases prohibited in transport
- 252:205-7-3. Manifest, disposal plan required [REVOKED]
- 252:205-7-4. Mixing waste prohibited by transporters

252:205-7-1. Transporters required to register [REVOKED]

252:205-7-2. Leakage, other releases prohibited in transport

The transporter shall insure that the waste will be adequately contained so as to prevent any leakage, spillage, blowing, or dumping of the waste while in transport.

252:205-7-3. Manifest, disposal plan required [REVOKED]

252:205-7-4. Mixing waste prohibited by transporters

Transporters shall not mix or combine incompatible hazardous waste within a common container. Transporters shall not mix or combine hazardous waste from separate containers or transfer waste from one container to another container except at an approved transfer station or in accordance with 252:205-15-1(d).

SUBCHAPTER 9. ADDITIONAL TREATMENT, STORAGE, DISPOSAL AND

RECYCLING REQUIREMENTS

Section

- 252:205-9-1. No endangerment or degradation
- 252:205-9-2. Monthly reports
- 252:205-9-3. Buffer zones
- 252:205-9-4. Provisions for on-site inspectors
- 252:205-9-5. Additional closure requirements
- 252:205-9-6. Additional waste analysis requirements
- 252:205-9-7. Acceptance of waste [REVOKED]

252:205-9-1. No endangerment or degradation

- (a) Hazardous waste sites and facilities shall be located, constructed, maintained, operated, and closed in a manner to prevent any endangerment of the public health and safety or degradation of the environment.
- (b) Degradation of the environment shall be deemed to have occurred if the site or facility causes or may cause a discharge or release to the air, land, or water which statistically increases (or decreases, in the case of pH) the level of a parameter indicative of hazardous waste contamination over what may normally be expected to be found in the environment at that time.
- (c) A statistical increase (or decrease) shall be determined by use of the tests specified in 40 CFR Parts 264 and 265.
- (d) Discharges in compliance with state or federal permits and rules shall not be deemed as degradation.

252:205-9-2. Monthly reports

- (a) **Monthly reports required.** Owners/operators of hazardous waste treatment, storage, disposal, and recycling facilities shall submit reports monthly in a format prescribed by the DEQ, which may include electronic submissions, identifying hazardous waste which is managed at the facility.
- (b) **Content.** The report shall be submitted within 30 days of the end of each month and shall include:
 - (1) The generator EPA ID number;
 - (2) All EPA waste numbers applicable to the waste;
 - (3) The appropriate EPA handling codes for storage, treatment, disposal or recycling methods applicable to the waste;
 - (4) For all waste generated on-site and managed in permitted or interim status units, the amount of waste generated; and
 - (5) For all waste generated off-site, the amount of waste received and the EPA ID number of all transporters who transported the waste; and
 - (6) Copies of all hazardous waste manifests for waste generated outside the United States received at the facility during the month.

252:205-9-3. Buffer zones

- (a) No treatment, storage or disposal in a land treatment unit shall occur within 50' of the site perimeter. No treatment, storage, or disposal in a surface impoundment, waste pile, or landfill unit shall occur within 200' of the site perimeter.
- (b) Existing units which become newly regulated due to changes in the statutory or regulatory requirements are excluded from the buffer zone restrictions to the extent of the encroachment existing as of the effective date of the statutory or regulatory changes.

252:205-9-4. Provisions for on-site inspectors

The DEQ may add or include provisions for a full-time inspector in the permit conditions of commercial hazardous waste treatment, storage or disposal or recycling facilities. Permittees subject to these conditions shall provide on-site DEQ inspectors with reasonable office facilities.

252:205-9-5. Additional closure requirements

(a) The provisions of 40 CFR 264 or 265, Subparts G and H, shall apply to all areas where hazardous waste is handled, including all recycling units, staging and processing areas, and temporary hazardous waste storage areas.

(b) The closure cost estimate may not incorporate any value that may be realized by the sale of recycled products.

252:205-9-6. Additional waste analysis requirements

(a) Prior to receipt of a hazardous waste for storage, treatment, disposal or recycling, the owner/operator of a treatment, storage or disposal facility or off-site recycling facility must obtain detailed chemical and physical analyses of a representative sample of the waste. The analyses must contain all information necessary to appropriately treat, store, dispose, or recycle the waste.

(b) Prior to receipt of any industrial waste not identified as hazardous waste at a treatment, storage or disposal facility or off-site recycling facility, the owner/operator must obtain the following records and maintain them in the facility operating record:

(1) Information regarding the chemical and physical nature of the waste which reasonably, considering the source, establishes that the waste does not exhibit any characteristic of hazardous waste as described by 40 CFR 261, Subpart C. This information may include laboratory analyses, material safety data sheets, and analysis of raw materials, feedstocks, and process descriptions; and

(2) An affidavit by the original waste generator stating that the waste does not include any listed waste.

252:205-9-7. Acceptance of waste [REVOKED]

SUBCHAPTER 11. ADDITIONAL PERMIT PROCEDURES

Section

252:205-11-1. Emergency plans relating to affected property owners

252:205-11-2. Exclusionary siting criteria

252:205-11-3. Upgrades of county roads and bridges

252:205-11-1. Emergency plans relating to affected property owners

(a) In addition to the plans required by 40 CFR 264 Subpart D (contingency plans and emergency procedures), applicants for new proposed off-site treatment, storage, recycling or disposal sites shall also prepare a separate Emergency Plan to minimize hazards to the health and property of affected property owners from emergency situations or from sudden or nonsudden releases of hazardous waste or its constituents. This Emergency Plan shall follow the criteria of 40 CFR 264 Subpart D but shall specifically relate to each parcel.

(b) For purposes of these rules, a parcel of land owned by one or more affected property owners is a present possessory fee simple estate in land, excluding future interests.

(1) All discrete parcels, regardless of size, as specified in the county land records on the day the permit application is submitted, shall be counted equally, regardless of the number of affected property owners who may own concurrent interests in such parcel.

(2) The owner who is occupying a parcel, if there is only one owner in occupancy, or a majority of the owners, or the executor, administrator or trustee on behalf of a parcel undergoing probate or otherwise, shall represent the approval or disapproval of the Emergency Plan on behalf of the parcel for purposes of the OHWMA.

(3) A calculation of approval or disapproval by a majority of the affected property owners shall be made by summing the numbers of parcels whose owners approve or disapprove the Emergency Plan. A majority is a simple majority of the parcels.

(4) Approval or disapproval of the Emergency Plan by an affected property owner does not signify approval or disapproval of the technical aspects of the facility, nor limit the right under the Act of any affected property owner to oppose the permit.

(c) If an applicant has obtained the written approval of the Emergency Plan from the affected property owners of all or a majority of the parcels, the applicant shall certify this to the Department. When the DEQ determines that all necessary approvals have been obtained, it shall then proceed with the process of issuance or denial of the permit.

(d) Affected property owners of a parcel of land who do not approve the Emergency Plan must specify reasons for non-approval which are based solely upon minimization of hazards to their health and property within forty five days of notice of the application being filed. Failure to do so shall cause the DEQ to exclude those affected property owners from a calculation of a majority of affected property owners.

(e) For a determination of affected property owners, the area considered to be within one mile of the facility shall be measured from the outer perimeter of the site as specified in the permit application.

252:205-11-2. Exclusionary siting criteria

(a) Ground water resources and recharge areas.

(1) **Presumption of unapprovable site.** The DEQ shall presume that the proposed location is unapprovable if it lies wholly or partially within an area designated as an actual or potential unconsolidated alluvial aquifer or terrace deposit aquifer or bedrock aquifer or recharge area, as shown on the maps described as "Sheet 1 - Unconsolidated Alluvium and Terrace Deposits" and "Sheet 2 - Bedrock Aquifers and Recharge Areas" of the "Maps Showing Principal Ground Water Resources and Recharge Areas in Oklahoma," compiled by Kenneth S. Johnson, Oklahoma Geological Survey (1983), or any successor map(s) compiled by the Oklahoma Geological Survey.

(2) **Rebuttal of presumption.** The applicant may rebut the presumption by submitting site-specific hydrological and geological data and other information sufficient to demonstrate clearly and convincingly that the proposed location does not lie in a prohibited area.

(3) **DEQ reliance upon Oklahoma Geological Survey.** In making a determination whether a proposed location is within a prohibited area, the DEQ shall request and rely upon review and conclusions by the Oklahoma Geological Survey.

(4) **Site-Specific Information.** The Department may require site-specific hydrological and geological information for proposed facility locations outside a designated principal groundwater resource or recharge area where there is reason to believe that the proposed location may be unsuitable due to localized groundwater conditions.

(5) **Groundwater protection plan.** In determining whether a groundwater protection plan with financial assurance is required for an on-site facility pursuant to 27A O.S. § 2-7-111(B), the procedures used in subsections (1)-(4) of this section shall be used.

(6) **Existing facilities.** Existing facilities in these areas may continue to operate and may modify or expand their operations to the extent permitted by 27A O.S. § 2-7-111.

(b) **Water wells.** The DEQ shall not grant a permit for a new hazardous waste disposal facility proposed to be located within one-quarter mile of any public or private water supply well except private water supply wells on the applicant's property. Water supply wells that are demonstrated by the applicant to be permanently abandoned may be plugged upon a demonstration that the applicant has the right to plug them. The applicant shall notify the DEQ that the abandoned water wells have been plugged. If abandoned water wells are identified by the applicant during the preparation of his application or during the permit process, the applicant shall notify the DEQ so that these wells can be included in the Class V well inventory.

(c) **Flood plain.** No permit or modification of an existing permit which includes disposal of hazardous waste within a one-hundred year flood plain shall be granted, except for post-closure, corrective action or remedial activities conducted under the direction of the DEQ. For existing facilities, this modification prohibition applies only to land disposal units and to modifications of such units which would increase disposal rates or designate new areas for disposal.

(d) **Surface water.** No permit shall be granted for a new hazardous waste disposal facility proposed to be located within one mile of the conservation pool elevation of any reservoir which supplies water for a public water supply or within one mile of any scenic river.

(e) **Air pollution.** No permit shall be granted for a new off-site hazardous waste disposal facility proposed to be located within one mile of any public school, educational institution, nursing home, hospital or public park.

(f) The Hazardous Waste Management Act also contains exclusionary siting criteria. See 27A O.S. § 2-7-111(B) and (C)(1) and § 2-7-114, as amended.

252:205-11-3. Upgrades of county roads and bridges

The owner/operator shall submit a certificate of acceptance of the completed upgrades by the appropriate board(s) of county commissioners or the Oklahoma Department of Transportation, as appropriate, pursuant to 27A O.S. § 2-7-115(B)(2).

SUBCHAPTER 13. MISCELLANEOUS

Section

252:205-13-1. Incidents

252:205-13-1. Incidents

(a) **Release of hazardous waste.** Upon release of materials that are or become hazardous waste whether by spillage, leakage, or discharge to soils or to air or to surface or ground waters (outside the limits of a discharge permit), or by other means, and which could threaten human health or the environment, the owner or operator shall immediately notify the DEQ and take all necessary action to contain, remediate, and mitigate hazards from the release.

(b) **Contained releases.** The owner/operator is not required to notify the DEQ of a release if it is completely contained in a secondary containment area.

(c) **National Response Center.** When a report is required to be made to the National Response Center pursuant to 40 CFR 262.34 (a) (4), 262.34 (d) (5), or 264.56 (d) (2) or 265.56 (d) (2), a report must also be made immediately to the DEQ at 1-800-522-0206.

(d) **Determination of waste category.** Spilled or leaked materials and soils and other matter that may be contaminated with such materials shall be tested by the responsible person to determine whether they are hazardous waste, nonhazardous industrial waste or solid waste.

(e) **Proper disposal of waste from release.** Waste materials resulting from a release shall be properly disposed of in accordance with the applicable rules.

(f) **Recyclable materials.** Materials that are to be recycled shall be collected and properly stored to prevent further contamination of the environment.

(g) **Remediation plan.** The DEQ may require submission of a remediation plan that meets the closure requirements of 40 CFR 265.111 and 265.114.

(h) **Costs.** The Executive Director may assess costs relating to expenses and damages incurred by the DEQ in responding to a release and overseeing its remediation. Costs shall be borne by the responsible person(s).

SUBCHAPTER 15. TRANSFER STATIONS

Section

252:205-15-1. Applicability and consideration of other laws

252:205-15-2. Development and Operations Plan

252:205-15-3. Design and operation

252:205-15-4. Modifications

252:205-15-5. Exclusionary siting criteria

252:205-15-6. No endangerment

252:205-15-1. Applicability and consideration of other laws

(a) **Types of waste handled.** The owner/operator of a transfer station which handles hazardous waste or both hazardous and solid wastes must comply with this Subchapter.

(b) **Solid waste permits.** The owner/operator of a hazardous waste transfer station operating or

proposing to operate under an approved Plan which includes compliance with 252:205-15-2(c) is not subject to solid waste permitting rules.

(c) **RCRA permits.** The rules in this Subchapter do not supersede any obligations to obtain a hazardous waste permit.

(d) **Exempt activities.** The following are exempt from this Subchapter:

- (1) Activities of hazardous waste generators to consolidate waste on-site prior to shipment;
- (2) Activities regulated by hazardous waste permits which specifically address compliance with the plan requirements identified in 252:205-15-2(b); and
- (3) Activities immediately responding to a discharge of hazardous waste or material which becomes a hazardous waste when discharged or an imminent and substantial threat of a discharge of hazardous waste.

252:205-15-2. Development and Operations Plan

(a) **Plan required.** No person may construct or operate a hazardous waste transfer station without DEQ approval of a Transfer Station Development and Operations Plan (Plan).

(b) **Content.** The owner/operator of a transfer station shall identify and discuss all of the hazardous wastes which may be managed at the Transfer Station and the handling of any solid wastes to be managed as non-hazardous. The following shall be submitted:

- (1) Engineering plans for the construction design and a detailed description of all buildings, ramps, on-site roads, waste transfer and holding areas, and equipment used on-site;
- (2) A description of all proposed Transfer Station solid and hazardous waste handling activities including:
 - (A) estimations of waste holding capacities;
 - (B) description of wastes, tanks and containers;
 - (C) hours of operation;
 - (D) waste transfer and bulking procedures including associated compatibility analyses;
 - (E) provisions to assure that solid wastes destined for disposal in non-hazardous waste facilities are not co-mingled with hazardous waste; and
 - (F) truck and equipment cleaning and decontamination procedures.
- (3) A description of all safety, training and security provisions including site access and security provisions, site inspections, and personnel training in accordance with 40 CFR 264.14 through 264.17. The Plan shall also include a contingency and site safety plan that meets the requirements of 40 CFR 264, Subparts C and D;
- (4) A description of spill control, containment, and remediation measures;
- (5) A design and operations plan for waste transfer and unloading activities demonstrating that those activities are limited to areas with adequate secondary containment structures to prevent releases to soil, surface water or groundwater; and
- (6) Information on closure and mechanisms to meet the financial assurance and liability requirements of 40 CFR 264, Subparts G and H.

(c) The owner/operator of a hazardous waste transfer station which handles solid waste destined for management at a solid waste facility must also demonstrate compliance with applicable rules in OAC 252:515, including location standards, if the hazardous waste Transfer Station Development and Operations Plan is to be used in lieu of a solid waste permit.

252:205-15-3. Design and operation

All transfer stations shall be designed and operated to minimize releases to the air from waste transfer and unloading activities. Activities shall be conducted only in areas protected by secondary containment structures approved in the Plan.

252:205-15-4. Modifications

(a) A proposed modification to an approved Plan which would alter the design or operation of a transfer station shall be requested in writing and shall not be implemented without the DEQ's prior approval.

(b) The DEQ may modify an approved Plan to require compliance with current rules.

(c) Modification to approved Plans shall be according to 40 CFR 270.42.

252:205-15-5. Exclusionary siting criteria

(a) The siting criteria for locating hazardous waste Transfer Stations are the same as those for any hazardous waste treatment, disposal, recycling, or storage facility in OAC 252:205-11-2 and 27A O.S. § 2-7-111.

(b) The siting criteria for locating hazardous waste Transfer Stations which also handle solid wastes destined for management at a solid waste facility include those listed in Subchapter 11 and, in addition, those in OAC 252:515.

252:205-15-6. No endangerment

All owners/operators of Transfer Stations shall comply with 252:205-9-1.

SUBCHAPTER 17. TAX CREDITS

PART 1. TAX CREDITS

Section

252:205-17-1. Certification

252:205-17-2. Tax credit limitations

252:205-17-3. Application procedures for tax credit

252:205-17-4. Criteria for approval of tax credit

252:205-17-5. Special conditions: new and unproven technologies

252:205-17-6. Required information in tax credit application

PART 3. WASTE REDUCTION INCENTIVES [REVOKED]

252:205-17-20. Applicability [REVOKED]

252:205-17-21. Incentives [REVOKED]

252:205-17-22. Refund for volume reduction [REVOKED]

252:205-17-23. Refund for toxicity reduction [REVOKED]

252:205-17-24. Refund for elimination of a waste stream [REVOKED]

252:205-17-25. Maximum total refund [REVOKED]

252:205-17-26. Limitations [REVOKED]

252:205-17-27. Application for fee reduction [REVOKED]

PART 1. TAX CREDITS

252:205-17-1. Certification

(a) **Net investment cost.** Upon evaluation by the DEQ of an application in accordance with 27A O.S. § 2-11-304(A)(1)-(4) the DEQ will issue a certificate to the Oklahoma Tax Commission specifying the actual or estimated agreed net investment cost of approved recycling, reuse, or source reduction processing operations.

(b) **Energy recovery.** Energy recovery from the destruction of a hazardous waste may be considered as recycling, and the equipment or devices needed to effectuate such recovery may be eligible under this Subchapter. In order to claim energy recovery, the unit must maintain a thermal energy recovery efficiency of at least sixty percent, calculated in terms of the recovered energy compared with the thermal value of the fuel, and at least seventy-five percent of this recovered energy must be exported and utilized on an annual basis. Credit will not be allowed for internal use of recovered heat in the same unit.

(c) **Remedial action.** Equipment installed for the purpose of recycling or reuse of hazardous waste recovered as a result of the clean-up of spills and/or remedial action at hazardous waste sites may be eligible.

(d) **Replacement of equipment.** Replacement of existing equipment is eligible for

consideration only if the equipment being replaced has exceeded its design lifetime as specified at the time of installation. Replacement of existing equipment with equipment that will allow more complete recycling or increased source reduction will be considered, regardless of age.

(e) Any particular piece of equipment, plant, or property shall only be eligible for one tax credit allowance. Sale or transfer of that item to a new owner shall not recreate the eligibility for a tax credit.

(f) Trucks, trailers, containers, portable storage units or similar items that are necessary for the installation of processes used for the recycling, reuse or source reduction of hazardous waste may be considered. Equipment purchased or leased but not used solely for the recycling, reuse or source reduction of hazardous waste will be prorated based on use. Only equipment that is physically used in Oklahoma will be considered.

252:205-17-2. Tax credit limitations

The following are not eligible for consideration for a tax credit under this Subchapter:

- (1) Storage facilities used for the purpose of speculative accumulation;
- (2) Recycling of materials in a manner constituting disposal as described in 40 CFR Part 266;
- (3) Recycling, reuse or source reduction of materials that are not hazardous waste;
- (4) Operating expenses, interest charges, design costs and permit application costs; and
- (5) Dilution of a hazardous waste because dilution is not considered recycling, reuse or source reduction.

252:205-17-3. Application procedures for tax credit

(a) An application for a tax credit must be submitted separately from other permit applications. Application forms are available from the DEQ. Applicants must comply with the Oklahoma Uniform Environmental Permitting Act (27A O.S. § 2-14-101 *et seq.*) and the Rules of Practice and Procedure at OAC 252:4-7.

(b) The applicant must include the actual or estimated capital expenditures required to purchase and install the facility. Estimates must show all unit costs and bid quotations from equipment suppliers. The applicant must list names, addresses, telephone numbers and other relevant contact numbers, i.e. telefacsimile and internet, of all suppliers, contractors, and related participants in the installation of the facility.

(c) After the equipment is installed, the applicant shall notify the DEQ that the facility is ready to be inspected. The applicant must point out any deviations from the approved application. Deviations will be evaluated by the DEQ to determine if a new application will be required. The DEQ will verify that the specified equipment has been installed and that it is operational. If so, the DEQ will issue the certification to the Oklahoma Tax Commission.

252:205-17-4. Criteria for approval of tax credit

To qualify for approval of a tax credit under this subchapter:

- (1) The tax credit must be taken within three years of the installation and initial use of the facility.
- (2) The proposed facility or equipment must have been previously demonstrated to be effective and to perform as specified unless unproven technology procedures are followed in accordance with 252:205-17-5.
- (3) The facility must be physically located in the State of Oklahoma.

Agency note: There is no minimum amount of a hazardous waste which must be recycled, reused or reduced.

252:205-17-5. Special conditions: new and unproven technologies

In addition to the requirements of 252:205-17-4, the following apply to persons who wish to use technologies that have not been proven to be effective or workable:

- (1) If the review and evaluation of an application for a tax credit using unproven

technologies indicates that the proposed facility has a high likelihood of being successful, but supporting data is not available to allow final approval by the DEQ, the DEQ may issue an Approval in Principle in lieu of the formal approval and certification to the Tax Commission. The Approval in Principle shall list the assumptions made in deciding upon its issuance and the conditions the facility is expected to meet before a formal approval and certification to the Oklahoma Tax Commission can be made.

(2) The Approval in Principle will automatically expire two years from the date of its issuance. It may be reissued if a new application is submitted to the DEQ and a determination made that the conditions under which the first approval was issued are still applicable and that a high likelihood of success is still feasible.

(3) Once the owner/operator of the facility has satisfactorily demonstrated that the technology performs as specified and has supplied documentation to the DEQ showing that the conditions of the Approval in Principle have been satisfied, the DEQ shall issue a formal approval and provide certification to the Oklahoma Tax Commission showing eligibility for a tax credit.

(4) The applicant must notify the DEQ of any significant change in the design of the facility or in the equipment actually installed, or if there is an increase in costs of more than twenty percent from that specified in the application. Any significant change from the original application shall be cause for the DEQ to reevaluate the application and make a new determination whether or not the project should be approved.

252:205-17-6. Required information in tax credit application

The applicant must submit the following information in an application:

(1) A description of the current or proposed plant process, as it relates to the recycling, reuse or source reduction operations, including flow diagrams and engineering drawings.

(2) A description of the proposed recycling, reuse or source reduction facility, including flow diagrams and engineering design drawings, the exact equipment necessary for the facility to perform as specified either by brand name and serial number, or by design specifications and drawings, and the estimated life expectancy and the vendor's name for each piece of equipment.

(3) The amount and character of waste streams prior to use of the facility and the amount and character of waste streams after use of the facility. If there is no current plant process, the applicant should provide information on the amount of hazardous waste expected to result from the proposed facility.

(4) A justification for the process decisions made, including a description of the recycling, reuse, or source reduction alternatives considered.

(5) A certification that the facility will be used in Oklahoma to process hazardous waste generated in Oklahoma. If the facility will be processing waste generated in other states, the applicant must specify the percentage of waste generated in Oklahoma.

(6) Income or savings that will be generated from the installation and operation of the facility.

(7) Actual invoices of installed unit costs or estimates of costs if the facility has not been built.

(8) If the facility to be installed uses a proven technology. If it is not a proven technology, the application must specify when supporting documentation will be available to determine if the technology will perform as specified.

(9) The date that construction or installation of the facility is scheduled to begin and the date the facility is scheduled to begin operations.

PART 3. WASTE REDUCTION INCENTIVES [REVOKED]

252:205-17-20. Applicability [REVOKED]

252:205-17-21. Incentives [REVOKED]

- 252:205-17-22. Refund for volume reduction [REVOKED]
- 252:205-17-23. Refund for toxicity reduction [REVOKED]
- 252:205-17-24. Refund for elimination of a waste stream [REVOKED]
- 252:205-17-25. Maximum total refund [REVOKED]
- 252:205-17-26. Limitations [REVOKED]
- 252:205-17-27. Application for fee reduction [REVOKED]

SUBCHAPTER 19. ADDITIONAL RULES FOR RECYCLING

PART 1. REQUIREMENTS FOR OFF-SITE RECYCLERS

Section

- 252:205-19-1. Permit required
- 252:205-19-2. Federal rules
- 252:205-19-3. Replacement of recycling units
- 252:205-19-4. Operating record
- 252:205-19-5. Blending low-Btu fuel prohibited [REVOKED]
- 252:205-19-6. Fees [REVOKED]
- 252:205-19-7. Processed hazardous waste to be recycled

PART 3. MOBILE RECYCLING UNITS

- 252:205-19-15. Mobile Units

PART 5. TANK AND CONTAINER RECYCLERS

- 252:205-19-29. Applicability
- 252:205-19-30. Incidents
- 252:205-19-31. Handling of tank and container residues, and cleaning wash solutions
- 252:205-19-32. Storage requirements
- 252:205-19-33. Notification requirements
- 252:205-19-34. Recordkeeping

PART 1. REQUIREMENTS FOR OFF-SITE RECYCLERS

252:205-19-1. Permit required

- (a) Owners/operators of off-site recycling facilities with units operational:
 - (1) Before July 1, 1990, are not required to obtain a permit for those units, but must comply with the rules in this Subchapter.
 - (2) After July 1, 1990 must obtain a permit for those units. Owners/operators of post-1990 off-site recycling facilities must also comply with the permit requirements of 40 CFR 270 and OAC 252:4. The owner/operator must include hazardous waste recycling units, staging and process areas, and permanent and temporary storage areas for recycled products and wastes in the permit application.
- (b) **Subchapter 9.** Owners/operators of off-site recycling facilities shall comply with Subchapter 9.

252:205-19-2. Federal rules

Owners/operators of off-site recycling facilities must comply with the following provisions of

40 CFR 264 for all hazardous waste recycling units, staging and process areas, and permanent and temporary storage areas for recycled products and wastes:

- (1) Subpart B- General Facility Standards
- (2) Subpart C- Preparedness & Prevention
- (3) Subpart D- Contingency Plan & Emergency Procedures
- (4) Subpart E- Manifest System, Recordkeeping & Reporting
- (5) Subpart G- Closure & Post-Closure
- (6) Subpart H- Financial Requirements
- (7) Subpart I- Use & Management of Containers
- (8) Subpart J- Tank Systems

252:205-19-3. Replacement of recycling units

- (a) The owner/operator may replace recycling units which are not required to be permitted with functionally equivalent units not more than 10% difference in capacity upon prior approval of the DEQ.
- (b) The owner/operator must apply for a permit modification to increase the capacity of the recycling units or to add new or different recycling units.

Agency Note: The application for permit modification is a Tier I in accordance with OAC 252:4-7-52 and a Class I in accordance with 40 CFR 270.42.

252:205-19-4. Operating record

(a) **Operating record required.** The owner or operator of an off-site recycling facility must keep a written operating record at the facility.

(b) **Content.** The following information must be recorded as it becomes available and maintained in the operating record until closure of the facility:

- (1) A description and the quantity of each hazardous waste received;
- (2) The method(s) and date(s) of treatment, storage, or recycling of each hazardous waste received;
- (3) The location of all hazardous waste within the facility;
- (4) The quantity of hazardous waste at each location, including cross-references to specific manifest document numbers if the waste was accompanied by a manifest; and
- (5) Complete documentation of the fate of all hazardous wastes received from off-site or generated on-site including records of the sale, reuse, off-site transfer, or disposal of all products and waste materials.

252:205-19-5. Blending low-Btu fuel prohibited [REVOKED]

252:205-19-6. Fees [REVOKED]

252:205-19-7. Processed hazardous waste to be recycled

Owners/operators who demonstrate to the DEQ that units containing hazardous wastes which have been processed for recycling have a demonstrable market and no longer contain constituents which pose a hazard to human health or the environment are not required to obtain a permit for those units, but must still comply with 252:205-19-1(b) and 19-4.

PART 3. MOBILE RECYCLING UNITS

252:205-19-15. Mobile units

(a) **Applicability.** This Part applies to mobile recycling units that process hazardous waste at any facility which generates in excess of 1000 kilograms of hazardous waste in any calendar month. The requirements of this Part shall not apply to mobile recycling units when:

- (1) The recycling is performed at the generator's site;
- (2) The generator retains responsibility for proper management of the waste and any

residues;

(3) No waste generated by any other person is brought onto the site for treatment by the unit; and,

(4) The generator and the recycler meet all applicable requirements for hazardous waste management.

(b) **Permits.** Mobile recycling units subject to this Part shall obtain a Recycling Permit for a Mobile Unit. Application for such permit shall include the application fee and three copies of the following:

(1) A detailed description of the proposed recycling unit(s). This should include flow diagrams and engineering design drawings, specifying either by brand name and serial number, or by design specifications and drawings, the exact equipment necessary for the unit(s) to perform as specified.

(2) The amount and nature (including waste codes and available laboratory analyses) of current hazardous waste streams able to be processed and the amount and nature of waste streams expected to result from operation of the proposed unit(s).

(3) A description and quantification of any releases to the air, sewer, water, or ground that will result from operation of the recycling unit(s).

(4) A description of the procedures used to decontaminate the unit, and including disposal of all contaminated residuals, after completion of the on-site processing.

(5) Evidence of compliance with personnel training requirements equivalent to 40 CFR 265.16 for all personnel dealing with waste handling or processing.

(6) A generic contingency and safety plan which meets all applicable provisions of 40 CFR 265, Subparts C and D.

PART 5. TANK AND CONTAINER RECYCLERS

252:205-19-29. Applicability

(a) This part applies to facilities which receive tanks or containers from off-site for cleaning or reconditioning which are empty as described at 40 CFR 261.7 and which contain a chemical residue. Tanks or containers hold a chemical residue if such residue is visible and/or the tank or container requires cleaning to assure that it is free of residue.

(b) Containers as described in 40 CFR 261.7 are assumed to contain a chemical residue until processed by the receiving facility to assure that such units are ready for resale.

(c) This part does not apply to:

(1) Facilities permitted pursuant to 40 CFR 264;

(2) Facilities which only receive containers or tanks for filling with product or waste without on-site cleaning or reconditioning; or,

(3) Companies, their affiliates and subsidiaries which receive back only their own containers and, as applicable:

(A) Remove residues of unused commercial chemical product for use at their facilities;

(B) Remove residues and manage such residues and wash wastes as hazardous or non-hazardous solid waste as determined per 40 CFR 261; or,

(C) Treat removed residues and wash wastes in units permitted pursuant to sections 402 and 307(b) of the Clean Water Act.

252:205-19-30. Incidents

Facilities subject to this part shall comply with 252:205-13-1.

252:205-19-31. Handling of tank and container residues, and cleaning wash solutions

(a) Chemical residues and wash solutions containing chemical residues generated by cleaning or reconditioning of tanks or containers shall be evaluated in accordance with 40 CFR 261 to determine if they are to be handled as hazardous wastes or as non-hazardous solid wastes.

(b) Chemical residues and wash solutions containing chemical residues generated by cleaning or reconditioning of tanks and containers are not exempted from OAC 252:205-19-31(a) by 40 CFR

261.7. However, no hazardous waste listings in 40 CFR 261 Subpart D shall apply to residues removed from containers regulated pursuant to this part. Wastes generated from using solvents listed in 40 CFR 261.31 during the cleaning or reconditioning process and which meet the listing definition are hazardous waste.

(c) As determined, the following shall apply:

(1) 40 CFR 261-279 and OAC 252:205 shall apply to residues removed from containers regulated pursuant to this part unless exempted therein (e.g., exclusions for waste treated under §§ 402 and 307(b) of the Clean Water Act); however, the exemption found at 261.7 is modified pursuant to this part.

(2) For all non-hazardous solid waste, the generator is not exempt from applicable Oklahoma Regulations as specified by OAC 252:515.

252:205-19-32. Storage Requirements

(a) Facilities regulated pursuant to this part may not speculatively accumulate, as defined at 40 CFR 261.1(c)(8), tanks or containers awaiting cleaning or reconditioning. Tanks and containers which have not completed the full cleaning or reconditioning process must be so marked or placed into an area so marked and stored separately from containers or tanks which have been cleaned or reconditioned.

(b) All tanks and containers shall be stored under cover, or in a manner which will prevent the accumulation of precipitation in the tank or container or release to the environment of chemical residue. Any precipitation which may accumulate shall be considered a chemical residue requiring handling as described in 252:205-19-31.

(c) All tanks and containers shall be stored in such a manner that visual inspections can determine if spillage has occurred.

(d) Tanks and containers shall be inspected weekly for compliance with this section.

252:205-19-33. Notification Requirements

(a) Facilities shall notify the Department of activities regulated pursuant to this part in the following manner:

(1) Provide a general description of site utilization and processes; and,

(2) Provide a general description of how processes and activities will be conducted in a manner that minimizes releases to soil, air, and water.

(b) Facilities in operation on the effective date of this Part must submit the information required by 252:205-19-33(a) no later than January 1, 1999. New facilities must submit the information required by 252:205-19-33(a) prior to initiation of cleaning or reconditioning operations. Facilities shall submit a new notification to the Department if operations significantly change from those described in the original notification. This new notification must be submitted prior to making significant changes in operations.

252:205-19-34. Recordkeeping

(a) Facilities regulated pursuant to this part must maintain the following records on-site:

(1) Documentation of waste determinations and analyses, as appropriate, for hazardous wastes generated;

(2) Records of inspections performed pursuant to 252:205-19-32(d);

(3) Records of remedial actions performed on-site in accordance with 252:205-13-1; and,

(4) Records demonstrating that the facility is not speculatively accumulating under 252:205-19-32(a).

(b) Records required by paragraph 252:205-19-34(a) shall be kept for a period of three (3) years.

SUBCHAPTER 21. FEES

Section

252:205-21-1. General fee provisions

252:205-21-2. Generator fees

252:205-21-3. Transporter fees [REVOKED]

252:205-21-4. Treatment, storage, off-site recycling, and disposal facility fees

252:205-21-5. Fees for waste exclusion

252:205-21-1. General fee provisions

Fees are payable to the DEQ. Monitoring fees and renewal fees are due and payable and must be postmarked within sixty days from the invoice date. Ranges of fees for generator disposal plans, transporter registration, permit application and application resubmittals, and facility monitoring are set by law. See 27A O.S. § 2-7-119. A late fee of 20% of the renewal fee will be charged as a penalty for late renewal of fees less than \$10,000. For fees of \$10,000 or more, see the penalty clause of 27A O.S. § 2-3-301. The DEQ will not re-assess fees at time of transfer of ownership if units and EPA I.D. number remain unchanged.

252:205-21-2. Generator fees

(a) **Disposal plan.** The fee for a disposal plan for one or two waste streams is \$100 per generator per year. Each additional waste stream is \$50 per year. There is no disposal plan fee for emergency incidents under 252:205-13-1. Disposal plans shall be canceled if the fees are not paid after the second notification.

(b) **Annual monitoring and inspection fee.** Oklahoma generators shall pay an annual fee of \$100, except small quantity generators who pay \$25. There is no monitoring fee for generators who obtain one-time disposal plans issued under 252:205-5-1 for emergency cleanup or waste removal.

252:205-21-3. Transporter fees [REVOKED]

252:205-21-4. Treatment, storage, off-site recycling, and disposal facility fees

(a) **Permit fees.**

(1) New permit application fees are listed in Appendix B.

(2) Renewal and post closure application fees shall be 1/2 of the fees listed in Appendix B, subject to the statutory minimum.

(3) Fees for re-submission of an application shall be the minimum amount established by 27A O.S. § 2-7-119(B). Re-submission is deemed to occur when an applicant, at the request of the Department, provides additional information to make an application complete, which constitutes substantial recomposition of the application.

(4) Fees for Tier 3 modifications are the application fees listed in Appendix B.

(5) Application fees for an off-site recycling facility shall be the statutory minimum established for permit applications by 27A O.S. § 2-7-119(B).

(b) **Refund of permit fees.** Ninety percent (90%) of the fee is refundable for any applications withdrawn within 30 days.

(c) **Monitoring and inspection fees.**

(1) All hazardous waste facilities shall be charged annual fees for monitoring and inspection by the Department. These fees are in addition to the \$100 monitoring fee for generators.

(2) Facilities that treat, store, or dispose of hazardous waste, or receive off-site hazardous waste for recycling, are subject to the fee provisions of § 2-7-121(A) of the Act, except as provided by 27A O.S. § 2-7-121(B). The fee amounts and applicability are depicted in Appendix C of this Chapter. Facilities not subject to Appendix C of this Chapter shall be charged the minimum annual monitoring fee established at 27A O.S. § 2-7-119(B).

(Appendix C of this Chapter is included for convenience and is subject to adjustment of the fees by statutory amendment.)

252:205-21-5. Fees for waste exclusion

(a) **Submittal fees.**

(1) Application fees for waste exclusion are listed in Appendix D of this chapter.

(2) Payment of the appropriate fee must be made at the time of the submission of the petition to exclude the waste stream(s). The DEQ will not consider said petition(s) until the

appropriate fee(s) are paid in full.

(b) **Refund of waste exclusion fees.** Ninety percent (90%) of the fee is refundable to the applicant for any application withdrawn within 30 days of submission.

(c) **Monitoring and inspection fees.** All facilities generating a waste that has been excluded pursuant to 252:205 Subchapter 25 shall pay the monitoring fees set forth in Appendix D of this chapter. Monitoring and inspection fees will not be refunded.

(1) **First year of application.** After the effective date of the rule excluding the waste, the generating facility must pay a prorated portion of the annual monitoring fee listed in Appendix D for the remainder of the year in which the successful petition was approved.

(2) **Subsequent years.** Each facility generating a waste that has been excluded must pay the annual monitoring fees as in Appendix D on or before January 1 of the year following the year the petition was approved.

SUBCHAPTER 23. HAZARDOUS WASTE FUND ACT PROJECTS

Section

252:205-23-1. Purpose, authority and applicability

252:205-23-2. Use of Hazardous Waste Fund

252:205-23-3. Criteria for matching grants

252:205-23-4. Annual report

252:205-23-1. Purpose, authority and applicability

(a) **Purpose.** The purpose of this Subchapter is to implement the Oklahoma Hazardous Waste Fund Act, 27A O.S. §§ 2-7-301 *et seq.*

(b) **Authority.** This Subchapter is adopted pursuant to 75 O.S. § 302, Executive Order 98-37 and 27A O.S. § 2-7-306.

(c) **Applicability.** The rules in this Subchapter apply to DEQ funding of local projects authorized by 27A O.S. §§ 2-7-121(F), 2-7-304 and 2-7-305.

252:205-23-2. Use of Hazardous Waste Fund

(a) The DEQ shall fund the following before providing financial assistance to municipalities or counties:

(1) Required state contributions under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for remediation or related action at a CERCLA site (27A O.S. § 121(F)(1));

(2) Response to emergency situations and/or remediation of sites involving hazardous waste or hazardous waste constituents when the responsible party cannot be timely identified or found or compelled to take appropriate action in accordance with 27A O.S. § 2-7-121(F)(2) & (3); and

(3) Costs incurred in undertaking an enforcement action against responsible parties to compel response or remedial action or to recover monies expended by the state for a response or remedial action in accordance with 27A O.S. § 2-7-121(F)(4).

(b) Local projects are eligible for funding on a first-come, first-served basis if monies are available. Applicants are encouraged to contact the DEQ to arrange a preapplication conference prior to submitting an application. If funds are not available, applicants will be notified in writing.

252:205-23-3. Criteria for matching grants

(a) **Eligible grantees.** A municipality or county which has a DEQ-approved emergency response plan and a significant potential for initiating emergency response to an incident involving hazardous waste is eligible for a matching grant not to exceed Fifty Thousand Dollars (\$50,000).

(b) **Purpose of grant funds.** Grant funds shall be used for basic emergency response training and purchase of protective equipment to be used by the grantee in responding to incidents

involving hazardous waste.

(c) **Priority grantees.** Priority will be given to proposals submitted by those eligible municipalities or counties in which off-site hazardous waste facilities are located.

(d) **Proposal content.** Proposals for matching grants for funding of proposed emergency response training and/or purchase of protective equipment must contain the following information:

- (1) Identifying information of the grant applicant, including name, address, phone number, fax number, and e-mail address (if any);
- (2) Contact person and identifying information;
- (3) Explanation of eligibility, including a copy of the DEQ-approved emergency response plan and supporting documentation demonstrating that the applicant has a significant potential to respond to a hazardous waste incident;
- (4) Names, addresses and contact persons of off-site hazardous waste facilities located within the jurisdiction of the municipality or county;
- (5) Narrative explaining the proposed emergency response training program and/or protective equipment to be purchased.
- (6) Documentation of local funding commitment by municipality or county, i.e. proposed budget and local match.

(e) The term "protective equipment", as used in this section, is not limited to personal protective equipment.

252:205-23-4. Annual report

Applicants who are awarded funds under this subchapter shall submit a written report, outlining accomplishments and expenditures, on or before December 15 of each year until the funds awarded are fully expended.

SUBCHAPTER 25. ADDITIONAL REQUIREMENTS FOR EXCLUDING A WASTE FROM A PARTICULAR FACILITY

Section

- 252:205-25-1. General
- 252:205-25-2. Conditions applicable to approved petitions
- 252:205-25-3. Conditions of exclusion
- 252:205-25-4. Reconsideration of an approved petition
- 252:205-25-5. Monitoring of waste approved for exclusion
- 252:205-25-6. Failure to follow approval conditions
- 252:205-25-7. Effective date

252:205-25-1. General

(a) **Purpose, scope and applicability.** The Environmental Quality Board has adopted 40 CFR 260.22 by reference. The federal rule is intended to allow persons to exclude a waste at a particular generating facility from the lists in subpart D of 40 CFR 261. When excluded by EPA, the exclusion is applicable in all States that do not have delisting delegation. Wastes excluded by Oklahoma are excluded in Oklahoma only. Excluded wastes may still be hazardous waste by characteristic under subpart C of 40 CFR 261.

(b) **Procedure for petitions to exclude a waste.** All persons seeking to exclude a waste from some or all requirements under OAC 252:205 must submit a Petition to the DEQ pursuant to 40 CFR 260.20 and 260.22, incorporated by reference at 252:205-3-2, and this subchapter. Additionally, the exclusion of a waste pursuant to a DEQ approved Petition shall be a rulemaking and shall follow the procedures specified in 252:4-5. The person submitting the Petition ("Petitioner") shall follow the exclusion procedure described below:

- (1) A pre-petition letter of interest must first be submitted to the DEQ;
- (2) A pre-petition scoping meeting must be held with the DEQ;
- (3) A pre-petition sampling and analysis plan for data gathering must be submitted for DEQ

review and approval;

(4) At least three (3) copies of an approvable waste exclusion petition must be submitted to the DEQ.

252:205-25-2. Conditions applicable to approved petitions

Any Petition to exclude a waste approved by the Environmental Quality Board shall apply only to the particular waste described in the Petition.

252:205-25-3. Conditions of exclusion

The Environmental Quality Board may establish any additional conditions for the waste exclusion either at the time of granting the exclusion or any time thereafter as necessary to protect public health and the environment. Additional conditions for the exclusion will be set forth in Appendix E of this chapter.

252:205-25-4. Reconsideration of an approved petition

The DEQ may request the reopening of a previously approved Petition. If at any time after initial exclusion approval, the generator comes into possession or is otherwise made aware of any data or other information relevant to the excluded waste that is inconsistent with information provided to the DEQ pursuant to the exclusion petition procedure, the generator must report such information, in writing, to the DEQ within thirty(30) days of first obtaining or being made aware of the data.

252:205-25-5. Monitoring of waste approved for exclusion

The approval of a Petition to exclude a waste may include but is not limited to, requirements for periodic monitoring and sampling of the waste, reporting of monitoring results, quantities handled, and similar information to assure that the approval remains valid and continues to be followed.

252:205-25-6. Failure to follow approval conditions

If at any time the DEQ determines that the provisions of the approved Petition are not being followed, appropriate enforcement actions may be taken, including but not limited to, loss of exclusion status.

252:205-25-7. Effective date

The waste for which an exclusion is approved will not be excluded until the rulemaking process is complete and the rule is effective.

APPENDIX A. Refund For Volume Reduction [REVOKED]

APPENDIX B. PERMIT APPLICATION FEES

The statutory minimum fee established for permit applications by 27A O.S. § 2-7-119(b) is \$5,000.

Basic Application Fee	Fee for Submission
All facilities	\$3,000
Facility or Regulated Unit Description	Fee for Submission
	For each type of permit requested, add the following amounts to the basic application fee to determine the total fee due.
Tanks & Containers	\$2,000
Waste Piles	\$2,500
Misc. Thermal unit	\$2,000
Incineration; Boiler & Ind. Furnaces; thermal treatment	\$12,000
Deep Well	\$15,000
Land Treatment Unit	\$6,000
Landfill, Surface Impoundment	\$20,000
Research	\$2,000
Recyclers	\$2,000

APPENDIX C. ANNUAL FACILITY MONITORING FEES

Disposition of Waste	On-site	Off-site
Waste Storage, Treatment, or Land Disposal	\$9.00/ton (minimum \$20,000/yr per facility)	\$9.00/ton (minimum \$50,000/yr per receiving treatment or land disposal facility, minimum \$20,000/yr per storage facility*)
Waste Recycling	-----	\$4.00/Ton (minimum \$20,000/yr per receiving facility, excluding receiving facilities which consistently receive or recycle fewer than ten (10) tons of hazardous waste per month)
Underground Injection	\$0.03 per gallon	\$0.03 per gallon
Facilities Conducting Research & Design Tests	-----	\$9.00/ton treatment, storage, or disposal \$4.00/ton recycling (minimum \$10,000/yr per receiving facility)

* For the purpose of the \$20,000/yr per receiving facility minimum fee only, storage includes physical separation or combining of wastes solely to facilitate efficient storage at the facility and/or efficient transportation. Any off-site facility which is permitted for treatment or land disposal in addition to storage will be subject to the \$50,000/yr per receiving facility minimum fee.

APPENDIX D. WASTE EXCLUSION FEES

Basic Application Fee	Annual Monitoring Fee
\$20,000.00 for the first Petition submitted by a facility; \$15,000.00 for each subsequent Petition submitted by the same facility at the same time the first Petition is submitted	\$1,200.00 per each excluded waste

**APPENDIX E. WASTES EXCLUDED FROM THE LISTS IN SUBPART D
OF 40 CFR PART 261 AS APPLICABLE IN OKLAHOMA**

Facility Name and EPA Identification Number	Physical Address of Generating Facility	Description of Excluded Waste	Additional Conditions of Exclusion
[NAME]	[ADDRESS]	[DESCRIPT]	[ADD'L COND]