

US EPA ARCHIVE DOCUMENT

NAL AUTHORIZATION

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BASE PROGRAM*

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US EPA ARCHIVE DOCUMENT

## I. PURPOSE AND SCOPE OF PROGRAM

The State of Oklahoma, through the Oklahoma State Department of Health, has conducted an effective program for the regulation and control of hazardous wastes since 1976. The authority to implement the State's hazardous waste management program is derived from the Oklahoma Controlled Industrial Waste Disposal Act of 1976 (OCIWDA), as amended, and rules and regulations promulgated pursuant to the Act. The OCIWDA was enacted into law approximately the same time the Resource Conservation and Recovery Act of 1976 (RCRA) was passed by Congress and, although the OCIWDA was designed as an independent piece of legislation, it closely parallels RCRA both in intent and function. The term "controlled industrial waste", as defined by OCIWDA, is for all intents and purposes synonymous with the RCRA term "hazardous waste". In order that consistency be maintained with OCIWDA, the term controlled industrial waste will be used henceforth.

The State, in order to maintain sovereignty over its hazardous waste management program, applied for and received Phase I and Phase II interim authorization from the United States Environmental Protection Agency (EPA). States receiving interim authorization from EPA are acknowledged as having demonstrated "substantial equivalence" between the State and Federal hazardous waste management programs. The State was granted Phase I interim authorization on January 14, 1981, based on standards promulgated by EPA on May 19, 1980. Phase II interim authorization for Components A and B was granted to the State on December 13, 1982, based on standards promulgated by EPA on January 12, 1982 (Component A) and January 23, 1982 (Component B), while Phase II interim authorization for Component C was granted to the State on June 24, 1983, based on standards promulgated by EPA on July 26, 1982.

The State of Oklahoma firmly believes that it was Congress' intent that Subtitle C of RCRA be a delegable program, and, in concert with Congressional intent, hereby requests final authorization from EPA to implement a State hazardous waste management program under Subtitle C of RCRA in lieu of a Federal hazardous waste management program.

This application will demonstrate that the State program satisfies the six (6) statutory standards established under RCRA. Specifically, the State will demonstrate that its hazardous waste management program:

1. is equivalent to the Federal program in accordance with RCRA §3006(b);
2. is no less stringent than the Federal program in accordance with RCRA §3009;
3. is consistent with the Federal program and other state programs in accordance with RCRA §3006(b);
4. imposes certain requirements which are more stringent than those imposed by the Federal program in accordance with RCRA §3009;
5. provides for public notice and public hearing in the permit process in accordance with RCRA §7004(b)(1) and (2); and
6. provides adequate enforcement of compliance with State requirements in accordance with RCRA §3006(b).

## II. JURISDICTION OF THE STATE AGENCY

### A. State Authority

The administration and implementation of the State's hazardous waste management program under Subtitle C of RCRA is the responsibility of the Oklahoma State Department of Health. At present, no other State agency shares jurisdictional authority with the Department in administering the hazardous waste management program for the State. An organizational chart depicting the structure of the Department and the organizational entities within can be found in Appendix A.

The Department is headed by the State Board of Health which consists of nine (9) members appointed by the Governor to staggered nine (9) year terms. The Board establishes general policies within the Department and has the authority to either adopt or amend regulations, as needed. Adoption or amendment of regulations are approved by a simple majority vote by the Board members. The Department's regulatory development process is further discussed in the subsequent section entitled "Processes of the State Hazardous Waste Management Program".

The Commissioner of Health is appointed by the State Board of Health and is responsible for implementing the regulations and policy decisions established by the Board. The Commissioner is responsible for the overall operational control of the Department, including final permit issuance and all administrative orders issued by the Department.

The Deputy Commissioner for Environmental Health Services is appointed by the Commissioner of Health and is responsible for the administration and coordination of the State's environmental programs involving controlled industrial waste, solid waste, water, air, occupational and radiological health, consumer protection and general sanitation.

The specific organizational entity within the Department that has been charged with the responsibility of implementing the State hazardous waste management program is the Waste Management Service. The Service is under the administration of the Waste Management Service Chief, who is appointed by the Commissioner of Health upon the advice of the Deputy Commissioner for Environmental Health Services. The Service Chief, in addition to administering the environmental programs of the Waste Management Service, may also serve as a technical advisor to the Deputy Commissioner, the Commissioner and hearing examiners, concerning hearings relating to the environmental programs of the Service. The Service Chief has initial permit issuance/denial authority as well as approval over enforcement actions before they are forwarded to the Deputy Commissioner and Commissioner of Health.

The Waste Management Service, one of six environmental services of the Department, is divided into three Divisions, each of which has separate responsibilities for waste management. These three Divisions include the Solid Waste Division, the Resource Conservation and Recovery Division and the Industrial Waste Division. An organizational chart of the Waste Management Service and its Divisions, along with their respective staffing patterns can be found in Appendix B.

The Solid Waste Division has been responsible for administering the State solid waste management program under Subtitle D of RCRA and continues to implement an effective State solid waste program utilizing State funds. The Resource Conservation

and Recovery Division's primary responsibility is to provide technical assistance to the public/private sector on recycling and resource and energy conservation through its waste exchange program while educating the general public on recycling and conservation practices through various community participation projects. The Resource Conservation and Recovery Division implements the State's waste exchange program utilizing State funds.

The Industrial Waste Division, the organization responsible for administering the hazardous waste management program under Subtitle C of RCRA was created by the State Legislature with the passage of the Oklahoma Controlled Industrial Waste Disposal Act of 1976 (OCIWDA), as amended in 1978, 1979, and most recently in 1981. The Division is under the supervision of the Industrial Waste Division Director, who is hired by the Commissioner of Health on the advice of the Waste Management Service Chief and the Deputy Commissioner for Environmental Health Services. The Director's responsibilities include providing technical support to the Division staff, integrating the State hazardous waste management program with other related environmental programs, oversight and participation in the permitting process and enforcement actions, oversight of compliance monitoring activities and overall program development and implementation.

The Industrial Waste Division has been charged with the following duties by the State Legislature as delineated in Section 1-2004 of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), as amended in 1981:

1. Issue permits for the construction and operation of said facilities, sites and practices;
2. Provide the owner or operator of a controlled industrial waste facility a list of all materials which the Department deems acceptable at the time the Department issues a permit;
3. Make periodic inspections of controlled industrial waste facilities and recycling, transporting and generating facilities to determine the extent to which the Department's rules and regulations are complied with;
4. Develop, maintain and monitor public records of the source and amount of controlled industrial waste and recyclable materials generated in Oklahoma and the methods used to dispose of, recycle or treat said waste or material;
5. Require and prescribe manifest forms to all persons generating and transporting controlled industrial waste or recyclable materials offsite for storage, recycling, treatment or disposal;
6. Require and approve disposal plans from all persons generating controlled industrial waste or shipping controlled industrial waste within or into Oklahoma, indicating the amount of controlled industrial waste generated, the handling, storage, treatment and disposal methods, and the controlled industrial waste facilities used. The disposal plans shall be kept current and the Department shall be advised within five (5) working days of any changes in the disposal plans of such persons. The disposal plans shall be required for all controlled industrial wastes which are to be treated or disposed. Persons storing or shipping recyclable materials in an environmentally acceptable manner for the purpose of recycling shall be required to file disposal plans only for those wastes which are to be disposed;

7. Require quarterly reports from all persons generating controlled industrial waste or recyclable materials indicating the amount generated, the treatment and disposal methods, and the treatment, disposal and recycling sites used;
8. Require monthly reports from all operators of controlled industrial waste facilities who receive controlled industrial waste for treatment, storage or disposal, listing the amount, transporter and generator of all controlled industrial waste received;
9. Approve or disapprove methods of disposal of controlled industrial waste, and prohibit certain specific disposal practices;
10. Inform persons generating controlled industrial waste of available, alternative methods of disposal of such waste and assist the persons in developing satisfactory disposal plans;
11. Develop a system to provide information on recyclable materials to potential users of such materials. Such information shall not include any information which the Department deems confidential or private in nature;
12. Cooperate and share information with the U.S. Environmental Protection Agency; and
13. Prepare an emergency response plan for spills of controlled industrial waste and for spills of hazardous materials.

A copy of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), is included in Appendix C.

A copy of the Rules and Regulations for Industrial Waste Management can be found in Appendix D.

**B. Oklahoma "Administrative Procedures Act"**

The Oklahoma "Administrative Procedures Act" outlines standards, procedures, and rules of practice to be used by State agencies in conducting various administrative activities including public notice, public hearing and judicial review. A copy of the Oklahoma "Administrative Procedures Act" is included in Appendix G.

**III. SCOPE AND COVERAGE OF THE STATE'S HAZARDOUS WASTE MANAGEMENT PROGRAM**

The authority which the Department has regarding the management of controlled industrial waste can be found in the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA).

The Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), defines controlled industrial waste as:

Waste materials and byproducts, either solid or liquid which are to be discarded by the generator and which are toxic to human, animal, aquatic or

plant life and which are generated in such quantity that they cannot be safely disposed of in properly operated state-approved sanitary landfills, waste or sewage treatment facilities. Controlled industrial waste may include but is not limited to explosives, flammable liquids, spent acids, caustic solutions, poisons, containerized gases, sludge, tank bottoms containing heavy metallic ions, toxic organic chemicals, infectious materials and materials such as paper, metal, cloth, or wood which are contaminated with controlled industrial waste, and excludes domestic sewage.

Jurisdictional authority over waste materials such as mineral brines, salt water, waste oils and other deleterious substances provided from or used in conjunction with the production and processing of oil and gas rests with the Oklahoma Corporation Commission. However, should future amendments to the Federal program include these materials as part of its universe of hazardous wastes, the Department may share jurisdiction with the Commission for management of these waste materials. Radioactive wastes will continue to be regulated by the Department through its Radiation and Special Hazards Service.

During the interim authorization process, the State demonstrated substantial equivalence between the State and Federal hazardous waste management programs through a series of steps or phases. Phase I interim authorization encompassed the identification and listing of hazardous wastes, the control of generators of hazardous wastes, the control of transporters of hazardous wastes, and interim status standards for treatment, storage and disposal facilities, all of which were based on standards promulgated by EPA on May 19, 1980. Phase II interim authorization became a two-step process and encompassed permanent technical facility standards for treatment, storage and disposal facilities categorized under Components A, B and C, along with applicable permitting standards for these facilities, all of which were based on standards promulgated by EPA on January 12, 1982, January 23, 1982, and July 26, 1982, respectively.

The State demonstrated substantial equivalency between the State and Federal hazardous waste management programs by significantly upgrading its existing program through both statutory and regulatory development processes. While the immediate goal was to develop a hazardous waste management program substantially equivalent to that of the Federal program under Subtitle C of RCRA so as to attain interim authorization approval, the State's ultimate goal has been to develop its program so that it is fully equivalent to the Federal program. The State's hazardous waste management program now satisfies the statutory standards of RCRA thereby meeting EPA's requirements for final authorization.

#### **A. Equivalent and No Less Stringent §3006(b) and §3009**

The State hazardous waste management program now provides the same authority and regulatory control as the Federal program, corresponding to the following:

##### **1. Universe of Hazardous Wastes**

The State, which incorporated by reference 40 CFR 261, Identification and Listing of Hazardous Waste, including Appendices I, II, III, VII and VIII as it exists or may be amended, regulates all hazardous wastes listed by EPA. In addition, the characteristics used by the State in identifying hazardous wastes are identical to that of the Federal program.

Additionally, the Rules and Regulations for Industrial Waste Management provides a list of common industrial wastes in Appendix 2-A and chemicals in Appendix 2-B which, if contained in wastes, are considered to be controlled industrial wastes if any one or more of the four (4) characteristics of hazardous wastes are exhibited. Hence, the State universe of hazardous wastes is larger than the Federal universe of hazardous wastes.

The Department may delist wastes listed in Appendix 2-A if:

- a) the wastes to be delisted in Appendix 2-A are not listed in the Federal universe of hazardous wastes contained in 40 CFR 261; and
- b) it can be demonstrated by a generator that a specific waste, although listed in Appendix 2-A does not exhibit any one of the four (4) characteristics of hazardous waste in accordance with 40 CFR 261.

The State will not exempt from regulation any waste listed in Appendix 2-A which is also listed in 40 CFR 261 unless and until EPA has exempted such waste from regulation.

Wastes which do not meet any of the various criteria as a controlled industrial waste but yet are not considered to be solid wastes (i.e. household refuse or demolition wastes) are classified as "other" industrial wastes. These are wastes, usually liquids or water-based sludges, which are generally unsuitable for disposal in a common sanitary landfill and yet are not hazardous enough to justify the full regulatory restrictions of controlled industrial waste classification. Typical examples of "other" industrial wastes are fly or bottom ash waste generated from the combustion of coal, and wastewater treatment sludges produced from animal-food plant processing operations. Such wastes do not meet any of the criteria as controlled industrial waste, yet they must be handled in a more restrictive manner than refuse and other non-hazardous solid wastes. The Rules and Regulations for Industrial Waste Management allows the State to consider "other" industrial waste on a case-by-case basis and regulate them accordingly, with the standards applicable to the ultimate disposal of these wastes being established at the discretion of the Industrial Waste Division. Typically, "other" industrial wastes are disposed of in mono-industrial landfills or are incorporated into land application operations.

## 2. Generator Standards

The State's hazardous waste management program is equivalent to the Federal program outlined in 40 CFR 262 in terms of its regulatory authority over generators of controlled industrial waste.

All new generators of controlled industrial waste, except those qualifying for small quantity exemptions, are required to apply, through the Department, to the Environmental Protection Agency for an EPA identification number in accordance with 40 CFR 262.12, the provisions of which are incorporated by reference, prior to engaging in any activity subject to regulation under the State's hazardous waste management program.

All generators of controlled industrial waste within the State, as well as out-of-state generators who desire to import controlled industrial waste into the State, are required to file a plan for disposal with the Department for approval on forms

provided by the Department. The plan requires the identity, constituents, quantity and characteristics of the waste material, hauler(s) involved in transportation of the waste and the treatment, storage or disposal facility to be used, indicating the treatment or disposal method(s) proposed. The plan is reviewed by the Department and must be approved before being implemented. Subsequently, a control number or disposal plan number is assigned to each approved disposal plan, and is then entered on each copy of the shipping manifest to identify the generator, in addition to demonstrating that the disposal plan has been approved by the Department. Wastes identified in the disposal plan are then given waste codes similar to, but more specific than those used in the Federal program. Control numbers are also issued to transporters, and treatment, storage and disposal facilities for the same purpose.

No deviation from the approved plan is allowed. The generator may update the plan however, provided the Department is notified within five (5) working days of the date of the proposed change. No changes to the plan are allowed to be implemented until approval is granted by the Department. A copy of the Department's disposal plan can be found in Appendix O.

Prior to release of a controlled industrial waste for shipment, the generator is required to complete the manifest, including providing his signature, then obtain the handwritten signature of the initial transporter, including the date of acceptance. The generator is required to retain one copy of this manifest while giving the remaining four (4) copies of the manifest to the transporter. The generator is required to ensure that controlled industrial waste intended for shipment be packaged, labeled, marked and placarded in accordance with 40 CFR 262.30 through 40 CFR 262.33, the provisions of which are incorporated by reference.

All controlled industrial waste shipments are required to be accompanied by a manifest. The manifest is to be carried by the transporter at all times during transit and up to delivery at a permitted treatment, storage or disposal facility. Upon delivery, the owner or operator of the facility is required to sign and date each copy of the manifest for receipt of the waste, returning one signed copy of the manifest to the transporter. The owner or operator must then send one signed copy of the manifest back to the original generator within twenty (20) days of receipt of the waste and one signed copy of the manifest to the Department. Copies of the manifest are then retained by the generator, transporter and treatment, storage or disposal facility, with one copy being retained by the Department.

The Department utilizes an automatic data processing (ADP) system for tracking both interstate and intrastate shipment of controlled industrial waste. The Department uses the system to compare waste shipment information between monthly reports and manifests submitted by treatment, storage or disposal facilities and the quarterly reports submitted by the generators. Discrepancies noted between generator and facility reports are referred back to the generator for subsequent follow-up.

Generators who do not receive a copy of the manifest with the handwritten signature of the owner or operator of a designated treatment, storage or disposal facility within thirty-five (35) days of the date the waste was accepted by the initial transporter are required to contact the transporter and/or the owner or

operator of the facility to determine the status of the waste. If within forty-five (45) days of the date the waste was accepted by the initial transporter, the generator has not received a signed copy of the manifest from the facility, the generator is required to submit an exception report to the Department describing the efforts taken to locate the waste and the results of those efforts. A copy of the manifest for which the generator does not have written confirmation of delivery must be included in the report. If the waste was designated for transport outside of the State, the generator is required to submit copies of the exception report to the EPA Regional Office, as well as to the state in which the waste was to have been delivered. A copy of the Department's controlled industrial waste shipping manifest can be found in Appendix N.

Persons wishing to either export controlled industrial waste from the State to a foreign country or import controlled industrial waste from a foreign country to the State are required to comply with 40 CFR 262.50, the provisions of which are incorporated by reference.

All generators of controlled industrial waste are required to develop and maintain records adequate enough to accurately reflect the types and quantities of waste produced, the transporters used, the location of any interim storage facilities utilized and the treatment, storage or disposal facility ultimately utilized. These records may include manifests, disposal plans, quarterly reports and exception reports initiated by the generator. All records kept by generators of controlled industrial waste are required to be maintained for a period of at least three (3) years, after which they are transferred to the Department.

All controlled industrial waste generators are required to submit quarterly reports to the Department in accordance with Section 1-2004(7) of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA). The reports contain, at a minimum, the information required by 40 CFR 262.41, the provisions of which are incorporated by reference. Generators are required to submit quarterly reports within thirty (30) days of the close of each calendar quarter. A copy of the Department's quarterly report form for generators of controlled industrial waste can be found in Appendix R.

A generator may accumulate controlled industrial waste on-site for ninety (90) days or less without a permit or without interim status provided that:

- a) the waste is placed in containers meeting the standards of 40 CFR 262.30 and managed in accordance with 40 CFR 265, Subpart I, or in tanks, provided that the generator complies with the requirements of 40 CFR 265, Subpart J, except 40 CFR 265.193;
- b) the containers are clearly marked as to the date upon which accumulation began and the words "controlled industrial waste" are clearly marked and visible on each container;
- c) each container is properly labeled, marked and placarded in accordance with 40 CFR 262.31, 40 CFR 262.32 and 40 CFR 262.33 respectively; and
- d) the generator complies with the requirements of 40 CFR 265, Subparts C and D, and with 40 CFR 265.16.

### 3. Transporter Standards

The State's hazardous waste management program is equivalent to the Federal program outlined in 40 CFR 263 in terms of its regulatory authority over transporters of controlled industrial waste.

All new transporters of controlled industrial waste are required to apply, through the Department, to the Environmental Protection Agency for an EPA identification number in accordance with 40 CFR 263.11, the provisions of which are incorporated by reference.

In addition, all transporters of controlled industrial waste are required to register as a hauler of controlled industrial waste with the Department, although registration as a hauler does not serve to relieve the transporter from any requirements for transporting issued by any other state or Federal regulatory agency. However, an exception to this are transporters which haul controlled industrial waste within the confines of a generator's plant or within the boundaries of a treatment, storage or disposal facility, in which case the transporter is not required to register, provided no shipment occurs along a public right-of-way. Transporters are required to provide information relative to each vehicle to be used to haul bulk controlled industrial waste, including vehicle make, type (vacuum, tank, sludge wagon, etc.) tank construction and capacities as well as total number of vehicles intended for use. Registration to transport controlled industrial waste is not transferrable. A copy of the Department's registration form for transporting controlled industrial waste can be found in Appendix P.

As previously discussed, all controlled industrial waste shipments are required to be accompanied by a manifest. Again, an exception to this requirement are transporters who haul controlled industrial waste within the confines of a generator's plant or within the boundaries of a treatment, storage or disposal facility, in which case the transporter is not required to manifest the waste, provided no shipment occurs along a public right-of-way.

The generator is required to provide at least four (4) legible copies of a fully completed manifest to the transporter for each load of waste material shipped. Both the generator and the operator of the transport vehicle are required to sign and date the manifest upon receipt by the transporter. The generator then keeps one copy of the signed manifest, with the transporter receiving the remaining four (4) copies of the manifest. The vehicle operator is required to retain in his possession all four (4) copies of the manifest at all times while the controlled industrial waste is in transit to the specified treatment, storage or disposal facility.

In the event of an emergency, the manifest form contains pertinent information, including twenty-four hour emergency telephone numbers to be used if an accident occurs resulting in a discharge of controlled industrial waste while in transit. In the event of a discharge, the Department may authorize removal of the waste while requiring the transporter to notify the National Response Center, if not previously notified, and report in writing to the Materials Transportation Bureau of the United States Department of Transportation (USDOT) in accordance with 40 CFR 263.30, the provisions of which are incorporated by reference. The Department may also require the transporter to clean up any waste discharge or take other appropriate action to minimize the hazard of the discharge in

accordance with 40 CFR 263.31, the provisions of which are incorporated by reference.

The transporter is required to deliver the entire quantity of controlled industrial waste to the treatment, storage or disposal facility designated on the manifest, or the alternate designated facility listed on the manifest if the waste can not be delivered to the original designated facility because of an emergency situation, or the next designated transporter or finally, a place outside the United States, all as designated by the generator.

If the controlled industrial waste can not be delivered to any of the above, the transporter is required to contact the generator for further direction and must revise the manifest according to the generator's instructions.

All transporters of controlled industrial waste are required to comply with the State's requirements for generators if: controlled industrial waste is transported into the United States from abroad, wastes with different waste codes and/or DOT shipping descriptions are mixed in a single container, or the waste is accumulated in excess of the exemption level for generators.

Transporters of controlled industrial waste are required to develop and maintain records adequate enough to accurately reflect the types and quantities of waste hauled per shipment, the date of each shipment, the generator of each waste shipment and the treatment, storage or disposal facility ultimately utilized. These records may include manifests or other documents which are necessary to accurately reflect the above information. All records kept by transporters of controlled industrial waste are required to be maintained for a period of at least three (3) years, after which they are transferred to the Department.

The Department coordinates its efforts with the USDOT in enforcing applicable transporter requirements through an existing Memorandum of Understanding (MOU) between the two (2) Agencies. The Department currently enforces the State program requirements equivalent to those of the Federal program outlined in 40 CFR 263 while the USDOT currently enforces the Federal program requirements of 49 CFR 171 through 49 CFR 179. The Department and USDOT maintain frequent communication that enables each Agency to assist the other in enforcing their respective programs. A copy of the Memorandum of Understanding (MOU) between the Department and the USDOT can be found in Appendix K.

#### 4. Facility Standards

The State hazardous waste management program is equivalent to the Federal program outlined in 40 CFR 264 and 265 in terms of its regulatory authority over facilities which treat, store or dispose of controlled industrial waste.

Specifically, the State hazardous waste management program is equivalent to the Federal program in terms of the following:

- a) Purpose, scope and applicability concerning treatment, storage and disposal facilities in accordance with 40 CFR 264 and 40 CFR 265, Subparts A respectively, the provisions of which are incorporated by reference, except that 40 CFR 264.1(f) and 40 CFR 265.1(c)(4) are not incorporated by reference.

Because portions of 40 CFR 264 and 40 CFR 265 have been incorporated by reference into the State hazardous waste management program, the requirements of these Parts are applicable to facilities that treat, store or dispose of controlled industrial waste in the State.

- b) General facility requirements in accordance with 40 CFR 264 and 40 CFR 265, Subparts B respectively, the provisions of which are incorporated by reference, except that 40 CFR 264.14 and 40 CFR 265.14 are not incorporated by reference.

All treatment, storage and disposal facilities are required to be enclosed by adequate fencing and lockable gates in order to minimize unauthorized entry of persons or livestock. The active portion of land disposal and injection well facilities is required to be enclosed by a six (6) foot 'chain-link' fence with three (3) strands of barbed wire at the top of the fence. The entire permitted area, less easements excluded by the Department, is required to be enclosed by a fence of at least four (4) feet in height and consisting of at least four (4) strands of barbed wire. Land treatment facilities are only subject to the fencing requirements concerning the entire permitted area, except that guards may be posted around the permitted area in lieu of a fence.

Warning signs, sufficient to provide information regarding a treatment, storage or disposal facility, including warning against entry and emergency information, are required to be posted at strategic locations around a facility's boundary. Warning sign locations include each point of access to a facility, each corner of a facility and intervals no greater than four-hundred (400) feet along a facility's boundary. If no fences are required, signs must be placed on posts at a height of between four (4) feet and six (6) feet. The signs must be legible at a distance of at least fifty (50) feet and must be approved by the Department before their use, provided that the Department may waive or modify the placement or wording of the warning signs upon successful demonstration by a owner or operator that such signs are unnecessary due to existing alternate warning mechanisms or the unique geographical location of the facility.

- c) Preparedness and prevention requirements, including contingency plans and emergency procedures in accordance with 40 CFR 264 and 40 CFR 265, Subparts C and D respectively, the provisions of which are incorporated by reference.
- d) Manifest system requirements, including recordkeeping and reporting in accordance with 40 CFR 264 and 40 CFR 265, Subparts E respectively, the provisions of which are incorporated by reference, except that 40 CFR 264.71 and 40 CFR 265.71 are not incorporated by reference.

Upon delivery of a manifested shipment of controlled industrial waste to a treatment, storage or disposal facility, the owner or operator of the facility is required to sign and date each copy of the manifest and return one signed copy of the manifest to the transporter. The owner or operator is then required to send one signed copy of the manifest back to the original generator within twenty (20) days of receipt of the waste and one signed copy of the manifest to the Department. Copies of the manifest are then retained by the generator, transporter and the facility, with one copy

being retained by the Department. The treatment, storage or disposal facility is required to maintain a copy of each manifest for at least five (5) years. At the the end of the five (5) year period, or upon cessation of operation, the owner or operator of the facility may either continue to maintain the manifests or transfer them to the Department.

The owner or operator of a treatment, storage or disposal facility is required to note significant discrepancies between the quantity and type of controlled industrial waste received and the quantity and type of waste designated on the manifest. Upon discovery of any apparent inconsistencies, the owner or operator must attempt to reconcile the discrepancy. If the discrepancy has not been resolved within fifteen (15) days of receipt of the waste, the owner or operator must submit a report to the Department describing the inconsistencies and the attempts made to reconcile any discrepancy, along with a copy of the manifest at issue, in accordance with 40 CFR 264.72 and 40 CFR 265.72, the provisions of which are incorporated by reference.

Additionally, any owner or operator that initiates a shipment of controlled industrial waste from a treatment, storage or disposal facility is considered a generator and is required to comply with the State's requirements for generators.

All treatment, storage and disposal facilities are required to submit monthly reports to the Department in accordance with Section 1-2004(8) of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA). The reports contain, at a minimum, the information required by 40 CFR 264.75(a)(b)(c) and (d), the provisions of which are incorporated by reference. Copies of the Department's monthly report forms for controlled industrial waste treatment, storage and disposal facilities can be found in Appendix Q.

In accordance with Sections 1-2004(4) and 1-2005(c) of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), the Department may require additional reporting in accordance with 40 CFR 264 and 40 CFR 265.

- e) Ground water monitoring requirements in accordance with 40 CFR 264 and 40 CFR 265, Subparts F respectively, the provisions of which are incorporated by reference.
- f) Closure and post-closure requirements in accordance with 40 CFR 264 and 40 CFR 265, Subparts G respectively, the provisions of which are incorporated by reference.
- g) Financial responsibility requirements in accordance with 40 CFR 264 and 40 CFR 265, Subparts H respectively, the provisions of which are incorporated by reference.
- h) Technical facility standards for containers, tanks, surface impoundments, waste piles, land treatment facilities, landfills, incinerators, thermal treatment facilities, chemical, physical and biological treatment facilities and injection wells in accordance with 40 CFR 264, Subparts I through O and 40 CFR 265, Subparts I through R, the provisions of which are incorporated by reference, except that 40 CFR 265.272 is not incorporated by reference.

Land treatment facilities must be located, constructed, maintained, operated and closed so as to prevent discharge of controlled industrial waste to the air, land or water from the facility, resulting in an increase of a controlled industrial waste or a parameter indicative of controlled industrial waste contamination above normal background levels.

The owner or operator of a land treatment facility is required to demonstrate the suitability of each controlled industrial waste type for land application purposes. Application rates of controlled industrial waste facilities must be such so as to prevent the development of anaerobic conditions while maintaining efficient and timely degradation rates. The soils located at a facility must be able to sorb and retain applied waste until degradation, including any residuals following degradation.

Land treatment facilities are required to be designed and constructed so as to be capable of retaining the total precipitation and run-off generated by a statistical twenty-four (24) hour, one-hundred (100) year storm, plus a minimum freeboard of two (2) feet around any impoundment area. In addition, all dikes, retention walls or other features whose purpose is to prevent off-site discharge of controlled industrial waste, are required to be designed and constructed to contain, at a minimum, the volume of the largest truck or railcar to be loaded or unloaded at a facility or a volume equivalent to twenty percent (20%) of the maximum total volume of all trucks or railcars capable of being loaded or unloaded at one time, whichever is larger, plus the total precipitation and run-off generated by a statistical twenty-four (24) hour, fifty (50) year storm, plus a minimum freeboard of twelve (12) inches. Finally, all above-ground tanks used for storage of controlled waste are required to be enclosed by a dike, retention wall or other feature designed to contain the volume of the largest tank within the enclosure or a volume equivalent to twenty percent (20%) of the total maximum volume to be contained within the enclosure, whichever is larger, plus all precipitation and run-off resulting from a statistical twenty-four (24) hour, fifty (50) year storm, plus a minimum freeboard of two (2) feet.

All precipitation and run-off contained by any retention structure is considered as controlled industrial waste and must be handled and disposed of accordingly.

##### 5. Permitting Standards

The State hazardous waste management program is equivalent to the Federal program outlined in 40 CFR 270 and 40 CFR 124 in terms of its regulatory authority in the permitting process, including requirements with respect to permits and permit applications for facilities which treat, store or dispose of controlled industrial waste.

Following approval of its hazardous waste management program for final authorization, the State will review all permits issued prior to the date of approval for consistency and compliance with the requirements of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), and the rules and regulations promulgated pursuant to the Act.

All new facilities which treat, store or dispose of controlled industrial wastes are required to apply, through the Department, to the Environmental Protection Agency for an EPA identification number in accordance with 40 CFR 264.11 and 40 CFR 265.11, the provisions of which are incorporated by reference.

All treatment, storage and disposal facilities are required to have a valid controlled industrial waste permit in accordance with Section 1-2009.1 of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), provided that facilities which were either in operation or under construction prior to or on November 19, 1980, and who submitted a notification of operation and a Part A application to EPA or the Department and are in compliance with State requirements, may continue operation under interim status in lieu of a valid permit until such time as their permit applications have been determined. Furthermore, facilities whose permit applications have been favorably determined may continue to operate under interim status until a final permit has been issued. Exceptions to this requirement for permits are:

- a) generators that accumulate controlled industrial waste or recyclable materials on-site for ninety (90) days or less;
- b) transporters storing properly manifested shipments of controlled industrial waste in containers at a transfer facility for ten (10) days or less;
- c) treatment, storage or disposal facilities excluded from regulatory control due to small quantity exclusions;
- d) recycling facilities;
- e) totally enclosed treatment facilities, wastewater treatment units or elementary neutralization units;
- f) emergency response actions involving containment or treatment of controlled industrial waste spills;
- g) agricultural disposal of controlled industrial waste pesticides by farmers from their own use;
- h) ocean disposal barges or vessels, providing they are in compliance with 40 CFR 270.60(a);
- i) publicly owned treatment works (POTWs), providing they are in compliance with 40 CFR 270.60(c); and
- j) persons adding absorbent material to waste in a container or adding waste to an absorbent material in a container, provided that these actions occur at the time the waste is first placed in the container, providing they are in compliance with 40 CFR 264.17(b), 264.171 and 264.172.

Facilities which require valid permits or have interim status that treat, store or dispose of controlled industrial waste are required to comply with the provisions of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), and the rules and regulations promulgated pursuant to the Act. Noncompliance with the provisions of OCIWDA, including the rules and regulations, is considered grounds for enforcement action which may include permit modification, suspension or revocation and, if adjudged by a court of competent jurisdiction, restraining orders, fines and imprisonment.

Additionally, the State hazardous waste management program is equivalent to the Federal program in terms of the permitting requirements delineated in 40 CFR 271.14, as demonstrated by the following:

#### Section

- 270.1(c)(1) Purpose and scope of these regulations (specific inclusions) - All treatment, storage and disposal facilities are required to have a valid controlled industrial waste permit in accordance with Section 1-2009.1 of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), unless granted interim status in lieu of a valid permit. Facilities granted interim status may continue operation until such time as their permit applications have been determined. Furthermore, facilities whose permit application

has been favorably determined may continue to operate under interim status until a final permit has been issued.

The Department has been delegated authority in enforcing both the underground injection control program (UIC) pursuant to the Safe Drinking Water Act (SDWA), and the hazardous waste management program pursuant to the Resource Conservation and Recovery Act (RCRA), and the rules and regulations promulgated pursuant to both Acts. Both UIC and RCRA standards are incorporated into a single permit and issued to facilities utilizing underground injection as a method of disposal.

Publicly owned treatment works (POTWs) that accept controlled industrial waste for purposes of treatment are considered permitted by rule, provided the POTW complies with 40 CFR 270.60(c), the provisions of which are incorporated by reference. Similarly, barges or vessels that accept controlled industrial waste for purposes of ocean disposal are also considered permitted by rule, provided the barge or vessel complies with 40 CFR 270.60(a), the provisions of which are incorporated by reference.

- 270.4 Effect of a permit - Noncompliance with the terms of a permit constitutes a violation of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), and the rules and regulations promulgated pursuant to the Act, and is considered grounds for enforcement action which may include permit modification, suspension or revocation and, if adjudged by a court of competent jurisdiction, restraining orders, fines and imprisonment. In accordance with 40 CFR 270.30(g), the provisions of which are incorporated by reference, a permit does not convey any property rights of any sort, or any exclusive privilege.
- 270.5 Noncompliance and program reporting by Directors - Noncompliance and program reporting by the Department to EPA is determined and subsequently negotiated in the annual RCRA Federal assistance agreement and further determined and agreed upon by both parties in the Memorandum of Agreement. Therefore, the provisions of this section are satisfied by approval and award of the annual RCRA Federal assistance agreement grant and approval of the Memorandum of Agreement through signatures of both parties.
- 270.10 General application requirements - incorporated by reference.
- 270.11 Signatories to permit applications and reports - incorporated by reference.
- 270.12 Confidentiality of information - All information submitted to the Department considered by the submitter to be confidential shall be honored as confidential by the Department if, and only if, the following requirements are fulfilled and documents are submitted with such claim:
- a) each page which the submitter claims to contain confidential information is clearly marked as "confidential", "proprietary", "trade secret" or similar notation;
  - b) a notarized statement authorizing the Department to release the confidential information to EPA and holding the Department without liability in the event of disclosure by EPA; and
  - c) a cover letter addressed to EPA asserting a claim of confidentiality pursuant to 40 CFR 2, Subpart B.

The Department maintains such information as confidential and will disclose such information only to EPA unless otherwise ordered by a court of competent jurisdiction.

- 270.13 Contents of Part A of the permit application - incorporated by reference.
- 270.14-29 Contents of Part B of the permit application - incorporated by reference.
- 270.30 Conditions applicable to all permits (a) through (k) and (l)(1) -incorporated by reference.
- (l)(2) - The owner or operator of a permitted treatment, storage or disposal facility is required to notify the Department in advance of any planned changes to the facility or activities performed at the facility that may result in non-compliance with the conditions of the facility's permit. New facilities, however, may not begin operations until a formal operation permit is issued.
- (l)(3) - Permits are not transferrable.
- 270.31 Requirements for recording and reporting of monitoring results - incorporated by reference.
- 270.32 Establishing permit conditions - incorporated by reference.
- 270.33 Schedules of compliance - incorporated by reference.
- 270.40 Transfer of permits - Permits are not transferrable.
- 270.41 Major modification or revocation and reissuance of permits -incorporated by reference.
- 270.43 Termination of permits - incorporated by reference.
- 270.50 Duration of permits - Permits for treatment, storage and disposal facilities are effective for a fixed term not to exceed five (5) years.
- 270.60 Permits by rule (a) and (c) - incorporated by reference
- (b) - Because the Department has been delegated the authority to implement both the underground injection control program (UIC) pursuant to the Safe Drinking Act (SDWA), and the hazardous waste management program pursuant to the Resource Conservation and Recovery Act (RCRA), both UIC and RCRA standards are incorporated into a single permit and issued to facilities utilizing underground injection as a method of disposal.
- 270.61 Emergency permits - The Department may issue a temporary emergency permit to a treatment, storage or disposal facility to allow treatment and/or storage of controlled industrial waste in the event the Department finds an imminent and substantial endangerment to human health and the environment. The emergency permit issued is in written form and incorporates, to the extent possible, all applicable State requirements. The permit clearly specifies the controlled industrial waste to be received as well as the manner and location of treatment and storage. Emergency permits are effective for a term not to exceed ninety (90) days and may be terminated by the Department at any time if it is determined that termination is necessary to protect human health and the environment.

The permit is accompanied by a public notice published in accordance with State requirements and includes:

- name and address of the office granting the emergency authorization;
- name and location of the permitted treatment, storage or disposal facility;
- a brief description of the waste involved;
- a brief discussion of the action authorized and reasons for authorizing it; and
- duration of the emergency permit.

Emergency permits, however, are not issued to treatment, storage or disposal facilities for purposes of disposal of controlled industrial waste.

270.64 Interim permits for UIC wells - The Department has been delegated the authority to implement a State underground injection control program (UIC) pursuant to the Safe Drinking Water Act (SDWA), having received primacy on June 24, 1982. Therefore, both UIC and RCRA standards are incorporated into a single permit and issued to Class I injection well facilities.

124.3(a) Application for a permit - Any person proposing to treat, store or dispose of controlled industrial waste is required to apply for and obtain a permit in accordance with Section 1-2009.1 of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA). Specifically, all applicants must comply with the application, signature and certification requirements of 40 CFR 270.10, 40 CFR 270.11 and 40 CFR 270.13 respectively, the provisions of which are incorporated by reference. Applications are not required for facilities or activities permitted by rule.

124.5(a)(c)(d) Modification, revocation and reissuance or termination of permits - The Department may institute proceedings to modify or revoke a permit for a treatment, storage or disposal facility either upon its own initiative or upon request from any person, including the owner or operator of a facility, provided that the Department fully evaluate any request for relevance and necessity for protection of public health and the environment.

Proceedings to modify or revoke a permit are conducted in accordance with the Oklahoma 'Administrative Procedures Act' and 40 CFR 270.41 and 40 CFR 270.43, the provisions of which are incorporated by reference. Proceedings to modify a permit may consider only those portions of the permit affected by the proposed modification. The remainder of the permit remains in full force and effect during any proceedings to modify until the modification is approved or denied. Any proposal to modify a treatment, storage or disposal facility requires amendment to the operation permit and reopening of the operational phase of the permitting process, including providing for public notice, public review and comment and public meeting. Any proposal for the substantial modification of a facility requires amendment to both the construction and operation permits and reopening of the construction phase of the permit process, including public notice, public review and comment and public meeting and/or public hearing. A draft permit is prepared for every major modification to a facility, except that proposed minor modification to a facility in accordance with 40 CFR 270.42, the provisions of which are incorporated by reference, are not subject to issuance of a draft permit.

124.6(a)(d)(e) Draft permits - Upon certification by the Department that an application is complete, the Department prepares either a draft permit or draft denial.

If the Department tentatively decides to issue a permit, a draft permit is prepared containing applicable permit conditions, compliance schedules, monitoring requirements and standards applicable to the treatment, storage or disposal facility. For major treatment, storage or disposal facilities, or facilities for which there is considerable public interest or major issues raised, a fact sheet is also prepared. The draft permit and, if applicable, the fact sheet are publicly noticed and made available for public review and comment, including providing the opportunity for public meeting on the draft permit. If the Department tentatively decides to deny a permit, a draft denial is prepared which follows the same procedures as any draft permit preparation. The Department's tentative decision to either issue or deny a permit may be withdrawn and subsequently reversed based upon public comment and/or supplemental information received either in favor or against the issuance of a permit.

124.8

Fact sheet - For major treatment, storage or disposal facilities, or facilities for which there is considerable public interest or major issues raised, the Department also prepares a fact sheet in conjunction with the draft permit. The fact sheet sets forth the principle facts and significant factual, methodological, legal and policy questions considered in preparing the draft permit. The fact sheet may include a brief description of the treatment, storage or disposal facility subject to the draft permit, including the type and quantity of controlled industrial wastes or materials to be handled by the facility, the basis for establishing the draft permit conditions including reasons for including or omitting requested variances or alternatives from the draft permit conditions or standards, a brief description of the procedures for reaching a final decision on the draft permit, including procedures by which the public may participate in reaching the final decision and the name and telephone number of a person to contact for additional information. The fact sheet, like the draft permit, is subject to public review and comment and accompanies the draft permit during the public comment period.

Similarly, fact sheets may also be prepared in conjunction with draft denials. The fact sheet, identifying the reasons for denying an application, as well as a copy of the application, are made available for public review and comment.

124.10

Public notice of permit actions and public comment period - The Department provides public notice of its tentative decision to either issue or deny a permit. If the Department's tentative decision is to issue a permit, a draft permit is prepared and public notice is issued by the applicant. The notice is published in at least two (2) major newspapers local to the proposed site as well as broadcast over at least one local radio station. If the Department's tentative decision is to deny a permit, a draft denial is prepared and public notice is issued by the Department. The notice is then published in at least two (2) major newspapers local to the proposed site. In either case, the public notice includes the name and address of the Department, the name and address of the applicant and facility, including its legal description, a brief description of the business or activities proposed at the facility, a description of the public comment procedures, including the scheduled date, time and location of a public meeting, public hearing or both if previously requested or the additional opportunity to request a public meeting, including procedures for requesting a meeting, and the name, address and telephone number of a person to contact for additional information. If a public meeting or public hearing is requested, the Department provides at least thirty (30) days

public notice prior to the meeting or hearing. The Department provides at least forty-five (45) days for public review and comment on both a draft permit and draft denial.

When appropriate, dates of previous public notices pertaining to a facility which is subject to a public meeting are cited in Department public notices. In addition, the Department provides notice of its intention to either issue or deny a permit to each appropriate unit of local government in the area in which the facility is proposed, including the county and any municipality adjacent to the proposed facility as well as to other State agencies which have an expressed interest or asserted authority in the construction and operation of the proposed facility. Copies of all public notices are also distributed to persons on the Department's mailing list and, upon request, to any other interested person. For major facilities or facilities for which there is considerable public interest or major issues raised, a fact sheet is prepared, in which case a copy of the fact sheet is mailed to the applicant and, upon request, to any other interested person.

124.11 Public comments and requests for public hearing - During the forty-five (45) day public comment period provided for by the Department, any person may submit, in writing, comments on a draft permit or draft denial. If neither a public meeting or public hearing is previously requested and subsequently scheduled, any person may request, in writing, during the public comment period that a public meeting be held to present oral or written views regarding a draft permit or draft denial.

The Department reviews all written comments submitted during the public comment period and, if applicable, all comments submitted at a public meeting. The Department considers all significant comments in making a final decision in issuing or denying a permit.

124.12(a) Public hearings - If a public meeting has been requested in writing during the forty-five (45) day public comment period provided by the Department, the Department schedules and makes every effort to conduct the meeting in the locale of the proposed facility so that it is easily accessible to the public. The Department may either provide the scheduled date, time and location of the meeting at the time the opportunity to request the meeting is issued, or issue a public notice following the public comment period that includes the scheduled date, time and location of the meeting. In both cases, the Department provides at least thirty (30) days public notice prior to the public meeting.

124.17(a)(c) Response to comments - The Department reviews all written comments submitted during the public comment period and, if applicable, all comments submitted at a public meeting. If the Department's final decision is to issue a permit, the Department then responds to the comments, including in the response which provision(s), if any, of the draft permit were changed and the reason for the change. If the Department's decision is to deny the permit, the Department then responds to the comments including in the response the reasons for denying the permit. The Department provides written response to all significant comments received during the public comment period and public meeting, if one is held, and depending upon the number of comments and the issue(s) raised by each, the Department may either respond directly to each comment or provide a response summary to the public for review at the Department. The Department makes the responses available to the public at the time of permit issuance or denial.

Finally, the State does not provide statutory or regulatory waiver or variance provisions which would allow the regulated community full or partial exemption from any of the requirements under the State's hazardous waste management program which would result in a less stringent program than that of the Federal program. However, the State's hazardous waste management program does provide for schedules of compliance or temporary variances equivalent to 40 CFR 270.33 to be incorporated into a permit, when appropriate, to achieve compliance with State requirements in a timely manner. Such compliance schedules only establish dates at the discretion of the Department by which compliance is required, and by no uncertain terms alter the substantive requirement for compliance or waives the duty to comply altogether.

In order to further demonstrate that the State hazardous waste management program is equivalent to and no less stringent than the Federal program, both the Legislation Checklist and the Regulatory Program Checklist have been included in Attachments B and C respectively.

**B. Consistent Program §3006(b)**

The State hazardous waste management program is consistent with both the Federal program and other authorized state hazardous waste management programs in terms of its authority and regulatory control over the management of controlled industrial waste.

The State does not prohibit, in any way, interstate movement of controlled industrial waste across its borders that is destined for treatment, storage or disposal at authorized facilities in states with approved hazardous waste management programs, nor ban the importation of controlled industrial waste that is destined for treatment, storage or disposal at State authorized facilities. Furthermore, the State does not distinguish between in-State and out-of-State waste to the extent of geographic discrimination or reciprocity agreements in accepting waste for treatment, storage or disposal at State authorized facilities. However, out-of-State generators desiring to import controlled industrial waste into the State are required to comply with the State disposal plan and manifest system for tracking purposes.

The State has no statutory or regulatory prohibition against the treatment, storage or disposal of controlled industrial waste by authorized facilities within its border. The State may, however, deny a permit to a proposed treatment, storage or disposal facility based on its determination that the facility is not technically or physically suitable, thereby prohibiting treatment, storage or disposal of controlled industrial waste on a case-by-case basis. The determination as to the technical and physical suitability of a proposed facility is based upon professional judgement following review of a permit application, by the Department, of the ability of the proposed facility to be located, constructed, maintained, operated and closed in a manner so as to prevent endangerment of public health and safety and degradation of the environment.

Finally, the State manifest system is consistent with that of the Federal program in terms of the information required, procedural requirements and recordkeeping and reporting requirements. However, the State will ensure consistency with the Federal uniform national manifest format once it is promulgated, but may supplement the format to incorporate State requirements.

**C. More Stringent Program §3009**

The Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), has two

general provisions regarding stringency in relationship to RCRA. In accordance with Section 1-2005(4) of OCIWDA, State requirements for transportation of controlled industrial waste may be no more stringent than United States Department of Transportation (DOT) requirements and that State requirements, in general, be in "reasonable accord" with Federal requirements. The OCIWDA, however, does provide for three (3) areas of the State hazardous waste management waste program that are more stringent than the Federal program, specifically in regards to generators, manifesting and recycling.

The specific areas of the State program that are more stringent than the Federal program are as follows:

1. Universe of Hazardous Waste

The Rules and Regulations for Industrial Waste Management, Appendices 2-A and 2-B list common industrial wastes and chemicals sometimes found in waste, respectively, which frequently exhibit one or more of the four (4) characteristics of hazardous wastes and are subsequently considered as controlled industrial waste if any of the specified characteristics are identified. These wastes are in addition to those wastes regulated under 40 CFR 261, including Appendices I, II, III, VII and VIII which have been incorporated by reference into the State hazardous waste management program as it exists or may be amended. Hence, the State universe of hazardous wastes is larger than the Federal universe of hazardous wastes.

2. Generators

All generators of controlled industrial waste within the State as well as all out-of-state generators desiring to import controlled industrial wastes into the State are required to file a disposal plan for approval by the Department prior to shipment. The disposal plan identifies the generator, hauler(s), and the treatment, storage or disposal facility to be used, indicating the treatment or disposal method(s) proposed and the specific controlled industrial wastes to be handled. The plan must be approved by the Department before being implemented. This requirement also applies to shipments of controlled industrial wastes intended for treatment, storage or disposal facilities outside the State. Additionally, all generators are required to submit quarterly reports to the Department within thirty (30) days of the close of each calendar quarter. All records kept by generators are required to be maintained for a period of at least three (3) years, after which they are transferred to the Department.

3. Transporters

State regulations require that transporters register with the Department, in addition to obtaining an EPA identification number. This registration is not a license or permit, but instead is a tracking number. Additionally, all transporters are required to retain four (4) copies of the manifest in their possession at all times while the controlled industrial waste is in transit. There is no allowance in the State program for copies of the manifest to be mailed (i.e. barge or rail shipments) as provided for in the Federal program.

4. Recycling

Controlled industrial waste intended for recycling is termed "recyclable material" and, although not subject to the full regulatory restrictions as required of controlled industrial waste, are, nevertheless subject to regulation. Specifically,

all controlled industrial wastes and recyclable materials in the State's universe must be manifested. Additionally, storage facilities for all recyclable materials are treated identically to facilities that store controlled industrial wastes (i.e. permits are required).

## 5. Facilities

Treatment, storage and disposal facilities are subject to the following design, operational and procedural requirements which are more stringent than those of the Federal program:

- facilities must file information with the State required for a Part A application since the State universe of hazardous waste is larger than the Federal universe of hazardous waste, and because all recyclers are regulated;
- facilities must apply for and obtain two separate and distinct permits (construction and operation) rather than one, whereas interim status facilities must obtain only the operation permit;
- applications for construction permits are subject to formal public hearings as well as public meetings;
- applicants are exposed to requests for public meetings twice during each permitting phase;
- applicant bears the expense of publishing notices;
- permits are effective for a fixed term not to exceed five (5) years;
- permits are not transferrable;
- enforcement remedies provide for permit modification in addition to permit suspension and/or revocation;
- additional information required in permitting land treatment sites;
- emergency permits are issued for treatment and storage only, not for disposal;
- monthly reports on certain activities are required, rather than annually;
- run-off from all facilities must be retained - one-hundred (100) year storm standards;
- material handling areas must be diked - potential spillage plus one-hundred (100) year storm;
- tanks must be diked;
- fencing, while not necessarily more stringent, is more specific;
- warning signs are more explicit, contain more information, are posted in more places, must be more legible;
- exemptions on incinerating solvents for heat recovery are more specific, narrower;
- injection wells are fully permitted and regulated - The State has underground injection control program (UIC) primacy under the Safe Drinking Water Act (SDWA);
- groundwater monitoring includes additional routine parameters (i.e. heavy metals);
- location criteria provide specific separation from groundwater for land disposal;
- buffer zones established around landfill, impoundment, and land treatment sites;
- more specific design criteria;
- leachate detection and groundwater monitoring required for all new impoundments and landfills;
- land disposal sites are considered as dedicated land; and
- closure of land disposal sites described more specifically.

#### D. Adequate Enforcement §3006(b)

The State hazardous waste management program provides for adequate compliance monitoring and enforcement in ensuring compliance by controlled industrial waste transporters, generators and treatment, storage and disposal facilities with applicable State requirements.

##### 1. Compliance Monitoring

The Department provides for compliance evaluation inspections and surveillance procedures to determine the extent to which State requirements are being met. The Department conducts both routine and non-routine inspections of transporters, generators and treatment, storage and disposal facilities to determine compliance with permit conditions, design and operational standards, monitoring requirements, security and safety requirements, recordkeeping and overall site condition and performance, including the physical integrity of the site. During inspections, the Department may, at its discretion, obtain representative surface water, ground water or air monitoring samples as well as controlled industrial waste stream or hazardous material samples to further determine compliance with State requirements. The Department utilizes chain of custody procedures involving all samples taken during compliance evaluation inspections that could serve as evidence in possible enforcement proceedings. Other information, including records and other documents may also be obtained during inspections.

In addition, the Department provides for reporting and recordkeeping requirements of transporters, generators and treatment, storage and disposal facilities. Likewise, the Department has procedures for receipt, evaluation and investigation of all reports and records for compliance monitoring and possible enforcement measures.

The Department actively conducts a non-notifier program designed to identify transporters, generators and treatment, storage and disposal facilities subject to regulation under the State hazardous waste management program. Once identified, non-notifiers are required to provide notification information to the Department which is then forwarded to the EPA Regional Office for assignment of an EPA identification number. The Department may initiate enforcement action against non-notifiers through the issuance of a compliance letter or institute enforcement proceedings in accordance with the provisions of Section 2012 of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA).

Finally, the Department has an effective system for receiving and responding to citizen complaints. The Department may receive a report either directly from a complainant or from the State's Pollution Control Coordinating Board. Upon receipt by the Department, the complaint is recorded into a log. Within five (5) working days, the Department, in coordination with the appropriate county health department, responds to the complaint whereupon the complaint is resolved through appropriate action. A follow-up report is then transmitted by the Department to either the original complainant or the Pollution Control Coordinating Board.

##### 2. Enforcement

The State hazardous waste management program provides for the following remedies for violation of State requirements:

- a) Authority to restrain immediately by order or by suit in district court any person from engaging in any unauthorized activity which is endangering or

causing damage to public health or the environment. Oklahoma Controlled Industrial Waste Disposal Act (63 O.S. 1981, §1-2012(3)).

- b) Injunctive relief instituted in the district court having jurisdiction in the area where an alleged violation occurs, enjoining any treatment or continuing violation of State requirements without the necessity of prior revocation of a permit. Board of Governors of Registered Dentists v. Melton, Okl., 428 P.2d 205 (1967); Board of Governors of Registered Dentists v. Crouch, Okl., 391 P.2d 796 (1964).
- c) Criminal penalties assessable up to imprisonment in the county jail for not more than six (6) months, or a fine of not less than two hundred dollars (\$200.00) nor more than ten thousand dollars (\$10,000.00), or both such fine and imprisonment. Each day or part of a day during which a violation is continued constitutes a new and separate offense. Oklahoma Controlled Industrial Waste Disposal Act (63 O.S. 1981, §1-2011).
- d) Temporary suspension of the permit of any treatment, storage or disposal facility until the facility complies with State requirements. Oklahoma Controlled Industrial Waste Disposal Act (63 O.S. 1981, §1-2012(1)).
- e) Revocation of the permit or license of any individual who flagrantly and/or consistently violates State requirements, or which operates in such a manner as to cause or to continue the existence of an endangerment to public health and safety or degradation of the environment. The revocation may only take place following proper hearing in conformance with the Oklahoma 'Administrative Procedures Act'. Upon adjudication of guilt of the flagrant and/or consistent violation, the individual forfeits his eligibility for permit or license reissuance. Oklahoma Controlled Industrial Waste Disposal Act (63 O.S. 1981, §1-2012(2)).
- f) Injunctive relief, instituted in the district court having jurisdiction in the area where an alleged violation of State requirements occurs, in order to restrain a violation of State requirements and maintenance of a public nuisance. Oklahoma Controlled Industrial Waste Disposal Act (63 O.S. 1981, §1-2012(3)).
- g) Civil penalties, instituted in the district court having jurisdiction in the area where a violation of State requirements occurs, assessable up to ten thousand dollars (\$10,000.00) per day or part of a day a violation is continued or repeated. Oklahoma Controlled Industrial Waste Disposal Act (63 O.S. 1981, §1-2012(4)).

The State hazardous waste management program allows for public participation in the Department's enforcement process. In accordance with Section 1-2013.1 of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), the Department, in cases of litigation, will not oppose the intervention of any citizen where permissive intervention is provided for by statute or regulation. The Oklahoma Code of Civil Procedure (12 O.S. 1981, §236 et seq.) also provides that necessary parties be joined before a controversy may be determined, other parties may be admitted at the courts discretion.

In addition, it is Division policy, as set forth in the Rules and Regulations for Industrial Waste Management, to publish and provide at least thirty (30) days for public comment on any proposed settlement of a State enforcement action. Finally, as

previously discussed, it is Department policy, as set forth in the Rules and Regulations for Industrial Waste Management, to respond in writing to any citizen complaints submitted to the Department for appropriate response.

**E. Public Notice and Hearing Provision §7004(b)(2)**

The State hazardous waste management program provides for citizen involvement in the State's permitting process by providing public notice of its intention to issue or deny a permit and the availability of a draft permit or draft denial for review and public comment as well as the opportunity to request a public meeting on a draft permit or draft denial.

Upon certification that an application is complete, a tentative decision is made by the Department to prepare either a draft permit or draft denial. A public notice is issued by either the applicant or the Department of the availability of the draft permit or draft denial for review and comment for forty-five (45) days and the opportunity to request that a public meeting be held on the draft permit or draft denial, unless a public meeting or public hearing has been previously requested and subsequently scheduled. The notice is prepared in accordance with the format established in the State's regulations and published in at least two (2) major newspapers and broadcast over at least one radio station local to the proposed site.

The notice is also provided to each appropriate unit of local government in the area in which the facility is proposed, including the county and any municipality adjacent to the proposed facility as well as to other State agencies which have an expressed interest or asserted authority in the construction and operation of the proposed facility. Copies of the notice are distributed to persons on the Department's mailing list and, upon request, to any other interested person. When appropriate, dates of previous public notices are included in any subsequent notice.

**IV. PROCESSES OF THE STATE HAZARDOUS WASTE MANAGEMENT PROGRAM.**

The State of Oklahoma's application for final authorization has involved both legislative and regulatory development processes whose purpose has been to develop a State hazardous waste management program equivalent to that of the Federal program under Subtitle C of RCRA. Other major processes, including compliance monitoring, enforcement, permitting, and public participation are also an integral part of the State's hazardous waste management program and are discussed in detail below:

**A. Interagency Coordination**

Because the Department is the only State agency responsible for administering and implementing a State hazardous waste management program under Subtitle C of RCRA, no interagency coordination is needed. However, the Department's Waste Management Service will coordinate its efforts with the Air Quality Service, also of the Department, with respect to maintaining the ambient air quality of Oklahoma through the proper application of air pollution control practices as it relates to controlled industrial waste disposal through incineration. The Air Quality Service will serve as technical advisor to the Waste Management Service in the permitting, construction, operation and compliance monitoring of controlled industrial waste incineration facilities. A complete description of the Air Quality Service, including its organizational structure and responsibilities, can be found in Appendix I.

## B. Regulatory Development

The Rules and Regulations for Industrial Waste Management now provide the regulatory authority to implement a State hazardous waste management program that is equivalent to the Federal program. However, should the Federal program be amended due to modification to 40 CFR Parts 270, 271, 124 or 40 CFR Parts 260 through 267, the Department will correspondingly amend its regulatory requirements to ensure that the State program maintains equivalency with the Federal program, as necessary.

In the event regulatory amendments are necessary, the Department has the ability to develop or amend and adopt regulations, as needed. Once the Department identifies its regulatory needs, the Industrial Waste Division initiates development of proposed regulatory amendments.

After the proposed regulatory amendments have been developed, they are then presented to the Controlled Industrial Waste Management Council for concurrence. The Council is made up of nine (9) members appointed by the Governor, representing environmental organizations, industry, technical professionals, the general public and controlled industrial waste management. The Council is responsible for reviewing any proposed amendments submitted by the Division, during special meetings called by the Council Chairman or by the concurrence of any three (3) members, and, following its review, may either modify or concur on the proposed amendments. Once the Council has concurred upon the proposed amendments, a public rule-making hearing is scheduled either upon request by the Department or upon the Council's own initiative. A public notice is issued at least twenty (20) days prior to the hearing, thereby allowing any interested person to present oral or written views on the proposed amendments. The notice is published in the Oklahoma Register and mailed to all persons requesting advance notice. Following the public hearing, the proposed regulatory amendments are finalized and recommended by the Council to the State Board of Health for consideration.

The State Board of Health consists of nine (9) members appointed by the Governor, representing duly State-licensed physicians and surgeons and the general public. The Board has the authority to adopt regulations and standards as well as the authority to direct the Council to further modify any proposed regulatory amendments, including providing for public notice and public hearing on the regulatory modification.

The Board conducts four (4) regularly scheduled meetings, one each calendar quarter, to consider, among other things, proposed regulatory amendments. Upon recommendation of the proposed amendments by the Council, the Board may either adopt the proposed amendments by a simple majority vote of the Board members, reject them, or may direct the Council to further modify them. If approved, newly adopted regulations become effective twenty (20) calendar days after the regulations have been filed with the Oklahoma Register and the Secretary of State, unless a later date is determined. If the Board finds, however, that an emergency exists, the regulatory amendments may be declared effective immediately upon their adoption and after the amendments have been filed with the Secretary of State. Once the regulatory amendments have been adopted, the Department must then file copies of the regulations with the State Legislature within ten (10) calendar days of adoption by the Board. The Legislature then has thirty (30) calendar days in which to disapprove the regulations.

Proposed regulatory amendments may only be adopted or amended by the Board during the annual Legislative session. However, under extenuating circumstances, the Board may adopt by "emergency", proposed amendments while the Legislature is not in session. Amendments adopted in this manner must be readopted by emergency at each quarterly Board meeting until the Legislature is in session, at which time they may be permanently adopted by the Board.

### C. Legislative Development

The Oklahoma Controlled Industrial Waste Disposal Act of 1976 (OCIWDA), as amended by the 1981 State Legislature, now provides the statutory authority necessary to implement a State hazardous waste management program equivalent to the Federal program. Should, however, the Federal program be amended due to modification of the Resource Conservation and Recovery Act of 1976 (RCRA) or modification of any regulatory provision pursuant to RCRA that would necessitate State statutory modification, the Department will accordingly request that the Legislature amend its affected statutes, specifically the OCIWDA, to ensure that the State program maintain equivalency with the Federal program, as necessary.

The State Legislature meets annually and convenes on the first Tuesday in January of each year. The regular or annual Legislative session is limited to ninety (90) days, during which time the Legislature must complete its business. The Legislature may take advantage of the entire annual session or may adjourn sine die upon completion of all business at any time prior to the ninety (90) day limit. However, the Governor has the authority to call a special session for a specific purpose, thereby extending the Legislative session beyond the ninety (90) day limit.

A proposed statutory amendment or bill may be either prefiled prior to the annual Legislative session beginning in January or filed during the Legislative session with the Secretary of the Senate. The bill is then introduced into the Senate where it is assigned to one of the Senate's standing committees for consideration. Once assigned to a particular committee, the bill and its elements are reviewed by committee members where amendments are considered. After consideration by that committee, the bill may be either recommended for passage or passage as amended through a committee report prepared by the committee to the entire Senate. The bill is then advanced to the Senate floor for debate. Following conclusion of the debate, a role call vote is taken in which each member of the Senate votes either in favor of or in opposition to the bill. If the bill passes, it is declared adopted by the Senate.

Once declared adopted by the Senate, the bill is then introduced into the House of Representatives for consideration. The bill is assigned to a House committee where it is reviewed by committee members and considered for amendment. After consideration by that committee, the bill is either recommended for passage or passage as amended. A committee report is then prepared to the House regarding the committee's decision on the bill. The bill is then advanced to the House floor for debate and role call vote either in favor of or in opposition to the bill. Since the State Constitution requires that a bill be approved by both the House and the Senate in identical language before it can become law, any House amendments to the Senate-approved version of the bill must be considered by the Senate and either approved or rejected. If approved, the bill is voted upon through the Senate role call vote. However, if the Senate and House disagree on a particular provision of the bill, or if they adopt different versions, the differences are considered by a joint conference committee, composed of members of both the Senate and the House, in equal numbers.

If the bill is approved by both the House and the Senate in identical language, the bill is then enrolled and sent to the Governor for his signature. The governor has five (5) days in which to approve or veto the bill; otherwise, it becomes law without his signature. If the Governor vetoes the bill, the bill can become law only if two-thirds of the members of the House and the Senate vote to override the Governor's veto.

The effective date of new legislation is normally ninety (90) days after the Legislature has adjourned sine die, although the Legislature may provide for an emergency clause in which case the legislation becomes effective immediately upon the Governor's signature. It should be noted that there is some degree of uncertainty as to the time it takes the Legislature to act upon proposed statutory amendments. The amount of time required for a legislative action is highly dependent upon when the bill is filed, the work load of the Legislature during that session and the scrutiny received during consideration of the bill, among other factors.

#### **D. Compliance Monitoring and Enforcement**

The Department's compliance monitoring program is conducted by means of both routine and non-routine compliance evaluation inspections of generators, transporters, and treatment, storage and disposal facilities (termed controlled industrial waste handlers) in the State. Routine inspections are performed on a roughly scheduled basis to ensure compliance with permit conditions or interim status standards, design and operational standards, monitoring requirements, security and safety requirements, recordkeeping and overall site condition and performance under the State hazardous waste management program.

Routine inspections of controlled industrial waste handlers are conducted in a manner designed to maximize and ensure compliance with State hazardous waste management program requirements. The number of inspections to be performed, including the frequency at which they are to be conducted, is dependent upon several factors. These include the population of the regulated community, the designation of major and non-major handlers and the percentage of handlers to be inspected by handler type, all subject, of course, to resource availability.

The Department's designation of major and non-major handlers is consistent with EPA definition and terminology. For those handlers that do not automatically fall under the definition of a major handler (i.e. all treatment, storage and disposal facilities subject to ground water monitoring requirements), the Department incorporates its own classification scheme designed to weigh and rank handlers for major/non-major designation. The ranking model considers, among other factors, the location of each handler with respect to nearby municipalities and their respective populations, the quantities and characteristics of controlled industrial waste managed by each handler and the enforcement history, if any, of each handler.

Once the Department has established its major and non-major handlers, based upon Federal and State program criteria, and has determined its inspection commitments under the annual RCRA Federal assistance agreement grant in accordance with Federal grant guidance, the Department then identifies the handlers it intends to inspect for the following six (6) months, although actual inspection scheduling of those handlers is normally accomplished one month in advance prior to the inspection date. The inspectors are then assigned specific handlers that they are responsible for inspecting and evaluating compliance with State requirements. Upon completion of the first six (6) month inspection period, the Department then identifies additional handlers to be inspected during the next six (6) months, again assigning specific handlers to each of the inspectors.

If, upon completion of any routine inspection, instances of non-compliance are identified, it is the inspector's responsibility to inform the handler of the violation(s). This is normally achieved through a compliance letter issued by the Department to the handler. If necessary, the inspector will work closely with the handler to resolve the violations within the compliance date established in the compliance letter. The inspector may assist the handler by providing technical assistance via telephone conferences or informal meetings either at the Department or at the handler's site. Upon expiration of the compliance date, a follow-up inspection is scheduled by the Department to verify that compliance with State requirements has been achieved by the handler in a timely manner. Exceptions to this are instances where the violation involves insufficient or inadequate records, reports or other documents (i.e. waste analysis plan, contingency plan, etc.), in which case the handler is directed to submit these items to the Department to verify compliance, thereby negating the need for a follow-up inspection.

In order to maintain efficiency and effectiveness of the Department's compliance monitoring program, monthly meetings are held by the inspectors and attorneys to review the previous month's compliance monitoring and enforcement activities, discussing any problems encountered and, if necessary, resolution to those problems. If the inspectors, for whatever reason, are unable to obtain a positive response toward achieving compliance from a handler, the matter is elevated and referred to the attorneys for further formal action. The inspectors and the attorneys then coordinate their efforts with the handler in resolving the problem.

Non-routine inspections are conducted in response to such instances as citizen complaints or emergency situations as well as special instances involving suspected violations of State requirements by handlers of controlled industrial waste. These inspections are made as often as is necessary to correct any problem or violation and, more importantly, to prevent degradation of the environment and any imminent threat to human health. Instances of non-compliance identified during non-routine inspections are handled in the same manner as those identified during routine inspections. It should be noted that citizen complaints received by the Department are of the highest investigative priority. Investigations of such complaints are normally handled within five (5) working days of receipt, by either the Department staff or the county sanitarians. A flowchart depicting the Department's procedures for receipt, evaluation and response to citizen complaints, including the Department's complaint form, can be found in Appendix L.

Generally, sampling inspections are conducted as the need arises. Samples may be taken either for compliance monitoring purposes or as surveillance or 'check' samples against a site's self-monitoring program. The collection and analysis of samples obtained during inspections are conducted in accordance with standard methods in terms of the sample containers used, sample quantities required, sampling and preservation techniques, and analytical protocols. Prior to each inspection where non-routine sampling will be conducted, consultations are held between the inspectors and State Environmental Laboratory quality assurance/quality control personnel to ensure that the samples collected will be representative and yield valid results for each situation encountered. Chain of custody procedures are utilized involving all samples taken during inspections that could serve as evidence in possible enforcement proceedings.

The Department's State Environmental Laboratory is a comprehensive analytical laboratory capable of performing a wide range of analyses in support of the State's hazardous waste management program, including hazardous waste characterization

testing as well as priority pollutant analysis through the Laboratory's gas chromatograph/mass spectrometer (GC/MS) capability. The Laboratory initiates its own quality assurance/quality control program that incorporates chain of custody procedures, duplicate, blank and spike analysis, control charts and monthly reports to verify that quality control is maintained. A complete description of the State Environmental Laboratory, including its organizational structure and responsibilities can be found in Appendix J.

During each compliance evaluation inspection, the inspector completes an inspection checklist that is specific to the handler type being inspected. Should a site be found to be in non-compliance with State requirements, the inspector, after reviewing the inspection checklist and consulting with the Division Director, determines the level of violation and the appropriate enforcement action to be taken. Copies of the Department's inspection checklists for controlled industrial waste handlers can be found in Appendix N.

The Department uses a prioritization schedule in determining level of violations, including a range of enforcement alternatives that may be taken in correcting a violation. Briefly stated, the Department considers three (3) levels of violations in its enforcement program.

Level I Level I violations involve instances of non-compliance that constitute an immediate threat to public health and the environment as well as those instances of non-compliance that, although not immediately dangerous to public health and the environment, if continued over time, may result in a significant long-term danger. Examples of Level I violations include failure to restrain contamination endangering public health, major defects in the disposal zone construction, failure to obtain either a construction or operation permit or maintain interim status, insufficient ground water monitoring, failure to mitigate or clean-up spills or leaks from designated containment areas, receipt of waste not approved for a treatment, storage or disposal facility, failure to remain financially responsible, failure to prepare adequate closure and post-closure plans and repeated Level III violations.

This level of violation may also involve generators and transporters of controlled industrial waste. Examples include active contamination endangering public health, failure to mitigate or clean-up spills, failure to remove stored waste after ninety (90) days, delivery of wastes to a non-approved treatment, storage or disposal facility, failure to comply with the disposal plan system, lack of a manifest and repeated Level III violations.

Based upon the particulars of a case, the attorney in charge may desire to communicate, by letter, with an offender prior to filing formal action. Such a letter is considered a "compliance letter". No more than one compliance letter, signed by an attorney, is issued for Level I violations before further formal enforcement action is taken which may include: an administrative petition, consent order or civil or criminal actions to be instituted in district court. An attorney is directly involved in all Level I violation enforcement actions from initiation to resolution.

Level II Level II violations strictly deal with treatment, storage and disposal facilities with interim status that have been requested by the

Department to submit their Part B application or closure and post-closure plans. A facility is considered to have committed a Level II violation if it: fails to submit its Part B application or closure and post-closure plans in a timely manner, fails to submit a complete Part B application or fails to respond to Department comments on the Part B application in a timely manner.

If a facility fails to submit its Part B application or closure and post-closure plans in a timely manner, fails to submit a complete Part B application or fails to respond to Department comments on the Part B application in a timely manner, the Department may attempt to elicit a positive response from the facility through a telephone call or through the issuance of a letter requiring submission of the required document(s) within an established response time (i.e. 15-30 days), if good cause exists to extend the original submission deadline. If good cause does not exist, a compliance letter, signed by the Division Director, is issued requesting submission of the required document(s) within thirty (30) days.

Should the Department issue a compliance letter and the facility fails to submit the required document(s) (or adequate closure and post-closure plans with a statement of intent to cease handling controlled industrial waste) in accordance with the date specified in the compliance letter, the Department may either file an administrative petition and subsequently schedule an administrative hearing to consider revocation of the facility's interim status and/or offer a consent order thereby establishing a schedule of compliance for submission of the document(s).

If the Department offers a consent order pursuant to an administrative hearing and it is accepted by the facility owner or operator, but the facility fails to submit the required document(s) in accordance with the schedule of compliance established in the consent order, the Department will then take whatever further legal steps are appropriate to ensure compliance with the consent order or proceed with an administrative hearing to consider revocation of the facility's interim status.

### Level III

Violations categorized under this level are considered minor violations. Examples of Level III violations include minor violations of permit conditions, interim status standards or operational requirements, failure to keep records, failure to keep adequate records, failure to file reports, failure to file complete reports, failure to properly label controlled industrial waste being stored at a facility, and other violations of State requirements deemed minor violations by the Division Director.

Level III violations may also involve generators and transporters of controlled industrial waste. Examples include insufficient manifests, failure to remove wastes from a transfer facility within ten (10) days, failure to keep records, failure to keep adequate records, failure to file reports, failure to file complete reports, failure to file adequate disposal plans, failure to label controlled industrial waste being stored on-site, and other violations of State requirements deemed minor violations by the Division Director.

The first response to Level III violations is a compliance letter listing the areas on non-compliance and establishing by which compliance must be achieved. No more than two (2) compliance letters, both signed by the Division Director, are issued for Level III violations before further formal enforcement action is taken which may include an administrative petition, consent order or civil or criminal actions to be instituted in district court. No attorney is directly involved in Level III violation enforcement actions, although repeated Level III violations will result in their elevation to Level I violations, in which case an attorney becomes involved.

If compliance has not been achieved in accordance with the date specified in the initial compliance letter, yet a good faith effort has been given in correcting the violation, the Department may, at its discretion, issue a second compliance letter, thereby extending the date of compliance. However, if compliance has not been achieved in a timely manner in response to the initial compliance letter and it is apparent that no effort has been given to correct the violation, the Department, at its discretion, may forego issuance of a second compliance letter and immediately elevate the Level III violation to a Level I violation and subsequently initiate further formal enforcement action in order to obtain compliance. Ordinarily, no more than ninety (90) days will elapse between the determination of non-compliance of a Level III violation and its elevation to a Level I violation if compliance is not achieved.

The Department provides for several enforcement alternatives to remedy a violation of State requirements. These alternatives range from compliance letters issued by the Division Director to civil or criminal proceedings instituted in district court providing for injunctive relief, clean-up or fines and/or imprisonment as determined by the court. The enforcement alternative to be taken by the Department on any violation of State requirements shall be appropriate to the offense.

It should be noted that, for purposes of enforcement, the Department considers interim status as a type of permit, hence, treatment, storage and disposal facilities with interim status are subject to the full range of enforcement remedies as if it were a permitted facility.

A compliance letter is the first mechanism used by the Department to obtain compliance with State requirements. Compliance letters may be issued to generators, transporters or treatment, storage and disposal facilities found to be in non-compliance following an inspection. The procedures used for issuing compliance letters is dependant upon the level of violation encountered. For example, for Level I violations, no more than one compliance letter is issued, under signature of an attorney, before further formal enforcement action is taken, whereas no more than two (2) compliance letters are issued for Level III violations, under signature of the Division Director, before elevated enforcement action is initiated. Likewise, the compliance schedule for achieving compliance is also influenced by the level of violation encountered. Therefore, the issuance of compliance letters is affected by several factors, primarily the level and type of violation being addressed.

The next order of remedy used by the Department to obtain compliance with State requirements is an administrative petition. Administrative petitions may be filed against generators, transporters, or treatment, storage and disposal facilities

found to be in non-compliance. The purpose of an administrative petition is to initiate, within the Department, proceedings for an administrative hearing to be held to consider suspension, modification or revocation of a permit, license or registration. The administrative petition is filed with the Commissioner of Health to initiate the administrative hearing process. A hearing is then scheduled by the Department with the owner or operator being notified of the Department's actions. However, a consent order may be offered by the Department as an alternative to the administrative hearing. The consent order provides the owner or operator the opportunity to correct any alleged violations in accordance with a strict schedule established by the Department. In certain circumstances, informal meetings (i.e. in conjunction with the consent order) may be held with the owner or operator to discuss the violations and attempt to mediate an equitable compliance schedule. The Department normally allows no more than sixty (60) days for negotiation of a consent order before a hearing is ordered, although this period may be extended on a case-by-case basis for extenuating circumstances.

If a consent order is not offered by the Department or is offered but refused by the owner or operator, the administrative hearing is held. An attorney, responsible for the case from its initiation, then assumes control of the case, preparing evidence, exhibits and other documents considered pertinent to the case. The hearing is conducted similar to those provided in the permitting process, in that a second attorney who is not associated with the case, is appointed by the Commissioner as hearing examiner for the proceeding.

The Final Order from the hearing examiner may range from "no action" to one ordering suspension, modification or revocation of the permit. Should a permit be revoked for consistent and/or flagrant violations of State requirements, the owner or operator is ineligible for reissuance of that permit or any other permit that would entitle him to treat, store or dispose of controlled industrial waste in the State.

The appellate route for the owner or operator is through district court. In appealing to the district court, the owner or operator must allege specific errors in the Final Order or that the Order was biased or based on prejudice. However, the district court can not and will not supplant the technical judgement of the Department with its own.

The next order of remedy used by the Department, which is judicial in nature, is civil or criminal proceedings instituted in district court, providing for injunctive relief, clean-up or civil or criminal penalties which may include fines and/or imprisonment. In order to initiate civil or criminal proceedings, a petition is drafted by the Department, whereupon it is referred to the district attorney, who has jurisdictional authority over the area where the alleged violation occurred. The district attorney is then responsible for filing the petition in the district court. Once the Department refers a civil or criminal suit to the district attorney, it becomes the primary responsibility of the district attorney to move the case through the judicial process, although he may be assisted by the Department as plaintiff in the case. In certain instances, especially those involving injunctive relief and/or site clean-up as ordered by the court, the Department may be directed by the court Order to maintain an oversight posture to ensure that the directives of the district court are followed. For cases resulting in civil or criminal penalties levied against an owner or operator (i.e. fines or imprisonment), the Department does not benefit monetarily, as fines are retained by the court system.

The enforcement remedies described are applicable to all levels of violations. The order of remedy, by way of compliance letter, administrative petition, consent

order, administrative hearing and civil or criminal actions is dependent upon the type of violation. Where the Department determines that a violation necessitates acceleration of enforcement remedies, the Department may forego the issuance of compliance letters or consent orders and proceed directly to administrative petitions and hearings, or civil or criminal actions to obtain rapid compliance with State requirements. For situations involving an imminent health threat, the Department has the authority to restrain immediately, by order or by suit, any unauthorized activity that the Department determines is endangering public health or the environment.

#### E. Public Participation

The Department provides for public participation in all areas of the State hazardous waste management program including the development of rules and regulations, the permitting and appellate review process, the enforcement process and general public education and information regarding State controlled industrial waste management.

Pursuant to Section 303 of the Oklahoma 'Administrative Procedures Act' (75 O.S. Supp. 1982, §301 et seq.), the Department provides for public participation in the adoption, amendment or repeal of any rule or regulation. Prior to the adoption, amendment or repeal of any rule or regulation, the Department is required to give notice of a public hearing, at least twenty (20) days prior to the date of the hearing. The notice includes a statement of the terms or substances of the intended action or a description of the issues involved, and the date, time and location of the hearing, and manner in which interested persons may present their views. The notice is published in the Oklahoma Register and, if a timely request for advance notice is received, mailed to all persons making the request. No permanent rule or regulation which has been adopted, amended, or repealed is valid unless a public hearing has been held.

The Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), as amended in 1981, created the Controlled Industrial Waste Management Council to represent the interests of the people of Oklahoma. The Council is made up of nine (9) members appointed by the Governor, representing environmental organizations, industry, technical professionals, the general public, and controlled industrial waste management. The Council is responsible for submitting recommended rules and regulations to the Board of Health, conducting rulemaking hearings, and consulting with and advising the Department on matters relating to controlled industrial waste management.

Both State and Department policy provide for public participation in the Department's enforcement process. The Oklahoma Open Meeting Act, (25 O.S. Supp. 1982, §301 et seq.) both encourages and allows for public input into the State's governmental process. In accordance with Section 1-2013.1 of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), the Department, in cases of litigation, will not oppose the intervention of any citizen where permissive intervention is provided for by statute or regulation. The Oklahoma Code for Civil Procedure (12 O.S. 1981, §236 et seq.) also provides that necessary parties be joined before a controversy may be determined, other parties may be admitted at the courts discretion. The Department will control all litigation to the extent of statutory authority. In addition, it is Division policy, as set forth in the Rules and Regulations for Industrial Waste Management, to provide at least thirty (30) days for public comment on any proposed settlement of a State enforcement action. Finally, in terms of citizen complaints, it is the Department's policy, as set forth in the Rules and Regulations for Industrial Waste Management, that the Department investigate and

provide written response to any citizen filing a complaint. Citizen complaints receive the highest priority of any investigative cases involving the Department. A copy of the Oklahoma Open Meeting Act can be found in Appendix H.

Public participation through public education and awareness programs regarding controlled industrial waste management issues is the responsibility of the Department's Resource Conservation and Recovery Division. The Division works closely with the Department's Health Education and Information Service in publishing press releases in statewide newspapers. In addition, the Division is responsible for publishing the "Oklahoma Waste Management Messenger," a newsletter published quarterly which provides public information about solid and controlled industrial waste management in Oklahoma. Copies of the newsletter are mailed to persons included in both the Industrial Waste and Solid Waste Divisions' mailing lists, in addition to providing additional copies of the newsletter to the general public at the Department. Personnel from the Resource Conservation and Recovery Division, as well as the Industrial Waste Division also make themselves available as guest lecturers to a variety of community, civic and local governmental organizations who are interested in the State's hazardous waste management program.

Public participation in the Department's permitting process is described in detail in the following section entitled "Permitting and Appellate Review Procedures."

#### **F. Permitting and Appellate Review.**

##### **1. Application Review**

The State of Oklahoma uses the two-permit system in its permitting process for proposed controlled industrial waste treatment, storage and disposal facilities. Under this system, an applicant is required to apply for both a construction permit and an operation permit for a proposed facility.

Permit processing begins with preapplication conferences with the applicant. In the event the owner of the proposed facility designates an individual as being the operator, it is the responsibility of the operator to obtain the permit. The purpose of the conferences is to discuss the proposed project and any technical innovations that may be involved. The applicant is made aware of the State requirements concerning construction and operation of a controlled industrial waste treatment, storage and disposal facility and the responsibilities incurred, the procedures for acquiring a permit under the State's permitting process and the requirements for developing and submitting a complete application. Preapplication conferences may be held as often as necessary between the applicant and the Department so that any future problems are minimized.

It is at this time that the applicant may begin preparation of the application. The Department, in addition to requiring that the applicant follow the regulatory requirements outlined in the Rules and Regulations for Industrial Waste Management, strongly suggests that the applicant follow established guidelines developed by the Department when preparing the application. The guidelines are not law, and hence, are not enforceable. However, the Department's decision to certify an application complete is heavily dependent upon whether or not information requested in the guidelines was incorporated into the application. It should be noted that the applicant bears the sole burden of proof for demonstrating the physical and technical suitability of the proposed site and facility and, although he may in some instances rely upon published data from other sources, the

technological support for these data is his responsibility. A copy of the "Guidelines for Controlled Industrial Waste Surface Disposal Sites and Injection Wells" can be found in Appendix E.

In accordance with Section 1-2007 of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), the Department requires for both new and modified facilities, a statement by a registered professional engineer that the facility has been constructed or modified in compliance with the Department's permit or approval. For new facilities, this statement accompanies the submittal of "as built" plans in the application for an operation permit.

Following preparation, the tentative application is submitted to the Department's Industrial Waste Division. The applicant is required to submit five (5) complete and integrated copies of the application. Four (4) copies of the application are kept at the Department, three (3) of which are for in-house review and analysis with one available for review by interested parties, with priority being given to affected property owners. A final copy of the application is forwarded to the county health department whose jurisdiction is over the county where the proposed facility is to be located, for review and comment. Copies of the Department's application forms for controlled industrial waste treatment, storage and disposal facilities can be found in Appendix T.

The Division does not consider an application as having been "officially" submitted and likewise, will not begin formal review of the application until the applicant has provided proof-of-publication or similar proofs that affected property owners and the public have been notified in accordance with State requirements.

The application, which includes specific narratives on the nature of the design and operation of the proposed facility, including hydrologic and geologic considerations, an environmental assessment of the proposed facility and other areas pertinent to the project, is reviewed for consistency with regulations, technical concerns and completeness of information. Upon completion of its initial review, the Division then responds to the applicant. Applicants for a construction permit are notified within sixty (60) days of initial receipt of the application whereas applicants for an operation permit are notified within thirty (30) days of initial receipt of the application. If the Division considers the application to be incomplete, three (3) copies of the application are returned to the applicant for amendments which must be incorporated into the original version of the application. The one copy retained by the Department is placed in the permanent project file for future reference. Once amended, five (5) more copies of the application are resubmitted to the Division which again distributes them for review and analysis. Upon completion of the review of the revised application, the Division notifies the applicant in writing that either the application is considered complete or the application is still incomplete and additional information is needed.

For a newly proposed facility or proposed expansion to an existing permitted facility whose application is still incomplete, the applicant must submit the information specified to complete the application within six (6) months of the above written notice. If the information specified is not received within six (6) months, the entire application is considered as withdrawn. For existing facilities with interim status whose application is still incomplete, the applicant must submit the required information in accordance with specific date(s) included in the above notice. If the applicant fails or refuses to submit the required information by the

specified date, the facility is considered as operating without a permit and subject to enforcement action in accordance with Section 1-2012 of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA). In both cases, the Division may extend deadlines upon a show of good faith by the applicant that additional time is needed to supply the necessary information.

Should the applicant feel that the deficiency or "incomplete" determination by the Division is incorrect, he may first appeal to the Division for reconsideration or appeal directly to district court. The applicant may submit whatever supplemental information is necessary to further substantiate his position. It must be understood that a determination by the Division that an application is complete is not an endorsement of the project, although it implies such, but rather is merely a statement that the Division feels it has sufficient information with which to make a determination at that time and that it is aware of no further deficiencies in the application at that point in time.

If the application is certified complete, the applicant is required to submit two (2) additional copies of the complete and integrated application. Of the six (6) copies in possession by the Department, a copy is forwarded to the Oklahoma Corporation Commission, the Oklahoma Water Resources Board, the Oklahoma Geological Survey, and the United States Environmental Protection Agency for review and comment. One copy is retained by the Department and placed in the permanent project file for future reference, and one copy is made available for public display at any public meetings or hearings.

Once the application is certified complete, a tentative decision is made to prepare either a draft permit or a draft denial. If a tentative decision is made to issue a permit, a draft permit is prepared by the Department. The draft permit contains certain provisions for compliance with applicable information contained in the application and is accompanied by a cover sheet that emphasizes that the applicant will comply with the information submitted in the application in accordance with the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA) and the Rules and Regulations for Industrial Waste Management promulgated pursuant to the Act. Unless the Department determines otherwise, information submitted in support of an application is binding and, as such, becomes a condition of the permit. When a draft permit is prepared for a major controlled industrial waste facility or one for which there is considerable public interest or major issues raised, a fact sheet summarizing the reasons for the tentative decision is also prepared. If a tentative decision is made to deny the permit, a draft denial is prepared by the Department. Public notice of preparation of a draft permit is issued by the applicant whereas public notice of preparation of a draft denial is issued by the Department. A copy of the Department's permit form for controlled industrial waste treatment, storage and disposal facilities can be found in Appendix U.

The Department provides notice of its intention to issue or deny a permit to each appropriate unit of local government in the area in which the facility is proposed, including the county, and any municipality adjacent to the proposed facility. The Department also provides notice of intention to issue or deny a permit to any State agency which has expressed interest or asserted authority in the construction or operation of the proposed facility. When appropriate, dates of previous public notices pertaining to the application which is subject to a public meeting is cited in the Department public notices.

The Department, upon submission of an application, initiates and maintains a mailing list of all persons interested in the proposed project. Copies of all public notices are distributed to those people on the list.

## 2. Public Participation

Citizen involvement in the State's permitting process begins from the time the application is first submitted to the Department and continues until a final decision to either approve or deny the permit is rendered.

Upon submission of the initial application to the Department's Industrial Waste Division for a construction permit, which is considered a public record, the applicant is required to notify all affected property owners that an application has been filed for construction of a controlled industrial waste treatment, storage or disposal facility. Affected property owners are defined as all real property owners within one mile of the outer perimeter of the proposed facility's location. The notice is prepared in accordance with the format established in the State's regulations.

In addition to notifying the affected property owners, the applicant is also required to issue, concurrently, a public notice of the opportunity to request both a public meeting and a public hearing on the application.

The notice is published in two (2) major newspapers local to the proposed site. In addition, the applicant is also required to broadcast the notice over at least one local radio station at times calculated to maximize public involvement. The notice informs the general public that once the Department has received and reviewed a complete application and certified it as such, a tentative decision to either deny the permit or prepare a draft permit will be made and a public notice to that effect will be issued at that time along with the date, time and location of both the public meeting and public hearing, if requested.

Citizens are given at least forty-five (45) days to review and comment on the application and to request either a public meeting or public hearing or both. The Department considers all written comments on the application submitted during the public comment period and, depending upon the number of comments and the issue(s) raised by each, the Department may either respond directly to each commentor or provide a response summary to the public for review at the Department.

Anyone residing or doing business in Oklahoma may request a public meeting. However, only affected property owners and qualified interest groups may request a public hearing. Qualified interest groups are defined as any organization with twenty-five (25) or more members, who must be legal residents of Oklahoma that expresses an interest in the outcome of the construction permit application.

- a. **IF A PUBLIC MEETING AND/OR HEARING HAS NOT BEEN REQUESTED** within the specified time provided for in the initial notice, the application is given final review by the Department for compliance with all statutory and regulatory requirements. If all applicable requirements are met and the application is certified complete, a draft permit is prepared. The applicant is then required to issue public notice that a draft permit has been prepared and will be available for review and comment for forty-five (45) days. The notice also provides for a public meeting to be held on the draft permit, including the

date, time and location of the meeting, if sufficient interest is shown by evidence of written request to the Department within the forty-five (45) day comment period. If no significant interest is shown in holding a meeting through written request to the Department, no meeting will be held. The notice is published in at least two (2) major newspapers local to the proposed site as well as broadcast over at least one local radio station. For major facilities, or facilities for which there is considerable public interest or major issues raised, the Department also prepares a fact sheet in conjunction with the draft permit. The fact sheet sets forth the principle facts and significant factual, methodological, legal and policy questions considered in preparing the draft permit. The fact sheet, like the draft permit, is subject to public review and comment and accompanies the draft permit during the public comment period. A copy of the fact sheet is mailed to the applicant and, upon request, to any other interested person.

After the close of the public comment period, or after the public meeting, if one is held, the Department reviews all written comments submitted during the comment period and, if applicable, all comments submitted at the public meeting. If after reviewing the comments the Department's final decision is to issue the permit, the Department then responds to the comments including in the response which provision(s), if any, of the draft permit was changed and the reasons for the change. The Department provides written response to all significant comments received during the public comment period, and, depending upon the number of comments, and the issue(s) raised by each, the Department may either respond directly to each commentor, or provide a response summary to the public for review at the Department. The Department makes the responses available to the public at the time of permit issuance. The Department then issues the permit within thirty (30) days of the closure of the comment period or public meeting, whichever is later. The Department may extend this period for thirty (30) days or longer should the comments indicate a need for additional information or a reply is necessary from the applicant in response to comments.

Any person aggrieved by the decision may seek relief by applying directly to district court. He must demonstrate his standing to the court that the Department acted outside its jurisdiction procedurally or substantially in issuing the permit or that it overlooked serious and obvious deficiencies in the application. If, however, after reviewing the comments, the Department determines that its decision to prepare a draft permit was incorrect, the Department will withdraw the draft permit and prepare a draft denial. A draft denial is a type of draft permit that follows the same procedures as those used in preparing a draft permit only to the extent that the draft denial will be publicly noticed and available for review and comment only if there is significant public interest supporting the issuance of a permit.

If the application does not meet all of the applicable requirements then a draft denial is prepared. The Department then publishes notice in at least two (2) major newspapers local to the proposed site of the availability of the draft denial for review and comment. For major facilities or facilities for which there is considerable public interest or major issues raised, the Department also prepares a fact sheet identifying the reasons for denying the application. The fact sheet as well as a copy of the application are made available to the public for forty-five (45) days. A copy of the fact sheet is mailed to the applicant and, upon request, to any other interested person.

At the end of the public comment period the Department reviews all written comments. If, after reviewing the comments, the Department's final decision is to deny the permit, the Department then responds to the comments including in the response the reason(s) for denying the permit. Again, depending upon the number of comments and the issue raised by each, the Department may either respond directly to each commentor, or provide a response summary to the public for review at the Department. The response is made available to the public at the time of permit denial. The permit is then denied within thirty (30) days of closure of the comment period. The Department may extend this period for thirty (30) days or longer should the comments indicate a need for additional information. The applicant, however, may either request, within ten (10) days of issuance of the Department's final decision, that a hearing be held affording him due process or appeal the denial to the district court within thirty (30) days of the final decision. In the event such a hearing has been requested, only the applicant may provide testimony in order to further support his position. Comments or arguments either in opposition to or in support of the permit from the public are not accepted as part of the hearing record. If, however, the Department determines that its decision to deny the permit was incorrect, the Department will withdraw the draft denial and prepare a draft permit. The Department then follows the procedures previously discussed concerning public notice and public review and comment of draft permits.

- b. **IF A PUBLIC MEETING AND/OR HEARING HAS BEEN REQUESTED** within the specified time provided for in the initial notice, a public notice is issued. The notice, prepared by either the applicant or the Department, is issued at the time the Department has certified the application complete and has reached a tentative decision to either deny the permit or prepare a draft permit.

If the Department's tentative decision is to deny the permit, a draft denial is prepared and no meeting or hearing is scheduled although one or both may have been requested. An exception to this is when there exists significant public interest supporting the issuance of a permit, in which case the public meeting will be scheduled. If significant public interest exists as evidenced by written request, the Department will publish notice in at least two (2) major newspapers local to the proposed site of the availability of the draft denial for review and comment along with the scheduled date, time and location of the public meeting. For major facilities or facilities for which there is considerable public interest or major issues raised, a fact sheet is prepared identifying the reasons for denying the application. The fact sheet as well as a copy of the application are made available to the public for forty-five (45) days. A copy of the fact sheet is mailed to the applicant and, upon request, to any other interested person.

After the close of the public comment period, or after the public meeting, if one is held, the Department reviews all written comments submitted during the comment period, and if applicable, all comments submitted at the public meeting. If the Department's final decision is to deny the application, the Department then responds to the comments including in the response the reasons for denying the permit. The Department provides written response to all significant comments received during the public comment period and the public meeting and, depending upon the number of comments and the issue(s) raised by each, the Department may either respond directly to each commentor or provide a response summary to the public for review at the Department. The Department makes the responses available to the public at the time of permit

denial. The permit is then denied within thirty (30) days of closure of the comment period or public meeting, whichever is later. The Department may extend this period for thirty (30) days or longer should the comments indicate a need for additional information. The applicant may then either request that a hearing be held or appeal the denial to the district court. If, however, the Department determines that its decision to deny the permit was incorrect, the Department will withdraw the draft denial and prepare a draft permit. The Department will then follow the procedures previously described concerning the issuance of public notice and public review and comment of draft permits.

If the Department's tentative decision is to prepare a draft permit, a public notice to that effect is prepared. The applicant is required to issue public notice that a draft permit has been prepared and will be available for review and comment for forty-five (45) days. The notice also includes the scheduled date, time and location of the previously requested public meeting and/or hearing. If no meeting has been previously requested, the notice provides for an additional public meeting to be held on the draft permit. The Department may either provide the scheduled date, time and location of the meeting in the notice at that time or issue a public notice following the public comment period that includes the scheduled date, time and location of the meeting, if sufficient interest is shown by evidence of written request to the Department within the forty-five (45) day comment period. In both cases, the Department provides at least thirty (30) days notice prior to the public meeting. If no significant interest is shown in holding the meeting, no meeting will be held. The notice is published in at least two (2) major newspapers local to the proposed site as well as broadcast over at least one local radio station. For major facilities or facilities for which there is considerable public interest or major issues raised, a fact sheet is prepared identifying the major facts and questions considered in preparing the draft permit and is available along with the draft permit for review and comment. A copy of the fact sheet is mailed to the applicant and, upon request, to any other interested person.

If both a public meeting and hearing have been requested, the meeting is held first. Every effort is made to conduct both the meeting and hearing in the locale of the proposed facility so that the public has ready access to them.

Anyone residing or doing business in Oklahoma may present oral or written statements at the meeting to either oppose or support issuance of the permit. Although a request is made that the commentator answer any questions, there is no requirement that the commentator do so, and generally questions are only made concerning clarification of statements and not to examine the validity of the statements. Written comments may be accepted up to ten (10) days following the close of the meeting thereby extending the public comment period beyond the forty-five (45) day limit. The meeting is taped and the tape is maintained as part of the permanent project file. The Department provides copies of the tape to the public upon request.

The Department is bound by law to determine whether or not a proposed site and facility are physically and technically suitable. Therefore, only comments which pertain to the physical and technical suitability of a proposed site and facility may be considered at the hearing. By the very nature of the proceedings, expert, sworn testimony from public hearings carry more weight in the Department's final decision than unsubstantiated comments received during the public comment period and public meeting. The public is encouraged to

supplement comments with information the Department can verify in order to weigh these comments equally with those provided in the public hearing.

After completion of the public meeting, the public hearing is held. Although only affected property owners and qualified interest groups may request a hearing, anyone may testify.

The public hearing is for the purpose of taking expert testimony concerning questions of law or questions of technical fact in which witnesses are sworn and are subject to both direct and cross examination on their testimony. General procedures of the district courts of Oklahoma are used regarding admissibility of evidence and order of testimony. Comments which were received during the public comment period including those received during the public meeting that pertain to the technical and physical suitability of the site and facility are introduced at the hearing and are considered in making the final decision. The Department provides written response to all significant comments received during the public comment period, the public meeting and the public hearing and, depending upon the number of comments and the issue raised by each, the Department may either respond directly to each commentor or provide a response summary to the public for review at the Department. The Department makes the responses available to the public at the time of permit issuance or denial.

Opportunity is provided for both the applicant and the protesting parties to give closing arguments before the actual end of the hearing. This may be done either immediately following the hearing by oral presentation or at some time after the hearing in writing, depending upon the circumstances.

The hearing examiner for all hearings conducted to consider permits is appointed by the Commissioner of Health and generally is one of the attorneys from the Health Department. The attorney, to qualify as hearing examiner, must have had no previous involvement regarding the facility that might prejudice or bias his judgment. The hearing examiner generally uses the Service Chief of the Waste Management Service as a technical advisor during the hearing.

Following the oral portion of the hearing, the parties of record are allowed a given time period, usually thirty (30) days, to submit proposed Findings of Fact, Conclusions of Law, and a proposed Order to the hearing examiner for his consideration. Once these are submitted, the record of the hearing is officially closed and no further evidence may be submitted unless it can be shown that it is of a critical nature that has a substantial bearing upon the application. Admission of evidence in this respect is at the discretion of the hearing examiner. Following this, the hearing examiner will then prepare his proposed Findings of Fact, Conclusions of Law and a tentative Order outlining his conclusions of whether or not to issue the permit, issue the permit with qualifications, deny the permit or deny the permit pending certain modification to the proposal.

Any parties adversely affected by the proposed Findings of Fact, Conclusions of Law and tentative Order may take exception to them and request that oral arguments be held before the Deputy Commissioner before the Order is finalized. If granted, these are then scheduled and held to consider the arguments of the adversely affected party. At the oral arguments, all parties

are again given the opportunity to rebut any statement made by the adversely affected party; however, no further expert testimony is allowed. Following oral arguments, the Deputy Commissioner, with the assistance of the hearing examiner, prepares the Findings of Fact, Conclusions of Law and the Final Order for the hearing. This Final Order, again, may be permit issuance, issuance subject to qualifications, permit denial or denial pending certain modification. Again, adversely affected parties may object administratively to the Final Order and ask for either reconsideration based upon specifically noted errors of the Final Order or procedures, reopening based upon new evidence, or rehearing based upon specific errors by the hearing examiner or Deputy Commissioner.

Once the Final Order has been issued, the appellate route for any adversely affected party is through the District Court in Oklahoma County, the residence of the Department, or in the county of the proposed site. In appealing to the District Court, the adversely affected party must allege specific errors in the Final Order or that there was bias or prejudice on the part of the Department in issuing or denying the permit. The District Court cannot and will not supplant the technical judgment of the Department with its own. Following review by the District Court and the subsequent order, appeal is directly to the State Supreme Court which will review the decision of the District Court, again based upon errors of law or fact, but which also cannot supplant the technical judgment of the Department with its own. A flowchart depicting the Department's permitting process for controlled industrial waste treatment, storage and disposal facilities can be found in Appendix S.

### 3. Additional Aspects of Permitting

#### a) New and Existing Facilities

The previous sections have discussed the permitting procedures as they apply to new facilities applying for a construction permit. For new facilities which have applied for and received a construction permit and intend to apply for an operation permit, the same procedures apply with the exception that the Department does not require nor provide for a formal public hearing to be held on the operation permit. Public meetings, however, are provided for by the Department as they are in both the construction phase and the operational phase of the permitting process.

Existing facilities with interim status are not required to submit a construction permit application and hence, are not subject to the permitting procedures as they apply to the construction phase. However, interim status facilities are required to apply for an operation permit and, as a result, are subject to the permitting procedures as they apply to the operational phase. The Department, at any time, may require the owners of an existing facility with interim status to submit a Part B application for operation of the facility. The owner is required to submit the application to the Department within six (6) months of notification by the Department. However, applications may be voluntarily submitted prior to notification by the Department.

#### b) Permit Modification and Revocation

For existing permitted facilities, proposals made by the applicant to modify the facility requires amendment of the operation permit and reopening

of the operational phase of the permitting process, including providing for public notice, public review and comment and public meeting. A proposal for the substantial modification of a facility requires amendments to both the construction and operation permits and reopening of the construction phase of the permitting process, including public notice, public review and comment and public meeting and/or hearing. A substantial modification includes significant alterations of the physical processes of a facility, significant changes in the waste characteristics or an increase in the waste handling capacity of the facility in excess of fifty percent (50%) of the total capacity previously offered or considered at a public hearing. The Department considers any proposed change in ownership or operational control to be a substantial modification.

The Department prepares a draft permit for any significant proposed modification to a construction or operation permit. Such draft permits are prepared whenever substantial alterations occur after permit issuance, new information or new regulations justify revising permit conditions, or good cause exists to modify a compliance schedule. Minor modifications such as typographical errors, increased monitoring, revised contingency plans, etc. do not require a draft permit.

For existing facilities with interim status, proposals to modify requires amendment to their Part A permit. Facilities with interim status may be modified to: accept new wastes not previously handled, increase the current design capacity of the processes used or alter the processes currently used. Such proposed modifications require submission of a revised Part A permit application along with a justification explaining the need for the modification prior to performing the modification. Changes in ownership or operational control may occur if the new owner or operator submits a revised Part A permit application within ninety (90) days of the scheduled change. In the event of a change in ownership or operational control, all interim status responsibilities are transferred and become effective immediately except that the previous owner or operator must continue to comply with the applicable financial requirements until the new owner or operator satisfactorily demonstrates compliance with those requirements. No modification to any facility with interim status shall commence without prior approval by the Department. Proposed modifications to facilities with interim status that require reconstruction resulting in costs in excess of fifty percent (50%) of the capital cost of a comparable new facility is prohibited.

The Department may institute proceedings to modify or revoke a permit if information received indicates a need for enforcement action. Enforcement action may range from temporary suspension or modification to irreversible revocation of a permit. Information may be in the form of an inspection, complaint report or report from the operator (verified by inspection), or other valued information about a serious instance of non-compliance. Similarly, enforcement action may be taken against existing facilities with interim status that have violated State interim status requirements. Existing facilities qualify for interim status by filing notification of their existence and a Part A permit application with either the EPA or the Department. If the Department has reason to believe that a Part A application is incomplete or information submitted as part of the Part A application is false, the Department may reexamine the application to evaluate compliance with State interim status requirements. If the application does not meet State requirements, the facility is considered as operating without a permit and subject to enforcement action.

In either case, the permittee is guaranteed due process and the Department must follow the requirements established in the Oklahoma 'Administrative Procedures Act' concerning any enforcement action. It is Division policy, as set forth in the Rules and Regulations for Industrial Waste Management, to publish and provide at least thirty (30) days for public comment on any proposed settlement of a State enforcement action.

Pursuant to Section 1-106(b)(10) of the Oklahoma Public Health Code (Title 63 O.S. 1981, et seq.), a violation of permit conditions or other State requirements constitutes reason for suspension or revocation of a permit. In accordance with Section 1-2012(1) of the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA), the Department may temporarily suspend a permit until a facility conforms to State requirements. The Department may also revoke a permit for flagrant and/or consistent violations of State requirements in accordance with Section 1-2012(2) of OCIWDA. Once a permit has been revoked, it may not be reissued. A copy of the Oklahoma Public Health Code can be found in Appendix F.

c) Permit by Rule

The State provides for permits by rule for certain controlled industrial waste treatment and disposal facilities or activities requiring valid permits under other environmental programs. Specifically, the Department has been delegated authority in enforcing both the underground injection control program (UIC) pursuant to the Safe Drinking Water Act (SDWA), and the hazardous waste management program pursuant to the Resource Conservation and Recovery Act (RCRA), and the rules and regulations promulgated pursuant to both Acts. Both UIC and RCRA standards are incorporated into a single permit and issued to facilities utilizing underground injection as a method of disposal.

Barges and vessels that accept controlled industrial waste for purposes of ocean disposal are considered permitted by rule, provided the barge or vessel complies with 40 CFR 270.60(a), the provisions of which are incorporated by reference. Similarly, publicly owned treatment works (POTWs) that accept controlled industrial waste for purposes of treatment are considered permitted by rule, provided the POTW complies with 40 CFR 270.60(c), the provisions of which are incorporated by reference.

d) Joint Processing of Permits

Where appropriate, the Department and EPA will coordinate staff efforts to provide joint processing of permits for any treatment, storage or disposal facility or activity which requires a permit from both the State and Federal hazardous waste management programs. Joint public meetings and conferences will be held whenever feasible, and timely and coordinated permit issuance will be sought when desired by permit applicants.

## V. FUNDING AND RESOURCE REQUIREMENTS

### A. Resource Requirements

The Waste Management Service's Industrial Waste Division is staffed with personnel that have the administrative expertise, technical background and experience

necessary to effectively administer and implement the State's hazardous waste management program pursuant to the Oklahoma Controlled Industrial Waste Disposal Act (OCIWDA).

The Industrial Waste Division is composed of three (3) Sections, Permitting, Compliance Monitoring and Enforcement. The Permitting Section is responsible for all permitting activities conducted by the Division under the State program. The Compliance Monitoring Section is responsible for all compliance monitoring and surveillance activities conducted by the Division under the State program. The Enforcement Section provides coordination of all enforcement activities conducted by the Division under the State program. Administrative support to all three (3) Sections is provided by the Waste Management Service Chief, Division Director and Section Supervisors. Legal support is provided by staff attorneys that serve the Division in terms of legislation and regulatory development, enforcement and providing general legal counsel.

The Division currently consists of twenty-six (26) employees, each of which devote either a full man-year or a percentage of a man-year to the State program. Those personnel that devote only a percentage of their time to the State program split time against other environmental programs administered by the Waste Management Service. A total of 21.8 man-years, excluding support personnel, is currently devoted to the State program.

The following is a description of the Industrial Waste Division staff, including their duties and responsibilities that are currently approved and funded:

1. Administration

The administration of the State hazardous waste management program falls under the direction of the Waste Management Service Chief and the Industrial Waste Division Director. The Service Chief, who is appointed by the Commissioner of Health upon the advice of the Deputy Commissioner for Environmental Health Services, is responsible for the overall administration and coordination of all environmental programs administered by the Service. The Service Chief is responsible for the establishment of policies, practices and procedures of the Service and ensuring that they are actively and effectively implemented. The Service Chief is also responsible for the development of proposed legislation and regulations, including providing consultative and technical services to any legislative committee or regulatory council on legislation and regulations. The Service Chief assists in the preparation of budgets and expenditure reports, including approval of any requisition of equipment or supplies. In addition to the administrative duties, the Service Chief provides technical assistance and consultation to Service personnel, county health departments, municipalities and other local or State agencies. On occasion, the Service Chief may also serve as a technical advisor during any hearings held by the Service that are related to the State program. Finally, it is the responsibility of the Service Chief to assist the Industrial Waste Division Director in all matters concerning controlled industrial waste management under the State program.

The Industrial Waste Division Director's responsibilities include administering the State hazardous waste management program by providing supervision and guidance to Division personnel, making recommendations regarding Division policy and procedures, providing assistance in the preparation of budgets and expenditure reports and approving the requisition of equipment and supplies. The Division

Director is also responsible for the development of proposed legislation and regulations, and may assist the Service Chief in consulting with legislative committees or regulatory councils, if necessary. In addition to these administrative duties, the Director is also responsible for providing technical support to Division personnel, county health departments, municipalities and other local or State agencies. The Division Director is frequently involved in both the permitting process and any enforcement actions initiated by the Division, as well as maintaining oversight of compliance monitoring and surveillance activities. Finally, the Director is responsible for ensuring that commitments made by the Division under the annual RCRA Federal assistance agreement grant, such as program development, permit issuance and inspection numbers, are met in a timely manner.

Both the Service Chief and Division Director are assisted in many of their administrative activities by the Section Supervisors, who are responsible for direct oversight and implementation of their respective programs and by grants management and fiscal services which provide financial management support to the State program. The total number of man-years devoted to administration of the State program can be found in Table II.

## 2. Permitting

The Industrial Waste Division maintains a staff of four (4) environmental engineers and four (4) hydrologists in the Permitting Section. In addition, the Division Director is also an environmental engineer who frequently becomes involved in permitting activities. Of these personnel, three (3) engineers and three (3) hydrologists are considered full time, each devoting a full man-year to the State's hazardous waste management program. The remaining engineer and hydrologist devote only a percentage of their time to the State program, splitting time against other environmental programs. However, both engineers and hydrologists, full and part-time, occasionally devote a portion of their time to other aspects of the State program (i.e. compliance monitoring and enforcement). The total man-years devoted to the permitting program can be found in Table II.

ENVIRONMENTAL ENGINEER - The engineers of the Permitting Section are classified as either an environmental engineer, I, II, or senior environmental engineer. The engineer conducts his permitting activities through the review of permit applications, general site inspections and suitability assessments, construction and post construction (operational) inspections and facility performance evaluations. Additionally, the engineer carries out limited research/investigations on specified sites, holds discussions and consultations with professionals/institutions with specific knowledge and information pertinent to the site or application under review. As part of his duties, the engineer also provides technical assistance to both permit applicants and operators of existing facilities.

The engineer performs permit reviews primarily on three types of applications, namely construction permit applications for newly proposed facilities or major modification to existing facilities, operation permit applications for newly constructed facilities or modification to existing facilities and applications for renewal of an existing facility permit. Short term permit review is also carried out by the engineer for facilities requiring short term operation such as research facilities and emergency situations.

Review of a construction permit application involves a thorough review of the information and data submitted by the applicant to determine the overall technical

and physical suitability of the proposed site and facility. The review is augmented by inspections performed at the site by one or more of the engineers or hydrologists.

Review of an operation permit application involves a close study of the waste management scheme proposed by the applicant, the waste stream relative to constituent compatibility and its compatibility with the facility construction materials and, ultimately, the environment. The review assesses the overall design adequacy of the newly constructed facility as confirmed by construction/post-construction inspections.

The engineer is also involved with reissuance of expiring operation permits. The engineer evaluates the past performance history of existing facilities through the review of monthly operational reports, identification of any previous enforcement action taken against the site and conducting compliance inspections to determine the degree of compliance with State requirements.

Finally, the engineer frequently provides technical assistance to both the Compliance Monitoring and Enforcement Sections of the Division as well as to the other two (2) Divisions of the Service. Complete job descriptions for each classification of environmental engineer can be found in Appendix V.

HYDROLOGIST - The hydrologists of the Permitting Section are classified as either a hydrologist I, II or senior hydrologist. The hydrologist provides expertise in the disciplines of hydrology and geology in reviewing permit applications. In general, the hydrologist's responsibilities are similar to those of the environmental engineer in terms of reviewing applications. The hydrologist reviews applications from the standpoint of assessing the hydrogeologic system of a site location and the impact upon the system posed by a facility. The hydrologist performs his duties for construction permit applications for newly proposed facilities, operation permit applications for newly constructed facilities, applications for modification to existing facilities and applications for renewal of an existing facility permit.

The hydrologist, like the engineer, also provides technical assistance to industry as well as to the Compliance Monitoring and Enforcement Sections of the Division, and to the other two (2) Divisions within the Service. In summary, the hydrologist is involved in the review of those applications and conducts those site inspections requiring hydrogeological review and evaluation. Complete job descriptions for each classification of hydrologist can be found in Appendix V.

### 3. Compliance Monitoring

The Industrial Waste Division currently maintains a staff of three (3) environmental specialists in the Compliance Monitoring Section. All three (3) environmental specialists are considered full-time, each devoting a full man-year to the State's hazardous waste management program. However, the environmental specialists of the Compliance Monitoring Section devote a portion of their time to other aspects of the State program (i.e. permitting and enforcement). The total man-years devoted to the compliance monitoring program can be found in Table II.

ENVIRONMENTAL SPECIALIST - The environmental specialists of the Compliance Monitoring Section are classified as either an environmental specialist I, II, senior environmental specialist or environmental specialist supervisor. The environmental specialist conducts both routine and non-routine compliance

evaluation inspections of all controlled industrial waste generators, transporters and treatment, storage and disposal facilities to evaluate compliance with State requirements. Specifically, the environmental specialist determines compliance with permit conditions, design and operational standards, monitoring requirements, security and safety requirements, recordkeeping and overall site condition and performance. While performing inspections, the environmental specialist may collect representative surface water, ground water or air monitoring samples as well as controlled industrial waste stream or hazardous material samples to further determine compliance with State requirements. Additionally, the environmental specialist investigates emergencies involving spills and citizen complaints and attempts to direct resolution to these non-routine occurrences in a coordinated manner with appropriate persons, municipalities or local or State agencies.

The environmental specialist, upon completion of any inspection that has revealed instances of non-compliance, is responsible for drafting and issuing a compliance letter to the handler found to be in violation of State requirements. The environmental specialist must notify the handler of his findings, clearly identifying the violations found and then work closely with the handler in correcting them in a timely manner. In instances involving repeated violations where the environmental specialist fails to obtain a positive response from the handler in achieving compliance, the environmental specialist elevates the matter by coordinating with the attorneys in pursuing further formal action. The environmental specialist also reviews and approves disposal plans, manifests and monthly and quarterly report information submitted by generators and treatment, storage and disposal facilities for accuracy and validity.

In addition to these compliance monitoring duties, the environmental specialist provides technical assistance to the regulated community through interpretation of regulations and by providing recommendation on the proper management of controlled industrial waste, as well as providing guidance to county health departments, municipalities and other local or State agencies concerning the management of controlled industrial waste. The environmental specialist of the Compliance Monitoring Section also provides technical assistance to the Permitting and Enforcement Sections as well as to the other Divisions of the Service. Complete job descriptions for each classification of environmental specialist can be found in Appendix V.

#### 4. Enforcement

The Industrial Waste Division maintains three (3) environmental specialists in the Enforcement Section. Of these personnel, one environmental specialist is considered full-time, devoting a full man-year to the State's hazardous waste management program with two (2) environmental specialists devoting only a percentage of their time to the State program, splitting time against other environmental programs. However, the environmental specialists of the Enforcement Section devote a portion of their time to other aspects of the State program (i.e. permitting and compliance monitoring).

Additionally, the Industrial Waste Division utilizes two (2) staff attorneys that serve each of the Divisions of the Waste Management Service. Both attorneys devote a percentage of their time to the State hazardous waste management program, splitting time against other environmental programs. The attorneys support all three (3) Sections of the Industrial Waste Division as well as the Division Director. The total number of man-years devoted to the enforcement program can be found in Table II.

**ATTORNEY** - The attorneys of the Waste Management Service are classified as either an attorney I, II, III or attorney IV. The attorney performs a number of duties which include assistance in the preparation of proposed legislation and regulations, advisement or counsel on laws, regulations and administrative policy relating to controlled industrial waste management, and advisement or assistance to the general public, regulated community, municipalities, county health departments and other local or State agencies concerning controlled industrial waste management law and regulation.

Additionally, the attorney assists the Division in formal enforcement actions brought against violators of State requirements by exercising either full or partial responsibility for the development, preparation and presentation of cases before administrative hearings or appellate courts, and recommends corrective action or relief as provided under the law. Complete job descriptions for each classification of attorney can be found in Appendix V.

#### 5. Clerical

The Industrial Waste Division is currently staffed by four (4) clerical personnel who devote either a full man-year or a percentage of a man-year to the State hazardous waste management program. Two (2) additional clerical personnel are available to the Division from the Service as the need arises. Those clerical personnel that devote only a portion of their time to the State program split time against other environmental programs. The clerical staff devotes their time to all aspects of the State program as demonstrated in Table II.

The clerical staff are classified as either typist clerks I, II, or III, secretary I or II or executive secretary I, II or III. The clerical staff performs a wide range of duties which may include maintaining office files and account records, as well as typing correspondence, tabulate data, accounting reports and other documents or forms from drafts. The clerical staff also assists in scheduling meetings, hearings and conferences and may attend said meetings, hearings and conferences for purposes of recording minutes or taking stenographic notes of conversations or testimony. Complete job descriptions for each classification of clerical staff can be found in Appendix V.

Table I represents the Industrial Waste Division's personnel resources responsible for implementing the State's hazardous waste management program. These personnel represent the minimum resources necessary for implementing the State program over the next three (3) years. No additional personnel resources are anticipated at any time during this period, although two (2) full-time positions (environmental specialist), which were not funded during Fiscal Year 1984 due to budget restrictions, may be approved for rebudgeting in Fiscal Year 1985 or 1986.

Table II lists the various elements of the State hazardous waste management program and the corresponding number of man-years allotted to each element. The man-years listed in Table II reflect only those personnel directly involved in the State program and does not include support personnel.

Table II-A lists supportive personnel provided by both the Department and county health departments to lend additional manpower to the State hazardous waste management program. Both the district and county sanitarians devote the majority of their time in assisting the Department in its compliance monitoring and surveillance program throughout the State. These personnel frequently accompany Department

personnel during inspections of generators, transporters, or treatment, storage and disposal facilities located in their respective counties. Department personnel from the State Environmental Laboratory, specifically the Toxics Analysis Division Director, chemists and the environmental specialist, devote their time to the State program by providing a sample analysis and identification service for all samples obtained during compliance monitoring and surveillance activities. Inspectors coordinate their sampling efforts with the Division Director, who in turn is supported by his technical staff in performing any analyses that may be required. The Data Management Division's primary responsibility is providing technical assistance with respect to updating, modifying and general maintenance of the automatic data processing (ADP) system utilized in the Department's manifest system for tracking purposes. The environmental epidemiologist's responsibility is primarily directed toward the Department's emergency response program, involving instances of controlled industrial waste spills and other emergency situations. Finally, the Deputy Commissioner for Environmental Health Services performs a number of administrative duties relative to the State program, primarily in the area of legislation development, budgeting and overall program responsibility and oversight.

Table III lists current estimates of the regulated community based on handler type, as well as estimated types and numbers of various treatment, storage and disposal facilities by activity found in the State. These estimates are based on figures obtained from current Part A application and notifier information, and represent a reasonably accurate estimate of those generators, transporters and treatment, storage and disposal facilities in existence, that fall under the jurisdiction of the State's hazardous waste management program, although changes in these figures are likely to occur in the future. No correlation should be made between the two (2) lists in Table III, as many facilities utilize multiple activities, i.e. one facility may have an injection well, two (2) storage impoundments and three (3) storage tanks.

Table IV illustrates the permitting status under the State hazardous waste management program for both on-site and off-site treatment, storage and disposal facilities located in the State. As the State program continues to evolve, the number of State RCRA permitted facilities will increase through the issuance of State RCRA permits to new facilities as well as to existing facilities that have valid State permits or interim status.

#### B. Funding

Table V shows the Industrial Waste Division's budget for Fiscal Year 1984. The total allotment of State funds for the Department's Waste Management Service for FY 84 is \$888,559 of which approximately thirty-six percent (36%) is devoted to the State hazardous waste management program. Because the State and Federal timetables differ terms of their respective fiscal years, the Department can only estimate its budget for the final quarter of Federal Fiscal Year 1984, which is the first quarter of the State Fiscal Year 1985.

Finally, Tables VI and VII represent estimated budget summaries for the Industrial Waste Division for Federal Fiscal Years 1985 and 1986.

TABLE II

OKLAHOMA STATE DEPARTMENT OF HEALTH  
INDUSTRIAL WASTE DIVISION  
STAFFING REQUIREMENTS FOR FINAL AUTHORIZATION

<u>ELEMENT</u>	<u>MAN-YEARS (FY84)</u>
Administration	2.5
Interim-Final Authorization	.5
Public Participation	.5
Notification Program	.3
Permitting Program	8.5
Compliance Monitoring Program	5.5
Enforcement Program	2.5
Manifest Program	1.0
Training	<u>.5</u>
Total	21.8

TABLE II-A

OKLAHOMA STATE DEPARTMENT OF HEALTH  
SUPPORT PERSONNEL

<u>TECHNICAL SUPPORT POSITIONS</u>	<u>AVG. MAN-YEARS</u>
Deputy Commissioner	.20
Environmental Epidemiologist	.20
Division Director* (Toxics Analysis Division)	.20
Chemist II*	.60
Chemist II*	.50
Environmental Specialist II*	.60
District Sanitarians (.05 x 6)	.30
County Sanitarians (.05 x 125)	6.25
Data Management	<u>.10</u>
Total	8.95

\*State Environmental Laboratory

TABLE III  
ESTIMATE OF THE REGULATED COMMUNITY

<u>HANDLER TYPE</u>	<u>NUMBER</u>
Generators Only	219
Transporters Only	56
TSD Facilities Only	2
Generator-Transporter Combination	60
TSD Facilities Combination	60

ESTIMATED TYPE AND NUMBER OF REGULATED ACTIVITIES

<u>FACILITY TYPE</u>	<u>NUMBER</u>
<u>Tanks</u>	
1) Treatment	17
2) Storage	38
<u>Containers</u>	39
<u>Surface Impoundments</u>	
1) Treatment	6
2) Storage	18
3) Disposal	8
<u>Waste Piles</u>	3
<u>Incinerators</u>	5
<u>Injection Wells</u>	7
<u>Landfills</u>	4
<u>Land Application</u>	11
<u>Other</u>	10

TABLE IV  
HAZARDOUS WASTE MANAGEMENT  
FACILITY PERMIT STATUS

PERMIT STATUS				
Facility	Interim Status	State Permit	RCRA Permit	Total
<u>Treatment</u>				
On-site	30	3	0	30
Off-site	9	1	0	9
<u>Storage</u>				
On-site	58	6	0	58
Off-site	15	2	0	15
<u>Disposal</u>				
On-site	21	5	0	21
Off-site	5	1	0	5

Note: All off-site treatment, storage and disposal facilities are also on-site treatment, storage and disposal facilities, and are included in on-site numbers.

All treatment, storage and disposal facilities with State permits also have interim status and are included in interim status numbers.

TABLE V  
 OKLAHOMA STATE DEPARTMENT OF HEALTH  
 INDUSTRIAL WASTE DIVISION  
 FY 84 BUDGET SUMMARY

Salary	\$480,801.00
Fringe Benefits	132,294.00
Travel	42,929.00
Equipment	5,700.00
Supplies	30,552.00
Contractual	20,600.00
Data Processing	<u>4,300.00</u>
Subtotal	\$717,176.00
Indirect Cost (26.2%)	<u>125,970.00</u>
Total	\$843,146.00
State*	\$404,546.00
Federal	\$438,600.00

\*Estimated State Dollars

TABLE VI  
OKLAHOMA STATE DEPARTMENT OF HEALTH  
INDUSTRIAL WASTE DIVISION  
ESTIMATED FY 85 BUDGET SUMMARY

	<u>FY 85</u>
Salary	\$480,801.00
Fringe Benefits	132,880.00
Travel	40,789.00
Equipment	5,000.00
Supplies	25,000.00
Contractual	19,570.00
Data Processing	<u>4,085.00</u>
Subtotal	\$708,125.00
Indirect Cost (26.2%)	<u>125,970.00</u>
Total	\$834,095.00

TABLE VII  
 OKLAHOMA STATE DEPARTMENT OF HEALTH  
 INDUSTRIAL WASTE DIVISION  
 ESTIMATED FY 86 BUDGET SUMMARY

	<u>FY 86</u>
Salary	\$528,881.00
Fringe Benefits	148,087.00
Travel	44,868.00
Equipment	5,500.00
Supplies	27,500.00
Contractual	21,527.00
Data Processing	<u>4,494.00</u>
Subtotal	\$780,857.00
Indirect Cost (26.2%)	<u>138,567.00</u>
Total	\$919,424.00

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APPENDIX C

HAZARDOUS WASTE MANAGEMENT SERVICE ORGANIZATION CHART

<b>HAZARDOUS WASTE MANAGEMENT SERVICE</b>
Env. Health Division Chief Damon Wingfield
Administrative Assistant II (P) Vacant
Executive Secretary I (P) Vacant

<b>PLANNING &amp; DATA MANAGEMENT DIVISION</b>
Env. Health Division Director II Vacant

<b>FACILITIES DIVISION</b>
Chief Env. Engineer Glen Jones

<b>ENFORCEMENT DIVISION</b>
Env. Health Division Director II (P) Vacant

PLANNING SECTION	DATA MANAGEMENT PROGRAM	LAND DISPOSAL FACILITIES SECTION	TREATMENT/STORAGE FACILITIES SECTION	ENFORCEMENT SECTION	LEGAL SECTION
Env. Spec. Supervisor Catherine Sharp	Env. Spec. Supervisor Al Coulter	Env. Eng. Supervisor (P) Vacant	Env. Eng. Supervisor (P) Vacant	Env. Spec. Supervisor David Stutt	Attorney IV Jimmy Givens
Sr. Hydrologist (P) Vacant (Hyd II)	Env. Specialist II Sherri Altman	Sr. Env. Engineer Donald Barrett	Sr. Hydrologist Askari Zaidi	Sr. Env. Engineer Karen Dhrberg (Sr. Hyd)	Staff Attorney II Cheryl Blake
Sr. Hydrologist (P) Vacant (Hyd II)	Sr. Env. Specialist Jack Badgett	Sr. Env. Engineer Mike Hampton (EE I)	Env. Engineer I Ken Stover		
Sr. Hydrologist (P) Vacant (Hyd II)	Sr. Env. Specialist (P) Vacant (ES II)	Sr. Env. Engineer Trilok Dalaya	Sr. Env. Engineer Jack White (EE II)	Sr. Env. Specialist Chris Varga	Health Facilities Cons. Richard Mullins
Sr. Env. Specialist (P) Vacant (ES II)	Sr. Env. Specialist (P) Vacant (ES II)	Sr. Hydrologist Tom Kennan	Sr. Env. Specialist Gail Hamill (ES I)		
Sr. Env. Specialist (P) Vacant (ES II)	Sr. Env. Specialist (P) Vacant (ES II)	Hydrologist II David Koinm	Sr. Env. Specialist Vacant (ES II)	Sr. Env. Specialist Tammie Johnson(EH Cons)	
Sr. Env. Engineer Rita Buechter (EE I)	Accountant I (P) Ruth Malone (T.C.II) (T)	Hydrologist II Kent Wells	Env. Specialist II Ann Jayne		E. H. Consultant Vacant
Staff Epidemiologist (P) Jim Olsen (TC II) (T)	Secretary II Betty Swanson	Sr. Env. Specialist J. Brendan Murphy	Sr. Env. Specialist (P) Vacant (ES II)	Secretary II Cecelia Hennigh	
Accountant II Paul Manzelli	Word Proc. Oper. III (.4)(P) Vacant	Sr. Env. Engineer (P) Vacant (ESII)	Sr. Env. Specialist (P) Vacant (ES II)		
Typist Clerk III Kerri Hess (D.E. OP. II)	Word Proc. Operator II Vickie Wimer	Sr. Env. Specialist (P) Vacant (ES II)	Account Clerk III Julie Cox-Kain (50%) Chelley VanWinkle (50%)	Account Clerk III Mignon Callaway	E. H. Consultant Vacant
		Sr. Env. Specialist John Ice (EH Cons.)	Secretary I Mary V. Ramsey (TCIII)		
		Secretary II Eileen Hroch			