

US EPA ARCHIVE DOCUMENT

EPA-Approved
Oklahoma Regulatory & Statutory Requirements
Applicable to the
Hazardous Waste Management Program

September, 1993

**EPA APPROVED OKLAHOMA STATUTORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
September, 1993**

Oklahoma Controlled Industrial Waste Disposal Act, 63 O.S. 1991

Section	Page
1-2002	6070-6071
1-2006.1 [except 1-2006.1(A)]	6079
1-2008(B) through 1-2008(F)	6079-6080
1-2008(H)(2)	6080
1-2008(H)(3)	6080
1-2009	6081
1-2009.1 [except 1-2009.1(B)(2)]	6081
1-2010	6081-6082
1-2012.3	6083
1-2014(A)	6084
1-2014(B) [except the last sentence]	6084
1-2014(C)(2)	6084-6085
1-2014(D)	6085
1-2014(E)	6085
1-2014.2	6085

OKLAHOMA STATUTES

1991

COMPRISING ALL LAWS OF A GENERAL AND PERMANENT
NATURE INCLUDING LAWS AND AMENDMENTS PASSED
BY THE FIRST EXTRAORDINARY AND FIRST REGULAR
SESSIONS OF THE FORTY-THIRD LEGISLATURE, 1991

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**Prisons and Reformatories—Revenue
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~~investigated, the records shall not be released or otherwise disclosed to any other person or agency. These records shall be destroyed after one (1) year from the end of employment of the person to whom such records relate.~~

I. Any person releasing or disclosing any information received pursuant to this section without the authorization prescribed by this section shall be guilty of a misdemeanor.

J. As part of the inspections required by the Nursing Home Care Act,⁹ the Residential Care Act,¹⁰ and the Adult Day Care Act,¹¹ the State Department of Health shall review the employment files of any facility or home required to obtain criminal records to ensure such facilities or homes are in compliance with the provisions of this section. Laws 1990, c. 149, § 1, eff. Oct. 1, 1990; Laws 1991, c. 315, § 1, eff. Jan. 1, 1992.

¹ Section 567.1 et seq. of title 59.

² Section 887.1 et seq. of title 59.

³ Section 1250 et seq. of title 59.

⁴ Section 1601 et seq. of title 59.

⁵ Section 1721 et seq. of title 59.

⁶ Section 888.1 et seq. of title 59.

⁷ Section 60 et seq. of title 22.

⁸ Section 2-101 et seq. of this title.

⁹ Section 1-1901 et seq. of this title.

¹⁰ Section 1-819 et seq. of this title.

¹¹ Section 1-870 et seq. of this title.

§ 1-1950.2. Nontechnical medical care providers—Employment by department

Nothing contained in this act¹ shall be construed as creating an employer-employee relationship between the Department of Human Services and anyone contracting with the Department of Human Services as a nontechnical medical care provider. Laws 1991, c. 315, § 2, eff. Jan. 1, 1992.

¹ Section 1-1950.1 of this title.

§ 1-1950.3. Nurses aides—Employment of persons not licensed

A. No employer or contractor who is subject to the provisions of Section 1-1950.1 of this title or Section 2 of this act¹ shall use, on a full-time, temporary, per diem, or other basis, any individual who is not a licensed health professional as a nurses aide for more than four (4) months, unless such individual has satisfied all requirements for certification and placement on the nurse aide registry maintained by the Oklahoma State Department of Health.

B. With respect to individuals used as nurses aides who have not completed requirements for certification and placement on the nurse aide registry, the employer shall provide for a competency evaluation program approved by the Oklahoma State Department of Health and such training and preparation as may be necessary for the individual to complete such a program.

~~C. Any person convicted of violating any provision of this section or of Section 1-1950.1 shall be guilty of a misdemeanor, punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00) or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.~~

Laws 1991, c. 315, § 3, eff. Jan. 1, 1992.

¹ Section 1-1950.2 of this title.

ARTICLE 20. CONTROLLED INDUSTRIAL WASTE MANAGEMENT

§ 1-2001. Short title

This act shall be known and may be cited as the "Oklahoma Controlled Industrial Waste Disposal Act".

Laws 1976, c. 251, § 1. Renumbered from § 2751 by Laws 1981, c. 322, § 18, eff. July 1, 1981.

§ 1-2001.1. Controlled industrial waste—Regulation and control by this act

Controlled industrial waste shall be treated and regulated pursuant to the provisions of the "Oklahoma Controlled Industrial Waste Disposal Act"¹ and shall not be subject to the provisions of the "Oklahoma Solid Waste Management Act".² Laws 1990, c. 196, § 8, emerg. eff. May 10, 1990.

¹ Section 1-2001 et seq. of this title.

² Section 2251 et seq. of this title.

§ 1-2002. Definitions

As used in this act,¹ unless the context otherwise requires:

1. "Controlled industrial waste" is defined as waste materials and byproducts, either solid or liquid, which are to be discarded by the generator or recycled 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, sludges, tank bottoms containing heavy metallic ions, toxic organic chemicals, and materials such as paper, metal, cloth or wood which are contaminated with controlled industrial waste, and excludes domestic sewage;

2. "Disposal" means the final disposition of controlled industrial waste;

3. "Department" means the State Department of Health;

4. "Disposal site" means the location where any final disposition of controlled industrial waste occurs. Disposal sites include but are not limited to injection wells and surface disposal sites;

5. "Person" means any individual, corporation, industry, firm, partnership, association, venture, trust, institution, federal, state or local governmental instrumentality, agency or body or any other legal entity however organized;

6. "Treatment" means the detoxification, neutralization, incineration or biodegradation of controlled industrial waste in order to remove or reduce its harmful properties or characteristics;

7. "Treatment facility" means any location where treating or recycling of controlled industrial waste occurs;

8. "Recycling" means the reuse, processing, treating, neutralizing or rerefining of controlled industrial waste into a product which is being reused or which has been sold for beneficial use. Controlled industrial waste which is intended for fuel is not deemed to be recycled until it is actually burned;

9. "Storage facility" means any location where the temporary holding of controlled industrial waste occurs, including any tank, pit, lagoon, pond, or other specific place or area;

10. "Controlled industrial waste facility" as used herein shall mean and include storage and treatment facilities and disposal sites;

11. "Board" means the State Board of Health;

12. "Council" means the Controlled Industrial Waste Management Council;

13. "Site" or "proposed site" means the surface area of a disposal site, or other controlled industrial waste facility, as applied for in the application for a permit for the facility;

14. "On-site treatment, storage, recycling or disposal" means the treatment, storage, recycling or disposal at a controlled industrial waste facility of controlled industrial waste generated by the owner of the facility;

15. "Off-site treatment, storage, recycling or disposal" means the treatment, storage, recycling or disposal at a controlled industrial waste facility of controlled industrial waste not generated by the owner of the facility; and

16. "Multi-user on-site treatment facility" means a treatment facility for controlled industrial waste generated by the co-owners of the facility and which meets the criteria specified by Section 1-2008.1 of this title.

Laws 1976, c. 251, § 2; Laws 1978, c. 260, § 1, emerg. eff. May 10, 1978. Renumbered from § 2752 and amended by Laws 1981, c. 322, §§ 1, 18, eff. July 1, 1981. Laws 1987, c. 51, § 1, emerg. eff. April 29, 1987; Laws 1988, c. 54, § 1, eff. Nov. 1, 1988; Laws 1990, c. 296, § 1, operative July 1, 1990; Laws 1991, c. 173, § 1.

¹ Section 1-2001 et seq. of this title.

~~§ 1-2003. Division for regulation and management of controlled industrial waste~~

~~A division responsible for the regulation and management of controlled industrial waste shall be maintained within the State Department of Health. The division shall consist of a director, who shall be hired by the Commissioner of Health, and additional employees to be hired by the Commissioner as he deems are necessary and duly qualified to carry out the provisions of this act. As a prerequisite for employment as a director, the director shall have expertise and at least two (2) years' experience in waste management. The director and all employees of the division shall be subject to the Merit System of Personnel Administration.~~

~~Laws 1976, c. 251, § 3; Laws 1978, c. 260, § 2, emerg. eff. May 10, 1978. Renumbered from § 2753 and amended by Laws 1981, c. 322, §§ 2, 18, eff. July 1, 1981. Laws 1991, c. 173, § 2.~~

~~§ 1-2003.1. Controlled Industrial Waste Management Council~~

~~There is hereby created a Controlled Industrial Waste Management Council to represent the interests of the people of Oklahoma. The Council shall consist of nine (9) members to be appointed by the Governor and confirmed by the Senate. All members shall be knowledgeable of controlled industrial waste and of the environment; two members shall be from Oklahoma industries, two from established environmental organizations, and one each from the fields of agriculture, engineering, geology and controlled industrial waste management, respectively, and one member of the general public. The initial appointments shall be for progressive terms of one (1) through nine (9) years so that only one term expires each calendar year; subsequent appointments shall be for nine-year terms. Members shall continue to serve until their successors are appointed. The Governor shall fill any vacancy for the remainder of such term in the same manner as regular appointments. Five members shall constitute a quorum.~~

~~Said Council shall elect a chairman and a vice-chairman from among its members and establish its methods of procedure. The Council shall meet at least twice annually. Special meetings may be called by the chairman or by the concurrence of any three members. Members of the Council shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act.¹ The Council shall receive appropriations only for such reimbursement. The Council is authorized to utilize the conference rooms of the State Department of Health and obtain administrative assistance from the Director.~~

~~Laws 1981, c. 322, § 3, eff. July 1, 1981.~~

~~¹ Section 500.1 et seq. of title 74.~~

~~§ 1-2004. Duties of Department of Health~~

The Department shall have the following powers and duties:

1. Issue permits for the construction, operation and post-closure of controlled industrial waste facilities;
2. Provide the owner or operator of a controlled industrial waste facility a list of all materials which the Department deems acceptable for treatment, recycling, storage, and disposal at the facility;
3. Make periodic inspections of controlled industrial waste facilities and recycling, transporting, and generating facilities to determine the extent of compliance with the Department's rules and regulations and the Oklahoma Controlled Industrial Waste Disposal Act;¹
4. Develop, maintain, and monitor public records of the source and amount of controlled industrial waste 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 off-site for storage, recycling, treatment, or disposal;
6. Require and approve or disapprove disposal plans from all persons generating controlled industrial waste or shipping controlled industrial waste within, from, 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 by the persons generating or shipping controlled industrial waste and the Department shall be advised within five (5) working days of any changes in the disposal plans;
7. Require reports from all persons generating controlled industrial waste, indicating the amount generated, the treatment and disposal methods, and the treatment, disposal, and recycling sites used. Such reports are to be made on at least a quarterly basis;
8. Require periodic reports or manifest certifications regarding such programs and efforts to reduce the volume or quantity and toxicity of such controlled industrial waste as may be required by or pursuant to authority of the Oklahoma Controlled Industrial Waste Disposal Act;
9. Require reports from all operators of controlled industrial waste facilities who receive controlled industrial waste for treatment or storage or disposal, listing the amount, transporter, and generator of all controlled industrial waste received. Such reports are to be made on at least a monthly or quarterly basis, as designated by the Department;
10. Approve or disapprove methods of disposal of controlled industrial waste, and may prohibit certain specific disposal practices including, but not limited to, any type of land disposal of any form of such waste. Land disposal includes, but is not limited to, landfills, surface impoundments, waste piles, deep injection wells, land treatment facilities, salt dome and bed formations and underground mines or caves;
11. Inform persons generating controlled industrial waste of available, alternative methods of disposal of such waste and assist the persons in developing satisfactory disposal plans;
12. Develop a system to provide information on recyclable wastes to potential users of such materials. Such information shall not include any information which the Department deems confidential or private in nature;
13. Cooperate and share information with the U.S. Environmental Protection Agency;
14. Prepare an emergency response plan for spills of controlled industrial waste and for spills of hazardous materials;
15. Make information obtained by the Department regarding controlled industrial waste facilities and sites available to the public in substantially the same manner, and to the same degree, as would be the case if the controlled industrial waste program in this state were being carried out by the U.S. Environmental Protection Agency;
16. With respect to any existing surface impoundment or landfill or class of surface impoundments or landfills from which the Department determines controlled industrial waste may migrate into groundwater, impose such requirements, including double liners and leachate detection and collection systems, as may be necessary to protect human health and the environment;
17. Prohibit or restrict the use of any specific disposal methods or practices for specific controlled industrial waste material, substances or classes, as may be necessary to protect human health and the environment;
18. Identify areas within the state which are unsuitable for specific controlled industrial waste disposal methods, and deny permits for such disposal methods in such areas;
19. Issue a one-year research development and demonstration permit for any treatment facility which proposes an innovative and experimental controlled industrial waste treatment technology or process not yet regulated. Permits may be renewed no more than three times. No renewal may exceed one (1) year;
20. Waive or modify general permit application and issuance requirements for research and devel-

6073
O.S. 1991

PUBLIC HEALTH AND SAFETY

63 § 1-2004.2

~~opment permits, except for financial responsibility and public participation requirements;~~

21. Terminate experimental activity if necessary to protect human health and the environment;

22. Require oil recycling facilities using controlled industrial waste to have a controlled industrial waste facility permit;

23. Issue permits containing any conditions necessary to protect human health and the environment;

24. Issue permits for the storage of controlled industrial waste in underground tanks;

25. Require groundwater monitoring for any landfill, surface impoundment, land treatment site or pile;

26. Determine and enforce penalties for violations of the Oklahoma Controlled Industrial Waste Disposal Act;

27. Evaluate the benefit of rules and regulations governing labeling practices for any containers used for the disposal, storage, or transportation of controlled industrial waste which accurately identify such waste, and govern the use of appropriate containers for such waste not otherwise regulated by the federal government. A report containing the evaluation of the benefit for rules and regulations governing such labeling practices shall be submitted by April 30, 1987, to the Speaker of the House of Representatives and the President Pro Tempore of the Senate;

28. Monitor research and development regarding methods of the handling, storage, use, processing, and disposal of controlled industrial waste;

29. Cooperate with existing technical reference centers on controlled industrial waste disposal, recycling practices, and related information for public and private use;

30. Monitor research in the technical and managerial aspects of management and use of controlled industrial waste and recycling and recovery of resources from controlled industrial wastes;

31. Determine existing rates of production of controlled industrial waste;

32. Promote recycling and recovery of resources from controlled industrial wastes;

33. Encourage the reduction or exchange, or both, of controlled industrial waste; and

34. Cooperate with an existing information clearinghouse, to develop records of recyclable waste. Every generator of controlled industrial waste shall supply the department with information for the clearinghouse. Each generator shall not be required to supply any more information than is required by the manifests. The Department shall make this information available to persons who desire to recycle the wastes. The information shall

~~be made available in such a way that the trade secrets of the producer are protected.~~

Laws 1976, c. 251, § 4; Laws 1978, c. 260, § 3, emerg. eff. May 10, 1978. Renumbered from § 2754 and amended by Laws 1981, c. 322, §§ 4, 18, eff. July 1, 1981. Laws 1986, c. 180, § 1, emerg. eff. May 15, 1986; Laws 1990, c. 296, § 2, operative July 1, 1990; Laws 1991, c. 173, § 3.

¹ Section 1-2001 et seq. of this title.

§ 1-2004.1. Rules and regulations—Hearings—Consultation and advice

The Council, with at least five members concurring, shall submit recommended rules and regulations to the Board concerning the listing and characterization of controlled industrial waste, the construction and operation of controlled industrial waste facilities, specific disposal practices for specified wastes, the transportation and storage of controlled industrial waste, and the recycling, storage and transportation of recyclable materials. The Council shall, upon the request of the Department or upon their own initiative, conduct rulemaking hearings. The Council shall consult with and advise the Department on matters relating to controlled industrial waste management.

Laws 1981, c. 322, § 5, eff. July 1, 1981.

Health and Environment ⇐25.5(5), (9).

§ 1-2004.2. Rules and regulations

In addition to other powers and duties specified by law, the Board shall adopt rules and regulations to:

1. Prohibit the placement of any liquid which is not a controlled industrial waste in a landfill for which a permit is required or which is operating under interim status authorized pursuant to Section 1-2009.1 of Title 63 of the Oklahoma Statutes;

2. Prohibit or restrict the storage of controlled industrial waste for which land disposal is prohibited, except to the extent that such storage is solely for the purpose of accumulation of such quantities of controlled industrial wastes as are necessary to facilitate proper recovery, treatment, or disposal;

3. Prohibit or restrict the use of waste or used oil or other material used for dust suppression or road treatment, which is contaminated or mixed with dioxin or any other waste identified or listed by rules and regulations of the Board as a controlled industrial waste except a waste identified solely on the basis of ignitability;

4. Require such monitoring and control of air emissions at controlled industrial waste treatment, storage, and disposal facilities, including but not limited to open tanks, surface impoundments, and landfills, as may be necessary to protect human health and the environment;

5. Regulate the production, burning, distribution, and marketing of fuel containing controlled industrial waste or used oil as may be necessary to protect human health and the environment includ

ing, but not limited to, labeling and recordkeeping requirements;

6. Control the listed or identified controlled industrial wastes which discharge through a sewer system to a publicly owned treatment works for the protection of human health and the environment;

7. Provide in accordance with Sections 3005(c) and 3005(e) of the Resource Conservation and Recovery Act¹ for the automatic termination of interim status for controlled industrial waste units failing to comply with applicable requirements for the submission of part B permit applications and certification of groundwater monitoring and financial responsibility compliance;

8. Require from applicants for and owners and operators of controlled industrial waste facilities evidence of financial responsibility for corrective action as may be required or ordered under the authority of the Oklahoma Controlled Industrial Waste Disposal Act;²

9. Require that generators of controlled industrial waste establish and implement programs to reduce the volume or quantity and toxicity of such waste to the extent economically practicable; and

10. Specify levels or methods of treatment which substantially diminish the toxicity of the waste or likelihood of its migration so as to minimize threats to human health and the environment.

Laws 1986, c. 180, § 2, emerg. eff. May 15, 1986; Laws 1988, c. 42, § 1, emerg. eff. March 21, 1988; Laws 1990, c. 196, § 3, emerg. eff. May 10, 1990.

¹ 42 U.S.C.A. § 6925.

² Section 1-2001 et seq. of this title.

§ 1-2005. Rules, regulations and minimum standards

A. The Department shall prepare rules, regulations and minimum standards for the listing and characterization of controlled industrial waste, for the treatment, disposal, transportation, storage and recycling of controlled industrial waste and recyclable materials in Oklahoma with the exception of the following:

1. The controlled industrial waste component of mixed controlled industrial waste and radioactive waste shall be regulated as controlled industrial waste. The radioactive waste component shall be regulated as radioactive waste. Both the controlled industrial waste requirements and the radioactive waste requirements shall apply if physical separation of the two components is not accomplished;

2. The Corporation Commission of Oklahoma is hereby vested with exclusive jurisdiction, power and authority, and it shall be its duty to make and enforce such rules, regulations and orders governing and regulating the handling, hauling, storage and disposition of salt water, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling,

development, producing and processing of oil and gas, including reclaiming of oil from tank bottoms located on leases and tank farms located outside the boundaries of a refinery.

The Corporation Commission shall promulgate such rules and regulations as are reasonable and necessary for the purpose of preventing the pollution of the surface and subsurface waters in the state. The Oklahoma Corporation Commission shall, in no instance, issue a grant of operating authority to transport salt water or deleterious substances to any applicant for such authority who cannot furnish written proof of access to a disposal well or wells within reasonable hauling distance of the territory proposed to be served. Said written proof of access shall be provided by the owner of the disposal well and said disposal well must first be approved by the Corporation Commission as adequate to meet the need for proper disposal of all salt water and deleterious substances which the applicant may reasonably be expected to transport as a common carrier. Provided that nothing herein shall be construed as prohibiting the disposition of salt water in a disposal well that is owned by a person other than the licensee.

Provided further, on or before December 31, 1982, existing carriers holding such operating authority shall furnish written proof of access to an approved disposal well within reasonable hauling distance. Failure to comply may, at the discretion of the Commission, result in suspension of carrier's operating authority.

The proven violation of Oklahoma Corporation Commission salt water and deleterious substance disposal rules and regulations by a carrier in any calendar year shall, in the first instance, result in a carrier being warned by the Commission and fined up to Two Thousand Five Hundred Dollars (\$2,500.00). A second proven violation in any calendar year shall result in a carrier being placed on probation and fined up to Five Thousand Dollars (\$5,000.00) by the Commission. A third proven violation in any calendar year shall result in a fine of up to Ten Thousand Dollars (\$10,000.00), and at the discretion of the Commission, suspension of the carrier's operating authority for a period of up to thirty (30) days. The driver of a truck, who is not the owner of the vehicle used in violation of this section or any of the rules and regulations of the Corporation Commission, shall be adjudicated a co-defendant and subject to a fine equal to ten percent (10%) of the fine assessed to the owner of such vehicle, up to Five Hundred Dollars (\$500.00);

3. The State Department of Agriculture is hereby vested with the exclusive jurisdiction, power and authority to make and enforce such rules, regulations and orders concerning those materials excluded by the U.S. Environmental Protection Agency

075
O.S. 1991

~~pursuant to the small farmer exclusion, as it exists or may be amended; and~~

4. Rules and regulations pertaining to standards for the transportation of controlled industrial waste and recyclable materials shall not be more stringent than those of the U.S. Department of Transportation.

B. Before recommending such rules, regulations and standards, as set out in subsection A of this section, the Department shall consult with interested state and local governmental bodies and with federal regulatory agencies. At least one public hearing shall be held on the proposed rules, regulations and standards.

C. The present rules and regulations of the State Department of Health and the Oklahoma Water Resources Board shall remain effective until the adoption of new rules and regulations by the State Board of Health. Insofar as permitted by law, the rules and regulations promulgated by the Board shall be in reasonable accord with the hazardous waste regulations of the U.S. Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act.¹ Such rules and regulations may incorporate by reference the hazardous waste regulations of the U.S. Environmental Protection Agency.

D. The provisions of this act shall be cumulative to the minimum requirements established by the Administrative Procedures Act.²

Laws 1976, c. 251, § 6; Laws 1978, c. 260, § 5, emerg. eff. May 10, 1978. Renumbered from § 2756 and amended by Laws 1981, c. 322, §§ 6, 18, eff. July 1, 1981. Laws 1982, c. 248, § 1; Laws 1990, c. 196, § 4, emerg. eff. May 10, 1990.

¹42 U.S.C.A. § 6901 et seq.

²Sections 250 et seq., 301 et seq. of title 75.

§ 1-2005.1. Permit issuance—Notice

Upon issuance of any such permit the Division shall file a recordable notice of the permit in the land records of the county in which the site is located. The notice shall contain the legal description of the site as well as the terms under which the permit is issued.

Laws 1976, c. 251, § 5; Laws 1978, c. 260, § 4, emerg. eff. May 10, 1978. Renumbered from § 2755 by Laws 1982, c. 202, § 9.

§ 1-2005.2. Permit fees

A. The State Board of Health may establish a system of fees to be charged for applications to issue and renew permits for controlled industrial waste facilities and for such environmental health services as are involved in the regulation of controlled industrial waste. Such fees shall be subject to the following limitations.

1. Except as provided in subsection C of this section, no schedule of fees shall be established or amended by the Board except during such times as

⁴Oklahoma Statutes '91—22

~~the Legislature is in session. The Board shall follow the procedures required by Sections 301 through 325 of Title 75 of the Oklahoma Statutes for adoption of rules and regulations in establishing or amending any such schedule of fees; and~~

2. The Board shall charge fees only within the following ranges:

For generator disposal plan: \$100.00 to \$10,000.00 per year

For transporter trailer registration: \$20.00 per trailer per year

For permit application: \$5,000.00 to \$50,000.00

For application resubmittal: \$100.00 to \$1,000.00

For monitoring: \$100.00 to \$10,000.00 per year

B. The Board shall base its schedule of permit fees upon the reasonable costs of review and inspection services for each permit, and its schedule of monitoring fees upon the reasonable costs of travel and inspection, based upon the various categories of facilities as the Board shall determine. The Board shall, by rule and regulation, establish a system whereby an applicant for a permit for a facility in place on January 1, 1986, may pay a prorated application fee over the life of the permit, if the Department determines such fees would create financial hardship on the applicant so that continued operation by the applicant would be jeopardized.

C. The Board shall develop a separate schedule of reduced fees of not less than Twenty-five Dollars (\$25.00) for small quantity generators. The State Board of Health shall prior to January 1, 1987, promulgate a separate schedule of reduced fees for such small quantity generators. Thereafter, such schedule shall be amended pursuant to subsection A of this section.

D. Fees charged pursuant to this section shall be paid into the Public Health Special Fund, created in Section 1-107 of Title 63 of the Oklahoma Statutes, and shall be used by the Department in administering the Controlled Industrial Waste Disposal Act.¹

Laws 1985, c. 113, § 1, emerg. eff. May 30, 1985; Laws 1986, c. 229, § 1, emerg. eff. June 10, 1986.

¹Section 1-2001 et seq. of this title.

§ 1-2005.3. Construction permit application—Review of county road classification plans—Requirements for issuance of permit—Notice of proposed site and review—Court review

A. Regarding a construction permit application for a controlled industrial waste facility, the board of county commissioners of the county in which the waste facility is located and the board of county commissioners of any county contiguous to the waste facility whose roads and bridges are to be used to provide access to the proposed waste facility shall review the county road classification plans as described in Section 654 of Title 69 of the Oklahoma

~~Statutes and substantiate whether the county roads and bridges to be used to and from such controlled industrial waste facility in their respective counties may be used without any substantial detriment to said roads and bridges as provided in Section 14-113 of Title 47 of the Oklahoma Statutes. If any of said board of county commissioners finds that substantial detriment to the roads and bridges in their respective counties would occur, said board shall determine reasonable measures necessary to upgrade the roads and bridges and allow the applicant for a controlled industrial waste facility to upgrade or pay for the upgrading of said roads and bridges if the applicant receives a construction permit.~~

B. The Department shall not issue a construction permit for any new controlled industrial waste facility unless:

1. Each board of county commissioners, as appropriate pursuant to subsection A of this section, has substantiated by resolution that the county roads and bridges as they exist can be used without any substantial detriment to said roads and bridges as provided by the restrictions imposed by Section 14-113 of Title 47 of the Oklahoma Statutes; or

2. The applicant has agreed to upgrade or pay for the upgrading of the roads and bridges to the reasonable measures determined by the appropriate board of county commissioners or to the design standards established by the Oklahoma Department of Transportation for industrial access roads.

An operation permit shall not be granted by the Department to the applicant until the necessary upgrades to the roads and bridges have been made.

C. The Department shall notify the applicable boards of county commissioners by certified mail, return receipt requested, of the proposed waste disposal site. Said boards of county commissioners shall have forty-five (45) days from receipt of such notice to review the county road classification plan and respond to the Department. The finding of each of said board of county commissioners shall be sent to the Department by certified mail, return receipt requested. Failure to respond within the required time limitation established pursuant to this subsection shall constitute a finding that the roads and bridges can be used without substantial detriment and preclude the board of county commissioners failing to respond from raising the suitability of use of roads and bridges of the county as set out in subsections A and B of this section at a later date.

D. Any applicant for a construction permit or operation permit aggrieved by the action of the board of county commissioners pursuant to this section shall have the right of review by trial de novo to the district court of the county wherein the board of county commissioners took such action.

E. In addition to any construction permit application submitted to the Department subsequent to

~~the effective date of this act, the provisions of this section shall also apply to any construction permit application submitted to the Department prior to the effective date of this act for which a permit has not been issued.~~

Laws 1985, c. 113, § 5, emerg. eff. May 30, 1985.

§ 1-2005.3A. Annual fee—Exemptions

A. Every controlled industrial waste treatment facility, storage facility, underground injection facility, disposal facility, or off-site facility that recycles controlled industrial waste subject to the provisions of the Oklahoma Controlled Industrial Waste Disposal Act¹ shall pay an annual fee on the amount of controlled industrial waste managed to the Department of Health for deposit in the Public Health Special Fund.

1. Such fees shall be, subject to the qualifications provided in subparagraph 2 of this subsection:

- a. Six Dollars and fifty cents (\$6.50) per ton for the on-site or off-site storage, treatment or land disposal of controlled industrial waste.
- b. Four Dollars (\$4.00) per ton for the off-site recycling of controlled industrial waste.
- c. Three cents (\$0.03) per gallon for the on-site or off-site underground injection of controlled industrial waste.

2. There shall be a minimum fee per facility as follows:

- a. Any person owning, or operating, an off-site controlled industrial waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year.
- b. Any person owning, or operating, an on-site controlled industrial waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Twenty Thousand Dollars (\$20,000.00) each state fiscal year.
- c. Any person owning, or operating, an off-site facility for the recycling of controlled industrial waste shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year.

3. The minimum fees provided for in paragraph 2 of this subsection shall not apply to treatment facilities accepting controlled industrial waste exclusively for the purpose of conducting treatment research and design tests.

4. Facilities are hereby authorized to charge the person contracting for the services of the facility their proportional share of the fees required by the provisions of this section.

1991

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

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

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

1. Those facilities engaged only in the on-site recycling of controlled industrial waste; and
2. Those facilities which have not generated or received new controlled industrial waste within the preceding state fiscal year.

C. Payment of the fees required by this section shall be due quarterly for controlled industrial waste received by the facility during the prior quarter. Such quarterly payments shall be due on the first day of the month of the following quarter during the state fiscal year in which the controlled industrial waste is received. All payments shall be made within thirty (30) days from the date it becomes due.

D. The fees provided for in this section shall be paid in lieu of the monitoring fees imposed in paragraph 2 of subsection A of Section 1-2005.2 of this title. All facilities subject to the provisions of this section shall not be required to pay or collect any additional fees for waste disposal unless specifically provided for in the Oklahoma Controlled Industrial Waste Disposal Act.

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

1. Ten percent (10%) of the fees collected pursuant to the provisions of this section shall be deposited to the credit of the Special Economic Development Trust Funds established pursuant to Section 6 of this act.² The funds for the Trusts accruing pursuant to the provisions of this section shall be distributed to each Trust established in proportion to the fees generated by the controlled industrial waste facilities within the Trust area.

2. The State Commissioner of Health shall expend monies received pursuant to the provisions of this section for one or more of the following purposes:

- a. The administration of the provisions of the Oklahoma Controlled Industrial Waste Disposal Act,
- b. The development of an inventory of controlled industrial wastes currently produced in Oklahoma and management needs for the identified wastes,
- c. The implementation of information exchange, technical assistance, public information, and educational programs,
- d. The development and encouragement of waste reduction plans for Oklahoma waste generators, or
- e. Increased inspection of controlled industrial waste facilities which may include full time inspectors at off-site controlled industrial waste facilities.

F. To the extent that fees received pursuant to this section shall exceed the purposes specified in subsection E of this section, the Commissioner may only expend such funds for one or more of the following purposes:

1. Contributions required from the state pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act³ for remediation or related action upon a site within the state;
2. Response (including containment and removal) to the emergency situations involving spillage, leakage, emissions or other discharge of controlled industrial waste or controlled industrial waste constituents to the environment where a responsible party cannot be timely identified or found or compelled to take appropriate emergency action to adequately protect human health and the environment;
3. State-funded remediation of sites contaminated by controlled industrial waste or controlled industrial waste constituents so as to present a threat to human health or the environment, to the extent that a responsible party cannot be timely identified or found or compelled to take such action, or is unable to take such action;
4. Costs incurred in pursuing an enforcement action to compel a responsible party to undertake appropriate response or remedial actions, or to recover from a responsible party monies expended by the state, as described in paragraphs 1 through 3 of this subsection; or
5. Financial assistance to municipalities or counties for the purposes and under the conditions specified in Section 1-2019 of this title.

Laws 1990, c. 196, § 9, operative July 2, 1990; Laws 1991, c. 173, § 4.

¹ Section 1-2001 et seq. of this title.

² Section 1-2005.3C of this title.

³ 42 U.S.C.A. § 9601 et seq.

~~§ 1-2005.3B. Fee for disposal of liquid waste other than controlled industrial waste in underground injection well~~

Any person subject to regulation under this title disposing of liquid waste other than controlled industrial waste in an underground injection well shall pay a fee of one-tenth of one cent (\$0.001) per gallon for such disposal, not to exceed Fifty Thousand Dollars (\$50,000.00) per year. Said fee shall be paid to the Department on a quarterly basis within one month following the close of each quarter for the waste disposed in that preceding quarter. Said fees shall be deposited into the Public Health Special Fund.

Laws 1991, c. 173, § 5.

§ 1-2005.3C. Special Economic Development Trust Funds

A. The county commissioners of the counties which are within a ten-mile radius of a controlled industrial waste facility which is subject to the provisions of Section 1-2005.3A of Title 63 of the Oklahoma Statutes may establish a Special Economic Development Trust Fund for that area.

B. The trust fund shall be used to market advantages of industrial development and to promote industrial development within the trust area. Such uses shall allow the authority to acquire assets, develop property, and to contract with local municipalities or economic development trusts or authorities to promote economic development in the area.

C. The trust fund shall consist of:

1. All monies received pursuant to Section 1-2005.3A of Title 63 of the Oklahoma Statutes;

2. All income from the investment of monies held in the trust fund;

3. Interest resulting from the deposit of such monies; and

4. Any other sums designated for deposit to the fund from any source, public or private.

D. Any trust established pursuant to the provisions of this section shall be governed by the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes.

E. 1. Such Trust shall be governed by a Board of Trustees of not less than six (6) nor more than ten (10) members. Each county within the Trust area shall be represented equally on the Board of Trustees.

2. Each Trustee shall be appointed by a majority vote of the county commissioners of the county that the Trustee represents. A Trustee may be removed prior to the expiration of the term of office by a majority vote of the county commissioners of the county that the Trustee represents. In the event there are two or more Trustees from each county, the initial appointments shall be made so that the

terms are staggered. After the initial appointment, each Trustee shall serve a term of two (2) years and may be reappointed.

3. The Trustees shall receive no compensation for service on the Board of Trustees, but may be reimbursed for actual and necessary expenses incurred in the performance of their duties as a Trustee in accordance with the State Travel Reimbursement Act.¹

4. Any action of the Board of Trustees must be approved by a two-thirds (2/3) vote of the total authorized membership of the Board.

5. The Trustees shall have authority to exercise such powers as are necessary to perform the duties and functions imposed by the provisions of this section.

F. The Board of Trustees shall meet not less than twice each calendar year. At the first meeting in a new calendar year the members shall elect a chairman, a vice chairman, a secretary, and a treasurer.

Laws 1991, c. 173, § 6; Laws 1991, c. 336, § 1, eff. July 1, 1991.

¹ Section 500.1 et seq. of title 74.

§ 1-2005.4. Transfer of funds from Public Health Special Fund to Controlled Industrial Waste Fund

Fees paid into the Public Health Special Fund pursuant to Section 1-2005.2 of Title 63 of the Oklahoma Statutes may be transferred to the Controlled Industrial Waste Fund, created in Section 1-2018 of Title 63 of the Oklahoma Statutes. Such transferred funds may be used in implementing the Controlled Industrial Waste Fund Act.¹

Laws 1986, c. 180, § 3, emerg. eff. May 15, 1986.

¹ Section 1-2001 et seq. of this title.

§ 1-2006. Definitions—Permits—Hearing—Notice—Review

A. For the purposes of this section:

1. "Affected property owners" means all real property owners within one (1) mile of the outer perimeter of the proposed site; and

2. "Qualified interest group" means any organization with twenty-five or more members who must be legal residents of the State of Oklahoma, that expresses an interest in the outcome of the construction permit application.

B. The Department shall issue permits for the construction and for the operation of controlled industrial waste facilities. A construction permit shall be issued only upon proper application, hearing, if requested, and determination by the Department that the proposed site and facility are physically and technically suitable. Upon submission of an application for a construction permit, which shall be a public record, the applicant shall notify affected property owners.

79

§ 1991

C. In addition to the notice required by subsection B of this section, and prior to issuing any construction or operation permit, the Department shall require the applicant to give notice, by newspapers and radio stations local to the controlled industrial waste facility proposed for a permit, of opportunity to oppose the granting of such permit by requesting an informal public meeting. If within forty-five (45) days of such notice, the Department receives from any person residing or doing business in Oklahoma, written notice of opposition and request for informal public meeting, it shall hold the same and allow opportunity for presentation of written and oral views. Whenever possible, the Department shall hold such informal public meetings at a location convenient to the population center nearest the proposed site, and prior to any related hearing pursuant to subsection B of this section.

D. If any of the affected property owners or qualified interest groups request a public hearing, such hearing shall be held before a construction permit is issued. All affected property owners and qualified interest groups who request a hearing shall be joined at the hearing. At any requested hearing, the Department shall hear testimony and accept evidence pertaining only to the physical and technical suitability of the proposed controlled industrial waste facility.

E. Upon a finding that a proposed controlled industrial waste facility is not physically or technically suitable, the Department shall deny the construction permit.

F. The Department may, upon determining that public health or safety requires emergency action, issue a temporary permit for treatment or storage of controlled industrial waste or recyclable material for a period not to exceed ninety (90) days without the prior notices and opportunity for public meeting and without the hearing required by this section. Any person aggrieved by such permit may seek judicial review pursuant to the Administrative Procedures Act.¹

¹Laws 1976, c. 251, § 7; Laws 1978, c. 260, § 6, emerg. eff. May 10, 1978; Laws 1979, c. 137, § 1. Renumbered from § 2757 and amended by Laws 1981, c. 322, §§ 7, 18, eff. July 1, 1981.

¹Section 201 et seq. of Title 75.

§ 1-2006.1. Liquid controlled industrial waste—Certain disposal prohibited—Exceptions

A. ~~The Department shall not issue a construction permit for the treatment, disposal or temporary storage of any liquid controlled industrial waste in a surface impoundment which is not generated by the owners of the surface impoundment.~~

B. Except as otherwise specifically provided by law, the disposal of any liquid controlled industrial waste in a landfill or in a surface impoundment is prohibited.

C. The provisions of this section shall not prohibit:

1. The practice of soil farming of controlled industrial waste authorized by the provisions of Section 1-2014 of Title 63 of the Oklahoma Statutes;

2. The construction and operation of surface impoundments solely for the collection of rainfall runoff; or

3. The construction of impoundments solely for the emergency retention of spills of substances which are or may become controlled industrial waste;

provided all liquids and associated solids are removed for proper treatment or disposal in accordance with the rules and regulations promulgated by the Board pursuant to the Oklahoma Controlled Industrial Waste Disposal Act.¹

¹Laws 1986, c. 180, § 4, emerg. eff. May 15, 1986.

¹Section 1-2001 et seq. of this title.

~~**§ 1-2007. Criteria for controlled industrial waste facility**~~

The Department shall prepare for adoption by the Board definite criteria, including testing methods and minimum or maximum standards, before construction of a controlled industrial waste facility shall proceed. The design, testing and construction of a controlled industrial waste facility shall be conducted under the supervision of a professional engineer, registered in Oklahoma, with training and experience in suitable disciplines.

~~Laws 1976, c. 251, § 8; Laws 1978, c. 260, § 7, emerg. eff. May 10, 1978. Renumbered from § 2758 and amended by Laws 1981, c. 322, §§ 8, 18, eff. July 1, 1981.~~

§ 1-2008. Permits—Application—Liability insurance—Bond—Financial responsibility—Operation of facility—Insolvency—Liability of guarantors

~~A. The Department shall issue permits for the operation of controlled industrial waste facilities. No operation permit shall be issued except upon proper application, proof of sufficient liability insurance and financial responsibility, informal public meeting, if requested, and such other requirements as hereinafter provided.~~

B. Liability insurance shall be provided by the applicant and shall apply to sudden and nonsudden bodily injury or property damage on, below or above the surface, as required by the rules and regulations of the Board. Additional insurance shall be required as deemed necessary by the Department to protect the property rights of owners or leaseholders of underground resources such as oil, gas, water or other mineral substances. Such insurance shall be maintained for the period of operation of the facility and shall provide coverage for damages resulting from operation of the facility during operation and after closing. In lieu of liability insurance

required by this or any other section of this act, an equivalent amount of cash, securities or alternate financial assurance of a type and in an amount acceptable to the Department, may be substituted; provided, that such deposit shall be maintained for a period of five (5) years after the date of last operation of the facility.

C. Prior to the issuance of any permit, the applicant shall post a bond or acceptable alternate financial assurance guaranteeing proper closure and guaranteeing the performance of the maintenance and monitoring functions set out in Section 1-2009 of this title.

D. The Department shall require additional insurance and security by the permittee upon an application for expansion of the facility. Such increase in insurance and security shall be in a sufficient amount to provide adequate coverage for damages resulting from such expansion during operation of the facility and after closing.

E. Prior to the issuance of any permit, the applicant shall, upon request of the Department, produce evidence of the applicant's financial status indicating that the applicant is financially able to operate and maintain a controlled industrial waste facility as required by this act. If the applicant is not financially able to operate and maintain a controlled industrial waste facility, as required by this act,¹ a permit shall be denied.

F. The operation of a controlled industrial waste facility shall be under the supervision of a person meeting qualifications set by the Board appropriate to the type of facility.

~~C. The Department is authorized and shall require the construction of monitoring wells, pond liners, fencing, signs or other equipment deemed necessary by the Department to ensure the suitable operation of the facility.~~

H. 1. In any case where the owner or operator of a controlled industrial waste facility is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code² or if jurisdiction in any state court or any federal court cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct of which evidence of financial responsibility is required pursuant to the Oklahoma Controlled Industrial Waste Disposal Act³ may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action taken pursuant to this section, such guarantor shall be entitled to claim all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if any action had been brought against the guarantor by the owner or operator.

2. The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator pursuant to the Oklahoma Controlled Industrial Waste Disposal Act. Nothing in this subsection shall be construed to limit any other state or federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980⁴ or other applicable law.

3. As used in this section, the term "guarantor" means any person other than the owner or operator, who provides evidence of financial responsibility for an owner or operator pursuant to the Oklahoma Controlled Industrial Waste Disposal Act. Laws 1976, c. 251, § 9; Laws 1978, c. 260, § 8, emerg. eff. May 10, 1978. Renumbered from § 2759 and amended by Laws 1981, c. 322, §§ 9, 18, eff. July 1, 1981. Laws 1986, c. 140, § 1, emerg. eff. April 21, 1986; Laws 1990, c. 196, § 5, emerg. eff. May 10, 1990.

¹ Section 1-2001 et seq. of this title.

² 11 U.S.C.A. § 101 et seq.

³ Section 1-2001 et seq. of this title.

⁴ 42 U.S.C.A. § 9601.

~~§ 1-2008.1. Multi user on site treatment facilities—Permits—Suitability factors~~

A. Two or more persons generating controlled industrial waste may enter into a compact to construct and operate a multi-user on-site treatment facility for the exclusive use of the members of such compact. Such facility shall not be used as a controlled industrial waste facility for off-site treatment storage or disposal of controlled industrial waste.

B. To be eligible for a permit issued pursuant to the provisions of this section and the Oklahoma Controlled Industrial Waste Disposal Act,¹ a multi-user on-site treatment facility shall meet the following criteria:

1. The facility may be co-owned by the generators of controlled industrial waste who are members of the compact;

2. Each member of the compact shall be identified in the application and permit. In addition, the individual controlled industrial waste generated by each member shall be separately and distinctly characterized in the application and in the permit and shall meet the compatibility requirements established by the Department;

3. The facilities generating controlled industrial waste which is to be treated at the multi-user on-site treatment facility shall be located within the same county as the multi-user on-site treatment facility.

~~4. The multi-user on-site treatment facility shall be located upon the property of one of the compact members;~~

5. Financial responsibility requirements shall be the responsibility of the compact members and shall be prorated according to the relative amount of controlled industrial waste of a generator to be treated at the facility; and

6. The Department may require such other criteria and information in order to determine if the multi-user on-site treatment facility is physically and technically suitable for the controlled industrial waste to be treated at the facility.

C. A multi-user on-site treatment facility located within an industrial park which treats, stores or disposes of wastes that are produced only by the industries located within that industrial park may be owned or operated by persons other than the generators of the waste.

D. Upon compliance with the provisions of the Oklahoma Controlled Industrial Waste Disposal Act, this section and any rules promulgated pursuant thereto, the Department shall issue permits for the construction and operation of a multi-user on-site treatment facility.

E. The board of county commissioners of the county in which such multi-user on-site treatment facility is located shall review all transportation routes from the facilities generating controlled industrial waste which are operated by members of the compact to the multi-user on-site treatment facility pursuant to the provisions of Section 1-2005.3 of Title 63 of the Oklahoma Statutes.

Laws 1988, c. 54, § 2, eff. Nov. 1, 1988; Laws 1991, c. 173, § 7.

~~1 Section 1-2001 et seq. of this title.~~

§ 1-2009. Monitoring of closed facility

After a controlled industrial waste facility has been closed, its owner or operator shall properly maintain and monitor the controlled industrial waste facility for a period of time required by rules and regulations of the State Board of Health and shall make such repairs or improvements as deemed necessary by the Department to ensure that no migration of controlled industrial waste material will occur from the controlled industrial waste facility. The rules and regulations of the Board which specify the period of time for maintenance and monitoring of closed facilities shall be in compliance with the hazardous waste rules and regulations of the U.S. Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act.¹

Laws 1976, c. 251, § 10; Laws 1978, c. 260, § 9, emerg. eff. May 10, 1978. Renumbered from § 2760 and amended by Laws 1981, c. 322, §§ 11, 18, eff. July 1, 1981. Laws 1985, c. 113, § 2, emerg. eff. May 30, 1985.

¹ 42 U.S.C.A. § 6901 et seq.

§ 1-2009.1. Storage, treatment or disposal of controlled industrial waste without permit—Operation of facilities not required to be permitted

A. Except as otherwise provided by subsection B of this section or any rules of the State Board of Health with respect to short-term storage, no person shall store, treat or dispose of controlled industrial waste materials or commence construction of or own or operate any premises or facility engaged in the operation of storing, treating or disposing of controlled industrial waste or storing recyclable materials, who does not possess a valid and appropriate controlled industrial waste facility permit.

B. 1. Any person who owned or operated a controlled industrial waste facility which was operating or under construction on November 19, 1980, and who has submitted notice and permit application to the U.S. Environmental Protection Agency or to the Department, and whose facility complies with the rules of the Board, may continue operation until such time as the permit application is determined.

~~2. The State Board of Health may by rule provide for continued operation on an interim basis pending permit determination of a facility in existence on the effective date of any statutory or regulatory amendments that would subject the facility to a permit requirement pursuant to the Oklahoma Controlled Industrial Waste Disposal Act.¹~~

3. The provisions for the allowance of continued operation on an interim basis under paragraphs 1 and 2 of this subsection shall not apply in the case of a facility for which a permit under this act has been previously denied or for which authority to operate has been terminated.

C. Facilities engaged in recycling which are not required to be permitted pursuant to the provisions of Section 1-2014.2 of this title shall operate in an environmentally acceptable manner and in accordance with the rules and regulations regarding the manifest, transportation and treatment, storage and disposal standards, and generators in the event a controlled industrial waste is generated therefrom. Laws 1981, c. 322, § 10, eff. July 1, 1981; Laws 1990, c. 196, § 6, emerg. eff. May 10, 1990; Laws 1990, c. 296, § 3, operative July 1, 1990; Laws 1991, c. 173, § 8.

¹ Section 1-2001 et seq. of this title.

Health and Environment ⇐25.5(5).

§ 1-2010. Controlled industrial waste manifest—Disposal plan number assigned by Department—Transportation, etc. of waste without manifest in possession

Persons generating controlled industrial waste shall provide the operator of any mode of any offsite transportation carrying controlled industrial waste a manifest in a form which has been prescribed by the Department, indicating a disposal plan number assigned by the Department which shows that the Department has approved the plans

of the person generating said waste. The manifest shall also set forth the type, amount, approximate content, origin and destination of the waste. The operator shall have the manifest in his possession while carrying or handling the controlled industrial waste and shall release the manifest to such person as is duly authorized to receive said waste at the time of delivery. Provided that no person shall accept the manifest unless such manifest has a properly assigned disposal plan number indicating that the Department has approved the plans of the person generating controlled industrial waste. Provided, further, that no person shall transport, receive, treat or dispose of controlled industrial waste without having the manifest in his possession.

Laws 1976, c. 251, § 11; Laws 1978, c. 260, § 10, emerg. eff. May 10, 1978. Renumbered from § 2761 and amended by Laws 1981, c. 322, §§ 12, 13, eff. July 1, 1981. Laws 1990, c. 296, § 4, operative July 1, 1990.

~~§ 1-2011. Violations—Criminal penalties~~

Any person who violates any of the provisions of this act or the rules, regulations or standards promulgated by the Department shall be guilty of a misdemeanor and upon conviction thereof shall be subject 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 Twenty-five Thousand Dollars (\$25,000.00), or by both such fine and imprisonment. Each day or part of a day during which such violation is continued or repeated shall constitute a new and separate offense.

Laws 1976, c. 251, § 12; Laws 1978, c. 260, § 11, emerg. eff. May 10, 1978. Renumbered from § 2762 and amended by Laws 1981, c. 322, §§ 13, 18, eff. July 1, 1981. Laws 1991, c. 173, § 9.

§ 1-2012. Violations—Civil penalties

In addition to any other remedies provided in this act, the Department shall, pursuant to rules and regulations adopted under Section 1-2005 of this title:

1. Temporarily suspend the permit of any operator of a controlled industrial waste facility until such facility conforms to the provisions of this act and the rules, regulations and standards promulgated by the Department;

2. Revoke the operating permit or license of any person who flagrantly and/or consistently violates the provisions of this act or the rules and regulations promulgated thereto, or which operates in such a manner as to cause or to continue in existence an environmentally unsafe condition. Such revocation may only take place following proper hearing, and will conform to provisions of the Administrative Procedures Act.¹ Such person shall not be eligible for reissuance of a license when finally adjudicated as guilty of flagrant and consistent violations of this act;

~~3. Cause proceedings to be instituted in the district court having jurisdiction in the area where the alleged violation occurs seeking an injunction to restrain a violation of this act or the rules, regulations or standards adopted hereunder and to restrain the maintenance of a public nuisance; and~~

4. Cause proceedings to be instituted in the district court having jurisdiction in the area where the alleged violation of this act or the rules and regulations of the State Board of Health occurs seeking a civil penalty of not more than Twenty-five Thousand Dollars (\$25,000.00) per day or part of a day such violation occurs.

Laws 1976, c. 251, § 13; Laws 1978, c. 260, § 12, emerg. eff. May 10, 1978. Renumbered from § 2763 and amended by Laws 1981, c. 322, §§ 14, 18, eff. July 1, 1981. Laws 1991, c. 173, § 10.

¹ Sections 250 et seq. and 301 et seq. of title 75.

§ 1-2012.1. Orders

In addition to any other remedies provided in the Oklahoma Controlled Industrial Waste Disposal Act,¹ the Department may issue a written order to any person whom the Department has reason to believe has violated or is presently in violation of the Oklahoma Controlled Industrial Waste Disposal Act, Section 1-2001 et seq. of this title, or any rule or rules promulgated by the Board pursuant to this act.

1. Such order may require compliance with this act or such rule or rules immediately or within a specified time period or both. Such order may also assess an administrative fine for any past or current violation of this act or the rules and for each day or part of a day that such person fails to comply with such order.

a. Any order issued pursuant to this section shall state with specificity the nature of the violation or violations.

b. Any penalty assessed in the order shall not exceed Twenty-five Thousand Dollars (\$25,000.00) per day of noncompliance for each violation of the act, the rules or the order. In assessing such penalties, the Department shall consider the seriousness of the violation or violations and any good faith efforts to comply with applicable requirements.

2. Any order issued pursuant to this section shall become a final order unless, no later than fifteen (15) days after the order is served, the person or persons named therein request an administrative hearing. Upon such request the Department shall promptly conduct the hearing. The Department shall dismiss such proceedings where past and current compliance with the act, the rules and the order is demonstrated.

a. Orders and hearings are subject to the Administrative Procedures Act.²

~~b. A final order following a hearing may assess an administrative fine of an amount based upon consideration of the evidence but not exceeding the amount stated in the written order.~~

~~c. The Department may adopt procedural rules as necessary and appropriate to implement the provisions of this section.~~

3. Any order issued pursuant to this section may require that corrective action be taken beyond the controlled industrial waste facility boundary where necessary to protect human health and the environment, unless the owner or operator of the facility demonstrates that, despite the owner's or operator's best efforts, the owner or operator is unable to obtain the necessary permission to undertake such action.

Laws 1985, c. 113, § 3, emerg. eff. May 30, 1985; Laws 1986, c. 180, § 5, emerg. eff. May 15, 1986; Laws 1990, c. 196, § 7, emerg. eff. May 10, 1990; Laws 1991, c. 173, § 11.

¹ Section 1-2001 et seq. of this title.

² Sections 250 et seq. and 301 et seq. of title 75.

§ 1-2012.2. Administrative fines—Disposition and use

Administrative fines collected by the Department pursuant to this act shall be paid into the Controlled Industrial Waste Fund, created in Section 1-2018 of Title 63 of the Oklahoma Statutes, and shall be used as specified in the Controlled Industrial Waste Fund Act.¹

Laws 1985, c. 113, § 4, emerg. eff. May 30, 1985.

¹ Section 1-2018 of this title.

§ 1-2012.3. Corrective action—Permit review—Permit renewal—Information and reports

A. In accordance with standards now or hereafter established by the Administrator of the Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act,¹ the Department may require corrective action beyond a controlled industrial waste facility boundary as a condition of the issuance of a permit pursuant to the Oklahoma Controlled Industrial Waste Disposal Act,² where necessary to protect human health and the environment, unless the owner or operator of the facility demonstrates that despite the owner's or operator's best efforts he is unable to obtain the necessary permission to undertake such action. The Department may also require as a condition of a permit pursuant to the Oklahoma Controlled Industrial Waste Disposal Act corrective action for all releases of controlled industrial waste from any solid waste management unit at a facility seeking a permit, regardless of the time the waste was placed in such unit. If such corrective action cannot be completed prior to issuance of the permit, such permits shall contain schedules of compliance for the corrective action required and assurances of financial responsibility for completing such corrective action.

B. The Department shall review each permit for a controlled industrial waste land disposal facility five (5) years after the date of such issuance or reissuance and shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable standards and permit requirements for controlled industrial waste facilities. Nothing in this subsection shall preclude the Department from reviewing and modifying a permit at any time during its term. Review of any application for a permit renewal shall consider improvements in the state of control and measurement technology as well as changes in applicable regulations. Each permit issued or reissued shall contain such terms and conditions as the Department determines necessary to protect human health and the environment.

C. The Department is authorized to require each owner or operator applying for a permit for a controlled industrial waste landfill or surface impoundment to submit with the permit application information reasonably ascertainable by the owner or operator concerning the potential exposure to the public of controlled industrial wastes as a result of releases from a controlled industrial waste unit. The Department shall be authorized to make exposure and health assessment information available to the public and to other state and federal agencies. Laws 1986, c. 180, § 6, emerg. eff. May 15, 1986.

¹ 42 U.S.C.A. § 6901 et seq.

² Section 1-2001 et seq. of this title.

~~**§ 1-2012.4. Appeal of issuance of permit—Stay of time restraints**~~

The filing of a proceeding appealing the issuance of a permit issued prior to or after the effective date of this act¹ authorizing the construction or operation of a controlled industrial waste facility shall stay any time restraints specified in the permit relating to the term or expiration of the permit. Laws 1990, c. 296, § 5, operative July 1, 1990.

¹ O.S.L. 1990, c. 296, operative July 1, 1990.

§ 1-2013. Initiation and prosecution of actions

Upon request of the Commissioner of Health, the district attorney of the county in which any violation of this act occurs shall initiate and prosecute any civil or criminal proceeding provided by this act. Laws 1978, c. 260, § 13, emerg. eff. May 10, 1978. Renumbered from § 2763.1 by Laws 1981, c. 322, § 18, eff. July 1, 1981.

§ 1-2013.1. Intervention

The Department shall not oppose intervention by any person when permissive intervention may be authorized by statute, rule or regulation.

~~Laws 1981, c. 322, § 15, eff. July 1, 1981.~~

~~§ 1-2014. Certain disposals prohibited~~~~Text as amended by Laws 1981, c. 277,
§ 5, effective June 26, 1981~~~~A. The practice of plowing controlled industrial waste into the soil surface for the purpose of disposal is hereby prohibited except pursuant to a plan approved by the Department for biodegradable or inert material. In addition, the site used for such disposal shall not be subject to flooding or extensive erosion. The provisions of Section 2757 of this title shall not apply to soil farming operations conducted on the producer's plant site.~~~~B. No underground injection well or surface disposal shall be allowed or permitted under this act if the site of such well is located over a major fresh groundwater basin, except pursuant to a plan approved by the Department. ~~The plan shall contain~~ such design criteria and groundwater monitoring provisions as deemed necessary by the Department to protect the quality of the basin water.~~~~Laws 1976, c. 251, § 16; Laws 1978, c. 260, § 15, emerg. eff. May 10, 1978; Laws 1981, c. 277, § 5, emerg. eff. June 26, 1981. Renumbered from § 2765 by Laws 1981, c. 322, § 18, eff. July 1, 1981.~~~~For texts as amended by Laws 1981, c. 322, § 16, and by Laws 1991, c. 336, § 2, see §§ 1-2014, post~~~~§ 1-2014. Prohibited disposal~~~~Text as amended by Laws 1981, c. 322,
§ 16, effective July 1, 1981~~~~A. The practice of plowing controlled industrial waste into the soil surface for the purpose of disposal is hereby prohibited except pursuant to a plan approved by the Department for biodegradable or inert material. In addition, the site used for such disposal shall not be subject to flooding or extensive erosion. The hearing provisions of Section 7 of this act¹ shall not apply to soil farming operations conducted on the generator's plant site or nearby property under the control of the generator.~~~~B. No underground injection well or surface disposal site shall be allowed or permitted under this act if the site of such well is located over a major fresh groundwater basin, except pursuant to a plan approved by the Department. The plan shall contain such design criteria and groundwater monitoring provisions as deemed necessary by the Department to protect the quality of the basin water. Laws 1976, c. 251, § 16; Laws 1978, c. 260, § 15, emerg. eff. May 10, 1978. Renumbered from § 2765 and amended by Laws 1981, c. 322, §§ 16, 18, eff. July 1, 1981.~~~~¹ Section 2757 of this title.~~~~For text as amended by Laws 1981, c. 277, § 5, see § 1-2014, ante, and as amended by Laws 1991, c. 336, § 2, see § 1-2014, post~~~~§ 1-2014. Prohibited disposal—Controlled industrial facility for on-site or off-site treatment, storage or disposal~~~~Text as amended by Laws 1991, c. 336,
§ 2~~~~A. The practice of plowing controlled industrial waste into the soil surface for the purpose of disposal is hereby prohibited except pursuant to a plan approved by the Department for biodegradable or inert material. In addition, the site used for such disposal shall not be subject to flooding or extensive erosion. The hearing provisions of Section 1-2006 of this title shall not apply to soil farming operations conducted on the generator's plant site or nearby property under the control of the generator.~~~~B. A controlled industrial waste facility for on-site treatment or storage shall not be sited in or over a principal groundwater resource or recharge area as determined in writing by the Oklahoma Geological Survey, except pursuant to a plan approved by the Department. The plan shall contain such design criteria and groundwater monitoring provisions as deemed necessary by the Department to protect the quality of said principal groundwater resource or recharge area. ~~The plan shall also provide~~ for the establishment and maintenance of a bond or other financial assurance in a form and amount acceptable to the Department, specifically for the purpose of assuring both immediate response and containment and comprehensive remediation as directed by the Department in the event of a release to soil or water of any controlled industrial waste or controlled industrial waste constituent.~~~~C. 1. Except as provided in paragraph 3 of this subsection, a controlled industrial waste facility for off-site treatment or storage or for on-site or off-site disposal shall not be sited in or over a principal groundwater resource or recharge area as determined in writing by the Oklahoma Geological Survey.~~~~2. A controlled industrial waste facility for off-site treatment, storage or disposal shall not be sited in any other area of the state without the prior written approval of a plan by the affected property owners as such term is defined in Section 1-2006 of this title. Such plan shall provide for the minimization of hazards to the health and property of such affected property owners from emergency situations or from sudden or nonsudden releases of controlled industrial waste or constituents thereof.~~~~If, after the applicant has made a reasonable effort to negotiate said plan with the affected property owners and has acquired the written approval of a majority of the affected property owners, the applicant may certify to the State Department of Health that such reasonable effort had been made and that a minority of the affected property owners would not consent. The State Department of~~

Health may then issue said permit if it meets all other requirements.

The Department is expressly authorized to review the reasons of the affected property owners for nonapproval of the plan. If nonapproval is not based solely upon minimization of environmental hazards to the health and property of the affected property owners, the Department shall exclude those affected property owners from a calculation of a majority of affected property owners. The Department shall have the final authority to issue or not to issue any permit to any treatment, storage, or disposal facility.

~~3. The Department may grant a variance to an off-site controlled industrial waste treatment or storage facility to allow the siting of such facility over a principal groundwater resource or recharge area as determined in paragraph 1 of this subsection, upon the following conditions:~~

- a. the request for variance, and a detailed rationale, shall be included in the permit application,
- b. the Department shall receive and consider comments on the appropriateness of the proposed variance at any meeting or hearing conducted pursuant to the provisions of Section 1-2006 of this title,
- c. the applicant shall bear the burden of establishing clearly and convincingly to the Department that the design, construction and operation of the proposed facility will be such that the risk of a release of controlled industrial waste or controlled industrial waste constituents directly or indirectly to groundwater is minimal, and
- d. the permit application shall provide for the establishment and maintenance of a bond or other financial assurance as described and for the purposes specified in ~~subsection B of this section.~~

D. The provisions of this section shall apply to:

- 1. Applications for future proposed sites;
- 2. Pending applications for construction permits; and
- 3. Applications for construction permits to modify existing storage or treatment facilities which have either a permit or interim status.

E. The provisions of paragraphs 1 and 2 of subsection C of this section shall not apply to applications to increase existing storage, treatment or disposal capacity or to modify existing disposal sites for treatment or disposal. Such modification of existing disposal sites shall include upgrading said facilities to use the best available waste destruction

technology such as incineration, detoxification, recycling or neutralization technology.

Laws 1976, c. 251, § 16; Laws 1978, c. 260, § 15, emerg. eff. May 10, 1978. Renumbered from § 2765 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Laws 1987, c. 51, § 2, emerg. eff. April 29, 1987; Laws 1988, c. 42, § 2, emerg. eff. Mar. 21, 1988; Laws 1991, c. 336, § 2, eff. July 1, 1991.

For texts as amended by Laws 1981, c. 277, § 5, and by Laws 1981, c. 322, § 16, see §§ 1-2014, ante

~~§ 1-2014.1. Authority to issue waste water discharge permits~~

The State Department of Health is exclusively authorized to issue waste water discharge permits to controlled industrial waste facilities for discharge into surface waters of this state. The Department shall coordinate as necessary with appropriate federal agencies in issuing such permits.

~~Laws 1990, c. 196, § 10, emerg. eff. May 10, 1990.~~

§ 1-2014.2. Facilities that recycle controlled industrial wastes—Exemption from construction permit requirements

Facilities that recycle controlled industrial wastes are exempt from construction permit requirements specified by the provisions of the Oklahoma Controlled Industrial Waste Disposal Act¹ for those units exclusively used in the recycling process. Off-site controlled industrial waste recycling facilities are subject to the requirements specified by the Oklahoma Controlled Industrial Waste Disposal Act¹ for an operations permit, and shall also meet design standards as promulgated by the State Board of Health. Such recycling facilities which are in existence on the effective date of this act² may but shall not be required to file an operations permit application pursuant to the provisions of the Oklahoma Controlled Industrial Waste Disposal Act. A permit modification is not required for a permitted recycling facility to use new, improved, or better methods of recycling if the Department has approved the plans as being environmentally acceptable.

Laws 1990, c. 296, § 6, operative July 1, 1990; Laws 1991, c. 173, § 12.

¹ Section 1-2001 et seq. of this title.

² O.S.L.1990, c. 296, operative July 1, 1990.

Section was editorially renumbered from § 1-2014.1 of this title to avoid duplication in numbering.

~~§ 1-2014.3. New controlled industrial waste facilities within eight miles of corporate limits—Exemptions~~

A. Except as provided in subsections B and C of this section, no construction or operation permit shall be issued for a new controlled industrial waste facility for the off-site disposal of controlled industrial waste or the off-site treatment of controlled industrial waste by incinerator to be located within

~~eight (8) miles of the corporate limits of any incorporated city or town. For the purposes of this section the corporate limits of an incorporated city or town shall be the corporate limits in effect on January 1 of the year the application is filed, and a new controlled industrial waste facility means a controlled industrial waste facility that was not in operation and actively treating controlled industrial waste by incineration or disposing of controlled industrial waste during the year preceding the effective date of this act.¹ Addition of new treatment, storage or disposal units to an existing controlled industrial waste facility does not constitute a new facility.~~

B. This section shall not apply to any facility accepting controlled industrial waste exclusively for the purpose of conducting treatment research and design tests.

C. This section shall not apply to a proposed site on property owned or operated by a person who also owns or operates a controlled industrial waste facility on contiguous property on which a controlled industrial waste facility was operating pursuant to a valid permit on the effective date of this act. Laws 1991, c. 173, § 13.

¹ O.S.L.1991, c. 173, eff. Aug. 30, 1991.

CONTROLLED INDUSTRIAL WASTE FUND ACT

§ 1-2015. Short title

This act shall be known and may be cited as the "Controlled Industrial Waste Fund Act".

Laws 1982, c. 202, § 1.

Health and Environment ←25.5(5).

§ 1-2016. Purpose of act

The purposes of this act are to:

1. Protect public health and safety, and the natural resources of the State of Oklahoma;
2. Provide for response to environmental emergencies and incidents; and
3. Establish a fund administered by the State Department of Health which will be available to monitor controlled industrial waste management facilities and to respond and assist municipalities and counties in responding to any emergency situation involving controlled industrial waste.

Laws 1982, c. 202, § 2.

§ 1-2017. Definitions

As used in this act:

1. "Controlled industrial waste" is defined as waste materials and by-products, 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;~~

2. "Controlled industrial waste management facility" means, as defined in the Controlled Industrial Waste Disposal Act,¹ storage, treatment and disposal facilities and sites for controlled industrial waste;

3. "Department" means the State Department of Health;

4. "Discharge" means any releasing, spilling, leaking, leaching, seeping, pouring, draining, emptying, dumping, expelling or any other emitting of controlled industrial waste into the environment beyond the confines of a licensed disposal site; and

5. "Incident" means any occurrence or series of occurrences which result in the discharge of controlled industrial waste which create an injury to any person or property.

Laws 1982, c. 202, § 3.

¹ Section 1-2001 et seq. of this title.

§ 1-2018. Creation of fund—Status—Expenditures—Purpose—Control and management—Use—Emergencies

There is hereby created in the State Treasury a special fund for the State Department of Health to be designated as the "Controlled Industrial Waste Fund". This fund shall consist of monies transferred to it from funds appropriated to the Department for this purpose. The fund shall be a continuing fund not subject to fiscal year limitations. Expenditures from the Controlled Industrial Waste Fund shall be made upon warrants issued by the State Treasurer against claims submitted to the Director of State Finance for approval and payment. The fund shall be for the purpose of protecting public health and safety as prescribed in the Controlled Industrial Waste Disposal Act¹ and for providing basic emergency response training and protective equipment. The Department is authorized, upon the request of a municipality or county, to assist such municipality or county in the development of emergency response plans. The fund shall be under the control and management of the administrative

authority of the Department. Pursuant to this act, the Department is authorized to determine the manner in which such fund is to be used. The Department of Public Safety and the Department of Civil Defense are authorized and directed to assist and cooperate with the Department in the performance of its duties under this act.

Laws 1982, c. 202, § 4.

¹ Section 1-2001 et seq. of this title.

§ 1-2019. Assistance to political subdivisions

To further benefit the citizens of the State of Oklahoma, the Department may, if funds are available from the fund, render financial assistance, by form of a matching grant not to exceed Fifty Thousand Dollars (\$50,000.00), to any municipality or county of the state, which has prepared an emergency response plan which has been approved by the State Department of Health, for the purpose of providing basic emergency response training and protective equipment to be used by such municipality or county in responding to incidents involving controlled industrial waste. Such financial assistance shall be available only to those applicants which have a significant potential for initiating emergency response to an incident involving controlled industrial waste. The Department shall give priority to municipalities or counties of the state in which off-site facilities are located.

Laws 1982, c. 202, § 5; Laws 1986, c. 229, § 2, emerg. eff. June 10, 1986.

§ 1-2020. Rules and regulations

The State Board of Health shall write rules and develop procedures to implement and administer this act and the fund.

Laws 1982, c. 202, § 6.

§ 1-2021. Report of use and disposition of funds

The Department of Health shall annually submit a written report on the use and disposition of the fund to the Oklahoma State Legislature.

Laws 1982, c. 202, § 7.

ARTICLE 21. CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT

§ 1-2101. Short title

This act shall be known and may be cited as the "Central Interstate Low-Level Radioactive Waste Compact".

Laws 1983, c. 27, § 1.

Complementary Legislation:

Ark.—A.C.A. §§ 8-8-201 to 8-8-206.

Kan.—K.S.A. 65-34a01 et seq.

La.—LSA—R.S. 30:2131 to 30:2134.

Neb.—R.R.S. 1943, Vol. 2A App. BB.

U.S.—42 U.S.C.A. § 2021d.

§ 1-2102. Central Interstate Low-Level Radioactive Waste Compact—Enactment

The Central Interstate Low-Level Radioactive Waste Compact is hereby enacted into law and entered into by this state with all other states legally joining therein in accordance with its terms, in the form substantially as follows:

ARTICLE I. POLICY AND PURPOSE

The party states recognize that each state is responsible for the management of its nonfederal low-level radioactive wastes. They also recognize that the Congress, by enacting the Low-Level Radioactive Waste Policy Act (Public Law 96-573),¹ has authorized and encouraged states to enter into compacts for the efficient management of wastes. It is the policy of the party states to cooperate in the protection of the health, safety and welfare of their citizens and the environment and to provide for and encourage the economical management of low-level radioactive wastes. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety and welfare of the citizens and the environment of the region; to limit the number of facilities needed to effectively and efficiently manage low-level radioactive wastes and to encourage the reduction of the generation thereof; and to distribute the costs, benefits and obligations among the party states.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Commission" means the Central Interstate Low-Level Radioactive Waste Commission;

B. "Disposal" means the isolation and final disposition of waste;

C. "Extended care" means the care of a regional facility including necessary corrective measures subsequent to its active use for waste management until such time as the regional facility no longer poses a threat to the environment or public health;

D. "Facility" means any site, location, structure or property used or to be used for the management of waste;

E. "Generator" means any person who, in the course of or as an incident to manufacturing, power generation, processing, medical diagnosis and treatment, biomedical research, other industrial or commercial activity, other research or mining in a party state, produces or processes waste. "Generator" does not include any person who receives waste generated outside the region for subsequent shipment to a regional facility;

F. "Host state" means any party state in which a regional facility is situated or is being developed;

G. "Low-level radioactive waste" or "waste" means, as defined in the Low-Level Radioactive

**EPA APPROVED OKLAHOMA REGULATORY REQUIREMENTS
 APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
 September, 1993**

Industrial Waste Management Regulations, Chapter 270, Title 310 *The Oklahoma Administrative Code*, December 31, 1991

Subchapter	Section
Subchapter 1	310:270-1-2
	(excluding definitions for "Annulus", "Cone of influence", "Fresh water" and "Maximum total pressure gradient")
Subchapter 3	310:270-3-1
	[excluding the phrase "and the Underground Injection Control Program, as amended through July 1, 1990]
	310:270-3-2 introductory paragraph
	310:270-3-2(4) through 310:270-3-2(12)
	310:270-3-4(a)
	310:270-3-5
	[excluding "40 CFR 144.3, 40 CFR 146.3, or"]
310:270-3-6	
Subchapter 5	Subchapter 5 [except 310:270-5-2]
Subchapter 7	Subchapter 7
Subchapter 9	Subchapter 9 [except 310:270-9-6 and 310:270-9-7]
Subchapter 11	310:270-11-1(a)
	310:270-11-1(a)(1) first sentence
	310:270-11-1(a)(2)
	310:270-11-1(a)(3)
	310:270-11-1(b)
	310:270-11-1(c) introductory paragraph [except the phrase "the application fee and"]
	310:270-11-1(c)(1) through 310:270-11-1(c)(3)
	310:270-11-1(d) introductory paragraph [except the phrase "the application fee and"]
	310:270-11-1(d)(1)
	310:270-11-1(d)(2) [except the references "144, 146,"]
	310:270-11-1(f)
	310:270-11-3
	310:270-11-4(a) through 310:270-11-4(e)
Subchapter 13	310:270-13-2 introductory paragraph
	310:270-13-2(1)
	310:270-13-2(2) first sentence

CHAPTER 270. INDUSTRIAL WASTE MANAGEMENT REGULATIONS

Subchapter	Section
1. General Provisions	310:270-1-1
3. Incorporation by Reference	310:270-3-1
5. Additional Generator Requirements	310:270-5-1
7. Additional Transporter Requirements	310:270-7-1
9. Additional TSD Requirements	310:270-9-1
11. Additional Permit Procedures	310:270-11-1
13. Miscellaneous	310:270-13-1
15. Additional Class I Injection Well Requirements	310:270-15-1
17. Tax Credit	310:270-17-1
19. Additional Rules for Recycling	310:270-19-1

[Authority: 63 O.S., Sections 1-2001 et seq.]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

Section

~~310:270-1-1. Purpose~~

310:270-1-2. Definitions

~~310:270-1-1. Purpose~~

~~This Chapter establishes procedures and standards for handling, transport, treatment, storage, recycling or disposal of controlled industrial wastes as authorized by the Oklahoma Controlled Industrial Waste Disposal Act, 63 O.S., Sections 1-2001 et seq.~~

310:270-1-2. Definitions

In addition to the definitions contained in the Oklahoma Controlled Industrial Waste Disposal Act, 63 O.S. 1981, Sections 1-2001 et seq., as amended, the following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Controlled Industrial Waste Disposal Act, 63 O.S. 1981, Sections 1-2001 et seq., as amended.

~~"Annulus" (plural "annuli") means the space in an injection well between a casing string and a tubing string, or between two casing strings, or between a casing string and the rock penetrated by the drill hole. References throughout these Rules will usually be to an annulus between the innermost or long string casing and the injection tubing.~~

"Commissioner" means the State Commissioner of Health.

~~"Cone of influence" means that area around an injection well within which the pressure in the injection interval (whether natural formation pressure, or formation pressure increased by injection activities) is sufficient to drive formation fluids, injection fluids, or a mixture thereof into an underground source of fresh water.~~

"Fresh water" means all waters that contain no more than 10,000 milligrams per liter (mg/l) total dissolved solids; this includes all waters that are present or potential sources of drinking, livestock, or irrigation water.

~~"Maximum total pressure gradient" means the sum of the injection pressure applied to the well (as measured by pressure monitoring devices connected at the well head) plus the pressure exerted by the fluid column in the injection tubing, divided by the depth from ground surface at the well head to the top of the injection interval. Pressure gradients are expressed in pounds per square inch per foot (psi/ft) of depth below surface.~~

"Post closure permit" will be considered as synonymous to "operations permit" for procedural purposes except the assessment of permitting fees.

SUBCHAPTER 3. INCORPORATION BY REFERENCE

Section

310:270-3-1. Reference to 40 CFR

310:270-3-2. Incorporation by reference

~~310:270-3-3. Subsequent incorporations~~

310:270-3-4. Terminolgy related to 40 CFR

310:270-3-5. Inclusion of CFR citations and definitions

310:270-3-6. Inconsistencies or duplications

310:270-3-1. Reference to 40 CFR

When reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified) the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through July 1, 1990, ~~and the Underground Injection Control Program, as amended through July 1, 1990.~~

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92]

310:270-3-2. Incorporation by reference

The following Parts of 40 CFR are, unless otherwise specified, incorporated by reference in their entirety:

~~(1) Part 124. Procedures For Decisionmaking, except those sections not required by 40 CFR 271.14 plus 124.19 (a) through (c).~~

~~(2) Part 144. Underground Injection Control Program, except:~~

- ~~(A) 144.1(c) which refers to the Federal OMB.~~
- ~~(B) 144.1(f)(1)(vi) which refers to financial responsibility.~~
- ~~(C) 144.2 which refers to Class II programs on Indian lands.~~
- ~~(D) 144.5 which refers to confidentiality of information.~~
- ~~(E) 144.7 which refers to underground sources of drinking water.~~
- ~~(F) 144.8 which refers to State reports to EPA.~~
- ~~(G) Subpart C which refers to authorization by rule.~~
- ~~(H) 144.33 which refers to area permits.~~
- ~~(I) 144.34 which refers to emergency permits.~~
- ~~(J) Subpart F which refers to financial responsibility.~~

~~(3) Part 146. Underground Injection Control Program: Criteria and Standards, except:~~

- ~~(A) 146.6 which refers to area of review.~~
- ~~(B) 146.65(d)(3) which refers to fluid seals.~~
- ~~(C) 146.67(a) which refers to injection pressure limitation.~~
- ~~(D) 146.69 which refers to quarterly reporting.~~
- ~~(E) 146.71(b) which refers to notice of intent to close.~~
- ~~(F) 146.9 which refers to criteria for establishing permit priorities.~~
- ~~(G) 146.10 which refers to plugging and abandoning Class I-III wells.~~
- ~~(H) Subpart B which refers to Class I criteria and standards.~~
- ~~(I) Subpart C which refers to Class II criteria and standards.~~
- ~~(J) Subpart D which refers to Class III criteria and standards.~~

(4) Part 260. Hazardous Waste Management System: General, with the exception of 260.20 through 260.22 which relate to rulemaking petitions and de-listing.

(5) Part 261. Identification and Listing of Hazardous Waste.

(6) Part 262. Standards Applicable to Generators of Hazardous Waste.

(7) Part 263. Standards Applicable to Transporters of Hazardous Waste.

(8) Part 264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.

(9) Part 265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.

(10) Part 266. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.

(11) Part 268. Land Disposal Restrictions.

(12) Part 270. Permit Programs.

~~310:270 3-3. Subsequent incorporations~~

Also, the following new or superseding provisions are incorporated by reference: those amendments to 40 CFR Parts 260, 261, 264, 265, 266, and 270 contained in 56 FR 7206-7239, February 21, 1991.

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92]

310:270-3-4. Terminology related to 40 CFR

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

- (1) "Administrator" is synonymous with Commissioner;
- (2) "Regional Administrator" is synonymous with Commissioner;
- (3) "Hazardous waste" is synonymous with controlled industrial waste;
- (4) "Act" is synonymous with Controlled Industrial Waste Disposal Act;
- (5) "State" is synonymous with Department; and
- (6) "EPA" is the Environmental Protection Agency.

~~(b) The terms "cone of influence" and "fresh water" as defined in Rules 140 and 150 shall be substituted for the terms "cone of influence" and "drinking water" in the portions of 40 CFR incorporated by reference in 310:270-3-2 and 310:270-3-3 (e.g., an "underground source of drinking water" as defined in 40 CFR 144.3 and 146.3 shall be read, for the purpose of these regulations, as an "underground source of fresh water").~~

310:270-3-5. Inclusion of CFR citations and definitions

When a provision of the Code of Federal Regulations is incorporated by reference, all citations contained therein are also incorporated by reference., and the definition of terms contained in or referenced to by ~~40 CFR 144.3, 40 CFR 146.3, or~~ 40 CFR 260.10 shall apply, as appropriate.

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310:270-3-6. Inconsistencies or duplications

In the event that there are inconsistencies or duplications in the requirements of those provisions incorporated by reference in 310:270-3-2 through 310:270-3-3, and the regulations herein set out, the provisions incorporated by reference shall prevail, except where the regulations herein set out are more stringent.

SUBCHAPTER 5. ADDITIONAL GENERATOR REQUIREMENTS

Section

310:270-5-1. Disposal plans

~~310:270-5-2. Reserved~~

310:270-5-3. SQG exemption from disposal plan requirements

310:270-5-4. Quarterly reporting

310:270-5-5. No endangerment provisions for generators

310:270-5-1. Disposal plans

All persons generating controlled industrial waste within Oklahoma or generating wastes to be treated or disposed of in Oklahoma shall file a disposal plan with the Department for approval, on forms provided by the Department.

(1) The generator must update the disposal plan as needed and must notify the Department of any proposed changes in the plan at least five working days before the changes. The Department requires a minimum of five (5) working days for processing and approval of changes to or submission of new disposal plans. Changes shall not be implemented until approved by the Department.

(2) One-time disposal plans may be issued for emergency clean-up or waste removal.

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92]

~~310:270-5-2. Reserved~~

310:270-5-3. SQG exemption from disposal plan requirements

Small quantity generators and conditionally exempt small quantity generators are not subject to the disposal plan requirement.

310:270-5-4. Quarterly reporting

On forms provided by the Department, all generators of controlled industrial waste or recyclable materials shall submit information, as required by 40 CFR 262.41, to the Department. This information shall be submitted quarterly and shall include the total amount of waste generated and copies of manifests signed by receiving facilities for wastes transported outside the State of Oklahoma.

310:270-5-5. No endangerment provisions for generators

All generators shall be subject to the provisions of 310:270-9-1.

SUBCHAPTER 7. ADDITIONAL TRANSPORTER REQUIREMENTS

Section

- 310:270-7-1. Transporters required to register
- 310:270-7-2. Leakage, other releases prohibited in transport
- 310:270-7-3. Manifest, disposal plan required
- 310:270-7-4. Mixing waste prohibited by transporters

310:270-7-1. Transporters required to register

Each person who owns or leases one or more vehicles which engage in the transportation of ~~controlled industrial waste~~ shall be required to register for transportation on forms available from the Department. Persons who transport controlled industrial waste only within the confines of a generator's plant site, or within the boundaries of a disposal site or processing facility, shall not be required to register so long as no movement occurs along a public right-of-way.

310:270-7-2. Leakage, other releases prohibited in transport

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

310:270-7-3. Manifest, disposal plan required

No person shall transport, receive or dispose of controlled industrial waste without a completed manifest containing the disposal plan number of the generator(s) thereon.

310:270-7-4. Mixing waste prohibited to transporters

Transporters shall not mix or combine shipments of incompatible waste from containers.

SUBCHAPTER 9. ADDITIONAL TREATMENT, STORAGE, DISPOSAL &
RECYCLING REQUIREMENTS

Section

310:270-9-1. No endangerment or degradation

310:270-9-2. Reporting

310:270-9-3. Financial security mechanisms

310:270-9-4. Buffer zones

310:270-9-5. Provisions for on-site inspectors

~~310:270-9-6. Additional closure requirements~~

~~310:270-9-7. Additional waste analysis requirements~~

310:270-9-1. No endangerment or degradation

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

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92]

310:270-9-2. Reporting

The information required by 40 CFR 264.75 or 265.75, including the identification of the transporter of the waste and copies of the manifests, shall be submitted monthly .

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92]

310:270-9-3. Financial security mechanisms

(a) The owner shall word the financial assurance instruments as provided in 40 CFR 264.151, except that the phrase "Oklahoma State Department of Health, ("OSDH" or "the Department"), an agency of the State of Oklahoma" shall be used in lieu of phrases containing the words "Environmental Protection Agency"; "Commissioner of Health" shall be used in lieu of phrases containing the words "Regional Administrator"; "OSDH" shall replace "EPA"; "Act" shall replace "Section 3008 of the Resource Conservation and Recovery Act"; and

(b) The certification in each instrument that the language is identical to respective provisions of 40 CFR 264.151 shall include the phrase "United States Environmental Protection Agency approved amendment, for the State of Oklahoma,".

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92]

310:270-9-4. Buffer zones

No treatment, storage or disposal shall occur within the buffer zones as follows:

- (1) Surface impoundments and landfills - two hundred feet of the site perimeter.
- (2) Land treatment facilities - fifty feet of the site perimeter.

310:270-9-5. Provisions for on-site inspectors

The Department shall have the discretion to add or include provisions for a full-time inspector within the permit conditions of commercial controlled industrial waste storage, treatment, disposal (TSD) or recycling facilities. Permittees subject to these conditions shall provide reasonable office facilities for use by Departmental inspectors.

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92]

~~310:270-9-6. Additional closure requirements~~

- (a) The provisions of 40 CFR 264 or 265, Subparts G and H, shall apply to all areas of treatment, storage, disposal, or Off-site Recycling facilities where hazardous waste is handled. This shall include all recycling units, staging and processing areas, and temporary hazardous waste storage areas.
- (b) The closure cost estimate may not incorporate any value that may be realized by the sale of recycled products.

~~[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]~~

~~310:270-9-7. Additional waste analysis requirements~~

(a) Prior to receipt of a hazardous waste for storage, treatment, disposal or recycling, a TSD or Off-site Recycling facility must obtain detailed chemical and physical analyses of a representative sample of the waste. At a minimum, the analyses must contain all information necessary to appropriately treat, store, dispose, or recycle the waste.

(b) Prior to receipt of any industrial waste not identified as hazardous waste at a TSD or Off-site Recycling facility, an owner or operator must obtain and maintain the following records in the facility operating record:

(1) Information regarding the chemical and physical nature of the waste which conclusively establishes that the waste does not exhibit any characteristic of hazardous waste as described by 40 CFR Subpart C. Such information may include, but is not limited to, laboratory analyses, material safety data sheets, and analysis of raw materials, feedstocks, and process descriptions, and

(2) A signed affidavit by the original waste generator indicating that the waste does not include any listed waste.

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 OK Reg 1447, eff 5-1-92]

SUBCHAPTER 11. ADDITIONAL PERMIT PROCEDURES

Section

- 310:270-11-1. Permit application procedure
- 310:270-11-2. County Commissioner involvement in permit issuance
- 310:270-11-3. Emergency plans relating to affected property owners
- 310:270-11-4. Exclusionary siting criteria

310:270-11-1. Permit application procedure**(a) Permit actions required.**

(1) All new treatment, storage, or disposal facilities shall require both construction and operation permits. ~~The hazardous waste recycling units located at an Off site Recycling facility shall require only an operation permit.~~

(2) Modifications of an existing treatment, storage, or disposal facility which involve the addition of a new type of "hazardous waste management unit", shall require a construction permit, as well as modification to the operation permit.

(3) Modifications which include increases in storage capacity or disposal capacity in excess of fifty percent of the storage capacity or disposal capacity authorized by the facility's most recent construction permit or approved capacity under interim status, shall require a construction permit, as well as modification to the operation permit.

~~(4) A proposal to construct an injection well (or any well that penetrates into an existing or proposed injection zone) at a facility shall require a construction permit and an operation permit.~~

(5) A proposal to alter or redefine the well life, confining zone, injection zone, or injection interval in an injection well shall be considered a Class 3 modification.

(6) Upon submission of an application for a controlled industrial waste construction or operation permit, the applicant shall:

(A) File in a location local to the site and accessible to the public during reasonable hours, one copy of the permit application to be available for public review. The applicant shall be responsible for maintaining and updating the application as revisions are submitted to the Department so that a true and correct copy of the pending application is available for local review.

(B) Give notice by one publication in two newspapers, at least one of which is in general circulation in the area of the proposed site, of the filing of such application with the Department. Such notice shall at a minimum include:

- (1) the name and address of the applicant,
- (2) the location of the proposed facility,
- (3) a brief description of the permit proposal, and
- (4) the location of the permit application available for public review.

Proof of publication of this notice shall be submitted to the Department within thirty ~~(30) days of publication.~~

(b) Determination of affected property owners. For the purposes of this subchapter, the area considered to be within one mile of the facility, for determination of affected property owners, shall be determined from the perimeter of the site as applied for in the construction permit application.

(c) Contents of a construction permit application. An application for a construction permit shall include ~~the application fee and~~ three copies of each of the following items:

- (1) An application on a form prepared by the Department.
- (2) A certification by the applicant of the affected property owners (and their mailing addresses) upon whom notice of submission of the construction permit application, and emergency plans if applicable, has been served.

310:270-11-1, p2

(3) An application for an operation permit.

(d) **Contents of an operation permit application.** An application by a facility for an operation permit shall include ~~the application fee and~~ three copies of each of the following items:

(1) An application on a form prepared by the Department; and

(2) All technical reports, analyses, engineering evaluations, modeling studies, and other data necessary to address the requirements of 40 CFR Parts ~~144, 146,~~ 264, 268 and 270, as applicable.

~~(e) **Public notice required.** When the Department determines to issue a draft permit (and not a draft denial) upon an application, the applicant shall publish notice, as required by Section 1-2006(C) of the Act, offering forty-five days:~~

~~(1) For the request of a public meeting (or "hearing" as the term is used in 40 CFR 124.10) upon both the draft construction permit and upon the draft operation permit; and~~

~~(2) For the request by affected property owners and qualified interest groups for a hearing as described in Section 1-2006(D) of the Act.~~

(f) **Other information as requested.** In the course of evaluation of permit applications, the Department may require any additional information concerning the handling or processing of controlled industrial waste at the facility, as may be necessary or appropriate to adequately review and evaluate the application.

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92]

~~310:270-11-2. County Commissioner involvement in permit issuance~~

(a) The Department shall not issue a construction permit for a new facility only upon either:

(1) The failure of the appropriate board(s) of county commissioners to act as provided in paragraph (C) of Section 1-2005.3 of the Act; or

(2) A resolution from the appropriate board(s) of county commissioners as provided in paragraph (B)(1) of Section 1-2005.3 of the Act; or

(3) An agreement between the applicant and the appropriate board(s) of county commissioners reflecting the upgrading provided in paragraph (B)(2) of Section 1-2005.3 of the Act; or

(4) A final order from the appropriate district court(s) resolving grievances between the applicant and the appropriate board(s) of county commissioners, as provided in paragraph (D) of Section 1-2005.3 of the Act.

(b) The Department shall not issue an operation permit for a facility subject to 310:270-11-2(3) or (4) only upon submittal of a certificate of acceptance of the completed upgrades by the appropriate board(s) of county commissioners or the Oklahoma Department of Transportation, as appropriate and according to custom, pursuant to subparagraph (B)(2) of Section 1-2005.3 of the Act.

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92]

310:270-11-3. Emergency plans relating to affected property owners

(a) In addition to the plans required by 40 CFR 264 Subpart D (contingency plans and emergency procedures), applicants for off-site treatment, storage or disposal construction ~~permits (under Paragraphs D and E of Section 1-2014 of the Act)~~ shall also prepare separate Emergency Plans designed to provide for the minimization of hazards to the health and property (environment) of each parcel of land owned by affected property owners. Each additional Emergency Plan shall follow the criteria of 40 CFR 264 Subpart D but shall specifically relate to each parcel.

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

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

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

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

(4) Approval or disapproval of the Emergency Plan by an affected property owner does not signify approval or disapproval of the technical aspects of the facility, nor limit the right under the Act of any affected property owner to oppose the construction permit. Issues under this paragraph may be joined at any hearing conducted under Paragraph D of Section 1-2006 of the Act.

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

(d) Affected property owners of a parcel of land must specify, to the satisfaction of the Department within forty-five days of service of notice of the application, reasons for non-approval of the Emergency Plan for that parcel which are based solely upon minimization of hazards to the health and property (environment) of the affected property owner(s) of that parcel. Failure to comply with this rule shall cause the Department to exclude that parcel from a calculation of a majority of affected property owners who approve or disapprove of the Emergency Plan under the Act.

310:270-11-4. Exclusionary siting criteria

(a) **Ground water resources and recharge areas.** No construction permit shall hereafter be granted for an off-site ~~controlled industrial waste~~ treatment, storage or disposal facility proposed to be located over or through unconsolidated alluvial aquifer or terrace deposit aquifer, or over or through bedrock aquifer or their recharge areas. There shall be a presumption that the proposed location is unapprovable ~~on this basis~~ if the proposed location lies wholly or partially within an area designated as an actual or potential unconsolidated alluvial aquifer or terrace deposit aquifer or bedrock aquifer or recharge area, as shown on the maps described as "Sheet 1 - Unconsolidated Alluvium and Terrace Deposits" and "Sheet 2 - Bedrock Aquifers and Recharge Areas" of the "Maps Showing Principal Ground Water Resources and Recharge Areas in Oklahoma," compiled by Kenneth S. Johnson, Oklahoma Geological Survey (1983), or any successor map(s) compiled by the Oklahoma Geological Survey. Such presumption may be rebutted by site-specific hydrological and geological data and other information submitted by the applicant sufficient to demonstrate clearly and convincingly that the proposed location does not lie in a prohibited area. In making a determination whether a proposed location is within a prohibited area, the Department shall request and rely upon review and conclusions by the Oklahoma Geological Survey. [Similar procedures shall be used in determining whether a groundwater protection plan is required for an off-site facility pursuant to 63 O.S. Section 1-2014(B).] Existing facilities in these areas may continue to operate and may modify or expand their operations to the extent permitted by 63 O.S. Section 1-2014. The Department may require site-specific hydrological and geological information for proposed facility locations outside a designated principal groundwater resource or recharge area where there is reason to believe that the proposed location may be unsuitable due to localized groundwater conditions.

(b) **Water wells.** No construction permit shall hereafter be granted for a ~~controlled industrial waste disposal~~ facility proposed to be located within one-quarter mile of any public or private water supply well, except that:

(1) Existing or proposed private water supply wells on the applicant's property, whether part of the proposed facility or not, may be exempted from consideration under this Rule, at the applicant's discretion.

(2) Water supply wells that are conclusively demonstrated by the applicant to be permanently abandoned may be plugged by the applicant, upon said applicant's demonstration that he has the present grant or right to plug the abandoned wells.

(A) If abandoned water wells are identified by the applicant during the preparation of his application or during the permit process, the applicant shall notify the Department of the location, construction details, and other pertinent facts about the wells, so that these wells can be included in the Department's Class V well inventory.

(B) The applicant shall notify the Department of any abandoned water wells that are plugged under this provision.

(c) **Flood plain.** No construction permit shall hereafter be granted for a ~~new controlled industrial waste disposal site~~ proposed to be located within a one-hundred year flood plain.

(d) **Surface water.** No construction permit shall hereafter be granted for a ~~controlled industrial waste disposal site~~ proposed to be located within one mile of the conservation pool elevation of any reservoir which supplies water for a public water supply, or within one mile of any scenic river.

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

~~(f) **Injection wells.** No construction permit shall hereafter be granted for a controlled industrial waste injection well proposed to be located in any area where it would have an adverse or unpredictable effect on any existing Class I, II, or III injection well, or on any oil or gas well.~~

(g) **Sources of fresh water.** Injection of controlled industrial wastes into or above an underground source of fresh water is prohibited.

~~[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92]~~

SUBCHAPTER 13. MISCELLANEOUS

Section

~~310:270-13-1. Confidential business information~~

310:270-13-2. Incidents

~~310:270-13-3. Zoning~~

~~310:270-13-4. Fees for services~~

~~310:270 13 1. Confidential business information~~

(a) Information obtained by and copies of official records of the Department regarding controlled industrial waste facilities and sites shall be made available to the public to the extent permitted by and in accordance with the Oklahoma Open Records Act and in substantial accordance with 40 CFR Part 2, unless otherwise privileged or protected from publication by law. Information obtained by the Department regarding facilities and sites for treatment, storage and disposal of controlled industrial waste shall be made available to the public in substantially the same manner, and to the same degree, as would be the case if the EPA were carrying out the provisions of federal law in Oklahoma. In accordance with Rule II(F) of the Rules of Practice of the Department, copies of all official records of the Department, not privileged or protected from publication by law, may be made and certified by the Commissioner, or designated agent, on the request of any person. The person making such request shall pay the expense of making such copies in accordance with a fee schedule adopted by the Department.

(b) All records submitted to the Department pursuant to the requirements of the Act and these Regulations shall be made available by the Department to the EPA upon request. Provided that, records claimed to be confidential which are obtained under regulations and authority separate and distinct from the State Program Requirements as set forth in 40 CFR Part 271, and which are separately maintained, need not be made available to the EPA.

(c) The Department expressly disclaims and denies any duties, responsibilities or obligations other than as stated above. Submitters of records claimed to be confidential are advised that it is their responsibility, not the Department's responsibility, to monitor and/or defend said claims of confidentiality with the EPA. The Department expressly disclaims and denies responsibility or liability for any disclosure by the EPA of records claimed by the submitter to be confidential.

310:270-13-2. Incidents

~~If a~~ release of materials that are or become controlled industrial waste occurs, whether by spillage, leakage, or discharge to soils or to air or to surface or ground waters (outside the limits of a discharge permit), or by other means, the owner or operator shall immediately notify the Department and take all necessary action to contain, remediate, and mitigate hazards from the release.

(1) Spilled or leaked materials, and soils and other matter that may be contaminated with such materials, shall be tested by the responsible person to determine whether they are "other industrial waste" under the Oklahoma Solid Waste Management Act, ~~controlled industrial waste~~, or "liquid non-hazardous waste" as defined in *Regulations Governing Non-hazardous Waste Injection Wells*, ODH Bulletin 0526.

(2) Waste materials resulting from a release shall be properly disposed of in accordance with the applicable rules. ~~Materials that are to be recycled shall be collected and properly stored to prevent further contamination of the environment. In the event of a release, the Department may require submission of a remediation plan that meets the closure requirements of 40 CFR 265.111 and 265.114.~~

(3) The Commissioner may assess costs relating to expenses and damages incurred by the Department in responding to a release. Such costs shall be borne by the responsible person(s).

[Source: ~~Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92]~~

~~310:270 13 3. Zoning~~

~~These regulations shall not abrogate in any way the zoning authority of any duly constituted zoning agency with respect to the siting of any site or facility.~~

~~310:270-13-4 Fees for Services~~

(a) **Fee payment.** Fees should be made payable to the Oklahoma State Department of Health.

(1) **Application fees.** Application fees for new permits, registrations, and disposal plans must accompany the application or the application will not be deemed to have been submitted.

(2) **Fee payment.** Fees for permits, registrations and disposal plans, and monitoring fees, are payable and must be postmarked no later than sixty days from the invoice date (delinquencies shall be subject to an additional penalty of twenty percent of the fee). Delinquent renewals subject the underlying permits and registrations to administrative sanctions.

(4) **Range of fees.**

(A) Disposal plans - \$100 to \$10,000 per generator per year.

(B) Transporter registration - \$20 per vehicle per year.

(C) Permit application - \$5,000 to \$50,000.

(D) Application re-submittal - \$100 to \$1,000.

(E) Facility monitoring - \$100 to \$10,000 per year.

Fees will not be re-assessed at time of transfer of ownership if units and EPA I.D. number remain unchanged.

(b) **Generator Fees.**

(1) **Disposal plan.** \$100 per generator per year, which may include up to two waste streams.

(A) The annual fee for each additional waste stream is \$50.

(B) Emergency Situations. There is no disposal plan fee to handle incidents under Rule 710.

(2) **Fees for monitoring and inspection.** Small quantity generators shall pay \$25, and all other generators within Oklahoma shall pay \$100, as an annual fee for monitoring and periodic inspection.

(3) **Non-notifier fees.**

(A) As used in this subsection, "notification" shall refer to the process for notification of hazardous waste activity as described in and required by Section 3010 of the federal Resource Conservation and Recovery Act and 40 CFR 270.1(b).

(B) A fee equivalent to the cumulative fees which, if the generator had timely and properly notified, would have been assessed in the applicable years pursuant to this Section shall be assessed at the time of notification by (or discovery by the Department of) a previously non-notifying hazardous waste generator, to help cover the costs of non-routine processing, inspection, and evaluation.

(c) **Transporter fees.**

(1) **Annual fees.** For each trailer or other discrete transportation vehicle used in highway transportation to carry controlled industrial waste, there shall be a yearly registration fee of \$20.

(2) **Registration period.** The registration period shall be from March 1 of a given year to the last day of February of the following year.

(3) **Alternative fees for common carriers.** In lieu of a per-vehicle fee, common carriers participating in the "International Registration Plan" may pay a fee of \$20 per vehicle equivalent calculated by the ratio of the previous year's Oklahoma manifested waste

~~mileage divided by the total fleet national mileage, equivalent calculated by the ratio of the previous year's Oklahoma manifested waste mileage multiplied by the total number of fleet trailers and vehicles (excluding power units).~~

(4) **Per trip vehicle rental.** Transporters leasing or renting only one vehicle at a time for the transportation of controlled industrial waste may obtain a registration designated as per trip rental by paying a yearly registration fee of \$20. Each rental vehicle's identification information shall be reported to the Hazardous Waste Management Service prior to the movement of waste in that vehicle.

(d) **Treatment, storage and disposal facility fees.**

(1) **Construction permit application fees.** Fees for the initial submission of an application for a construction permit, and any subsequent re-submissions, shall be calculated based upon Table 1.

(2) **Operation permit application fees.** Fees for the initial submission of an application for an operations permit and any subsequent re-submissions shall be calculated and based upon Table 2.

(3) **Post-closure permit application fees.** Fees for the submission of an application for a post-closure permit shall be equal to one-half of the fees depicted in Table 2.

(4) **Fees for permit modifications.**

(A) There are no fees for Class 1 or Class 2 modifications under 40 CFR 270.42.

(B) Fees for Class 3 modifications are the Table 2 application processing fee amounts. (Each proposed Class 3 modification application is subject to assessment of fees.)

(5) **Permit renewals.** The fees for renewal of an existing permit are one-half of the amounts listed in Table 2 (excluding resubmission fees), using all units covered by the existing permit.

(6) **Application withdrawals.** Any initial permit application voluntarily submitted (*i.e.*, not a "Part B application") shall be entitled to a refund of ninety percent of the application fee if the Department receives notice of withdrawal from the applicant within thirty days of submission of the application.

(7) **Fees for monitoring and inspection.**

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

(B) Facilities that treat, store, or dispose of hazardous waste, or receive offsite hazardous waste for recycling, are subject to the fee provisions of Section 1-2005.3A(A) of the Act, except as provided by 63 O.S. 1-2005.3A(B). The fee amounts and applicability are depicted in Table 3B. Facilities not subject to Table 3B shall be charged in accordance with Table 3A. (Tables 3A and 3B, in (g) of this Section, are included for convenience and are subject to adjustment of the fees by statutory amendment.)

(8) **Fees for non-notifiers.**

(A) As used in this subsection, "notification" shall refer to the process for notification of hazardous waste activity as described in and required by Section 3010 of the federal Resource Conservation and Recovery Act and 40 CFR 270.1(b).

(B) A fee equivalent to the cumulative fees which, if the owner or operator of a controlled industrial waste facility had timely and properly notified, would have been assessed in the applicable years pursuant to Rule 310:270-13-4(d)(7) shall be assessed at the time of notification by (or discovery by the Department of) a previously non-notifying controlled industrial waste facility, to help cover the costs of non-routine processing, inspection, and evaluation.

(e) Table 1 Construction Permit Application Fee

Facility Type or Description		Fee for Submission	* Fee for Resubmission
All	Basic application processing fee:	\$2,500	\$100
Type 1 (Tanks)	Add for treatment or storage in tanks:	First tank battery \$2,500	First tank battery \$100
		plus 20% of above for each additional battery. A tank battery is an accumulation of not more than 10 tanks in one geographically contiguous area, not separated by diking or other means.	
Type 2 (Drums)	Add for storage in containers:	First area \$2,500	First area \$100
		plus 20% of above for each additional area. Area means a discrete geographically contiguous container storage area.	
Type 3 (Piles)	Add for treatment or storage in waste piles:	First pile \$4,500	First pile \$200
		plus 50% of above for each additional pile.	
Type 4.a (Misc. Thermal treatment)	Add for thermal treatment unit:	First unit \$2,500	First unit \$200
		plus 20% of above for each additional unit.	
Type 4.b (Incineration)	Add for incinerator:	Each unit \$7,500	Each unit \$200
		Incinerator unit includes all ancillary equipment such as afterburners and scrubbers.	
Type 5 (Deep Well)	Add for disposal by injection well:	First well \$20,000	First well \$500
		plus 50% of above for each additional well.	
Type 6 (Land Treatment Unit)	Add for treatment/disposal by land treatment:	First area \$10,000	First area \$400
		plus 40% of above for each additional area. Area means geologically and hydrologically contiguous area.	
Type 7 (Landfill)	Add for storage & treatment by impoundments, disposal by impoundments or landfills:	First unit \$25,000	First unit \$750
		plus 20% of above for each additional unit.	
Type 8 (Research)	Add for research units or special conditions:	Each \$5,000	Each \$200

~~*Re-submission is deemed to occur when an applicant provides additional information to make an application technically complete upon the request of the Department, or when an applicant provides a voluntary additional submission with significant changes.~~

(f) Table 2 Operations Permit Application Fee

Facility Type or Description		Fee for Submission	* Fee for Resubmission
All	Basic application processing fee:	\$2,000	\$100
Type 1 (Tanks)	Add for facility with: Permit Interim Status	First area \$2,000 \$2,500	First area \$100 \$125
		plus 20% of above for each additional battery.	
Type 2 (Drums)	Add for facility with: Permit Interim Status	First area \$2,000 \$2,500	First area \$100 \$125
		plus 20% of above for each additional area.	
Type 3 (Piles)	Add for facility with: Permit Interim Status	First pile \$2,500 \$3,000	First pile \$125 \$150
		plus 50% of above for each additional pile.	
Type 4.a (Misc. Thermal treatment)	Add for facility with: Permit Interim Status	First unit \$2,000 2,500	First unit \$100 \$125
		plus 20% of above for each additional unit.	
Type 4.b (Incineration)	Add for facility with: Permit Interim Status	First unit \$12,000 \$12,000	First unit \$600 \$600
		plus 50% of above for each additional unit. Includes both trial burn and final operations permits.	
Type 5 (Deep Well)	Add for facility with: Permit Interim Status	First well \$15,000 \$20,000	First well \$250 \$500
		plus 50% of above for each additional well.	
Type 6 (Land Treatment Unit)	Add for facility with: Permit Interim Status	First area \$6,000 \$9,000	First area \$300 \$450
		plus 40% of above for each additional area. Includes both treatment demonstration and final operations permit.	
Type 7 (Landfill)	Add for facility with: Permit Interim Status	First unit \$20,000 \$25,000	First unit \$350 \$1,000
		plus 20% of above for each additional unit.	

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Type 8 (Research)	Add for facility with: Permit Interim Status	Each \$3,000 \$4,500	Each \$150 \$200
Type 9 (Recyclers)	Add for Off-site Recycling facility:	Each unit \$2,000	Each unit \$100

(g) Annual Facility Monitoring Fee Tables.
(1) Table 3.A Annual Facility Monitoring Fee

Type of Facility (Charges are cumulative)		Annual Monitoring Fee	
		On-site TSD	Off-site TSD
A.	Storage and treatment by tanks & storage in containers (Types 1 & 2)	\$100 per tank battery or container area	\$500 per tank battery or container area
B.	Incinerator & thermal treatment (Type 4)	\$1,000 each	\$5,000 each
C.	Land treatment (Type 6)	\$2,000 each	\$10,000 per area
D.	Injection wells (Type 5)	\$2,000 each	\$10,000 each
E.	Storage and treatment by impoundments or piles: disposal in impoundments or landfills (Types 3 & 7)	\$2,500 each unit	\$10,000 each type of unit
F.	Research facilities and sites not otherwise described (Type 8)	\$2,000 each	\$5,000 each

(2) Table 3.B - Annual Facility Monitoring Fees

Location of Waste Generation

Disposition of Waste	On-site	Off-site
Waste Storage, Treatment*, or Land Disposal	\$6.50/ton (minimum \$20,000/yr per facility)	\$6.50/ton (minimum \$50,000/yr per receiving facility)
Waste Recycling	-----	\$4.00/Ton (minimum \$50,000/yr per receiving facility)
Underground Injection	\$0.03 per gallon	\$0.03 per gallon

*The fees above shall not apply to treatment facilities accepting hazardous waste exclusively for the purpose of conducting treatment research and design tests.

[Source: Amended at 8 Ok Reg 3185, eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92]

~~SUBCHAPTER 15. ADDITIONAL CLASS I INJECTION WELL REQUIREMENTS~~

Section

- 310:270-15-1. Compliance with this subchapter
- 310:270-15-2. Construction requirements
- 310:270-15-3. Operating requirements
- 310:270-15-4. Testing and monitoring
- 310:270-15-5. Record-keeping and reporting requirements
- 310:270-15-6. Permit information requirements
- 310:270-15-7. Abandonment and plugging
- 310:270-15-8. Bifurcation of injection well construction permit hearing
- 310:270-15-9. Dedication
- ~~310:270-15-10. Lifetime~~

~~310:270-15-1. Compliance with this Subchapter~~

~~The owner or operator of each existing well, or applicant for a permit for a new well, shall supply to the Department all reports, logs, analyses, engineering evaluations, modeling studies, and other data necessary to demonstrate compliance with this Subchapter.~~

~~310:270-15-2. Construction requirements~~

~~(a) In addition to the requirements of 40 CFR 146.65(c)(2), the surface casing of each Class I injection well shall extend from the surface to at least fifty feet below the deepest underground source of fresh water.~~

~~(b) All annular spaces between casings shall be filled with cement circulated from the bottom of the hole to ground surface, unless otherwise specified.~~

~~310:270-15-3. Operating requirements~~

- (a) The annular space between injection tubing and long string casing shall be filled with a corrosion inhibiting fluid. The annulus shall be closed off and pressurized. If an operator of an injection well contends that maintaining annulus pressure greater than injection pressure (as required by 40 CFR 146.67(c)) will damage the well, said operator must demonstrate conclusively, to the satisfaction of the Department, the reasons for and nature of the expected damage. The operator's demonstration must be professionally prepared, and must be supported by complete engineering, geological, and other data.
- (b) The operator of a Class I injection well shall regulate the injection pressure applied to the well so that the maximum total pressure gradient in the well shall not exceed sixty-five percent of the established overburden pressure gradient, expressed in pounds per square inch per foot (psi/ft). If the effective overburden pressure gradient is not established at an injection well, the operator of the well shall regulate the injection pressure applied to the well so that the maximum total pressure gradient shall not exceed 0.65 psi/ft, unless otherwise specified by the Department. Allowances in the maximum injection pressure may be made for pressure losses due to friction in the injection tubing.
- (c) The specific gravity of the injected fluid shall be monitored using continuous recording devices, if the specific gravity varies.
- (d) Monitoring gauges and recorders shall be calibrated routinely so that they will accurately reflect the actual operating conditions of the injection well to avoid any potential hazards which might occur by exceeding the pressures allowed by 310:270-15-3(b).
- (e) Injection and annulus pressure monitoring taps shall be provided for the use of the Department. Such taps shall be connected near the locations on the well of the facility's pressure monitoring recorders. The taps shall provide a one-fourth inch diameter National Pipe Thread female pipe fitting, valved and capped to prevent fluid loss when not in use. Said taps shall allow simultaneous pressure monitoring by facility pressure recorders and Department pressure gauges for comparison.
- (f) The operator shall pre-treat wastes which are to be injected as necessary to render them compatible with solids and liquids in the disposal zone, and to prevent reduction of the porosity and permeability of the injection interval. Any materials produced by pre-treatment or storage of controlled industrial waste, which are not amenable to injection, shall also be considered as controlled industrial waste and disposed of in accordance with these Regulations. For the purposes of disposal of these materials and sludges, the facility shall be considered a controlled industrial waste generator and must file a disposal plan for approval by the Department.
- (g) The owner or operator shall not cause nor allow wastes to be released from the well bore directly into any stratum other than the approved injection interval.
- (h) The owner or operator shall not cause nor allow fracturing of any stratum except for stimulation of the injection interval.

~~310:270 15.4. Testing and monitoring~~

(a) The annulus of each injection well shall be pressurized for testing semi-annually, during the Department's regular Underground Injection Control program inspections. Test pressure on the annulus shall be three hundred pounds per square inch or one hundred twenty-five percent of the highest operating annulus pressure, whichever is greater, unless otherwise specified by the Department. The well shall be shut in and the annulus pressure monitored by the Department for pressure losses or gains.

(b) The operator of an injection well shall conduct formation pressure decay tests of the well's injection interval semi-annually. The operator shall conduct these tests by stabilizing the well to its normal operating injection pressure and flow rate, and then shutting in the well and continuously recording the pressure. A formation pressure decay test may be terminated when the well-head pressure changes no more than three psi in one hour. Results of the pressure decay test shall be submitted to the Department with the monthly report following completion of the test. The results shall include the continuous chart recordings of the injection flow rate before the test, and the injection pressure before and during the test.

(c) The injection tubing shall be tested at one hundred fifty percent of its maximum proposed operating pressure or three hundred psi, whichever is greater, before operation of an injection well, and each five years thereafter. Testing of the tubing shall be conducted to assure that the assembled tubing string will successfully withstand the internal operating pressures imposed by waste injection and the external operating pressures imposed by pressurizing the annulus.

(d) Compliance with 40 CFR 146.68(e) shall require that at least one monitoring well be installed and maintained at the expense of the owner. The Department may require additional wells if they are deemed necessary to adequately monitor ground water quality and level around the site. Specifications for the location, construction and maintenance of monitoring and/or observation holes must be approved by the Department prior to installation.

(1) Well(s) shall be deep enough and completed in such a manner as to provide monitoring of the deepest underground source of fresh water beneath the site.

(2) Well(s) shall be arranged so that at least one well will be placed hydraulically down-gradient (in terms of the gradients determined in the deepest underground source of fresh water) from the site.

(3) Unless otherwise specified by the Department, water samples shall be obtained and analyzed at least once each month.

(4) Upon issuance of any operations permit, the Department will notify the operator of the parameters to be determined by analysis of the samples.

~~310:270-15-5. Record keeping and reporting requirements~~

- (a) The operator of an injection well shall maintain records accurately reflecting the volume of fluid injected on any given day.
- (b) The operator shall submit monthly reports to the Department, on Department forms, and shall include:
- (1) Copies of charts or records that reasonably reflect the well-head and annulus pressures, the flow rate, specific gravity (if required), and temperature of the injected fluid observed on any given day of the month.
 - (2) The information specified under 40 CFR 146.69(a).
 - (3) Copies of the ground water sample analyses required in 310:270-15-4(d)(3).
- (c) The operator shall maintain a permanent file of all charts and records obtained under this paragraph as a part of the permanent site records.

~~310:270-15-6. Permit information requirements~~

The following information is required in any permit application for a Class I injection well:

- (1) Scale and schematic drawings of all proposed pre-treating and/or auxiliary surface equipment, including any backup, fail-safe, or standby systems to be utilized in case of well failure.
- (2) A detailed schematic drawing which gives dimensions and illustrates the proposed well construction, including well bore, casing, cementing, tubing, and packer(s).
- (3) Narrative geological, hydrological, and engineering report on the proposed disposal zone including:
 - (A) An identification of the confining zone, injection zone, and injection interval. The description of these three zones or intervals shall include identification of the depth to top and bottom of each zone, named formations or other strata within the zone, and the confining layers and permeable layers (including their thickness and vertical distribution) within the zone. The zones identified in accordance with this paragraph shall be consistent with the definitions of these zones in any facility's petition for exemption from injection restrictions made to the EPA in accordance with 40 CFR 148, Subpart C.
 - (B) An isopachous and structural map (or maps) of the injection interval, injection zone, and confining zone.
 - (C) All available data from logs of other wells in the area.
 - (D) A discussion of known or potential fluid flow directions and fluid distributions within the injection formation(s).
 - (E) Calculations of the cone of influence of the proposed injection well. The cone of influence shall be determined using a calculation model suitable to the injection reservoir's characteristics, and shall be based on the volume and type of waste to be injected into the well and all geologic, hydrologic, and engineering factors for the area of the well.
 - (F) All core data and lithological data available.
- (4) Information regarding potential adverse effects on any existing injection well. For the purpose of this Rule, an existing injection well is one that is currently in operation, under construction, or one for which a substantially complete application has been submitted to the Department for consideration.
 - (A) If a proposed well or wells may adversely affect an existing well or wells, the Department shall deny the application in order to avoid potential damage to the existing well(s).
 - (B) An operator of an existing well or wells that may be adversely affected by proposed new well(s) may waive the protective permit denial detailed in 310:270-15-6(d)(1). A waiver made under this paragraph must be submitted to the Department in writing, and shall include the operator's certification to the Department that his existing well(s) will not be affected to an extent that will impair his ability to operate the well(s) in accordance with the Act and these rules.

- ~~(C) If the operator(s) of existing well(s) waives a protective permit denial as described in 310:270-15-6(4)(B), the applicant for the permit for the new well(s) shall submit a report demonstrating that the waiver is justified. The demonstration shall be professionally prepared and contain the operational history, current operating parameters, and reservoir characteristics of the existing well(s), a complete analysis of the effect of the new well on the existing well(s), and a certification by the preparer.~~
- (5) Detailed lithological description of all formations penetrated and all core data obtained.
- (6) The following logs and reports are required for new Class I controlled industrial waste wells.
- (A) A driller's log.
 - (B) A mechanically recorded drilling time log (geologist).
 - (C) A gamma-ray/neutron log if the disposal zone is cased.
 - (D) An electromagnetic casing thickness and casing caliper log.
- ~~(7) After completion of the well, all data submitted for the construction permit shall be updated in the operations permit application to reflect the new data.~~

~~310:270-15-7. Abandonment and plugging~~

Any well to be permanently abandoned shall be immediately plugged.

(1) The owner or operator shall notify the Department of the exact time during which all plugging operations will take place. The Department may be present at plugging operations.

(2) The well shall be plugged with cement from the total depth of the well to ground level.

(3) The top of the plug of any plugged well shall clearly show the well permit number and date of plugging by permanent markings, whether inscribed in the cement or on a steel plate embedded in the cement.

(4) The owner shall submit, at least one hundred eighty days prior to cessation of operations, plans for the proper disassembly, decontamination, and restoration of the site. After plan approval, the site restoration program shall be implemented and completed within six months, unless otherwise specified by the Department.

~~310:270-15-8. Bifurcation of injection well construction permit hearing~~

(a) Upon the written motion of the applicant, the hearing examiner may order the issuance of a temporary, interim construction permit to allow the drilling of the proposed well so that actual test data and logs from the well may be obtained for consideration at the hearing. Such temporary, interim permits may not have a lifetime in excess of ninety days, and the hearing examiner shall stay all proceedings in the hearing during its duration. The temporary, interim permit shall allow only the drilling, casing, and completion of the well necessary for sampling, cores, logs, or obtaining such data as is needed for consideration of physical and technical suitability of the well itself. All such data shall be submitted and considered when the hearing is reconvened.

(b) The temporary, interim permit may not be issued until the applicant supplies a performance bond, acceptable to the Department, guaranteeing the closure and plugging of the well should a full permit not be granted. The issuance of a temporary, interim permit shall not allow controlled industrial waste operations of any kind, and shall not be used as an assumption of final permit issuance. A temporary, interim permit shall not convey any property rights, nor any privilege, exclusive or non-exclusive, regarding full construction and operation of a controlled industrial waste facility.

~~(c) In the absence of a construction permit, no well shall be equipped as a Class I injection well.~~

~~310:270-15-9. Dedication~~

Upon permit approval, all facilities and equipment, on-site or off, connected with the disposal operation as described in the permit, shall be dedicated to sole use for matters described previously for that site's operation. This requirement shall not be taken to include highway or rail transport vehicles used to convey controlled industrial waste to the facility from off-site generators. Transfer of, use, or sale of this equipment is prohibited unless Department approval is obtained in writing. Approval may be obtained only if the owner can show that said equipment is not contaminated, will not contaminate the environment in its future use, and that its absence will not affect the operational safety of the site.

~~310:270-15-10. Lifetime~~

- (a) The owner shall submit, in any permit application, the projected life of the injection well based upon the cone of influence calculated for the well and the design life of the well components.
- (b) Insofar as the life of the well depends on the cone of influence and pressure rise calculations, the pressure rise at the well bore at the end of the well's life shall not exceed the original permitted injection pressure.
- (c) The determination of the design lifetime of the well components shall include consideration of the mechanical, chemical, and electrochemical properties of the components, the inter-reactions between the components and the well bore, cement, and the wastes injected, and any other pertinent engineering or geological factors that may influence the components' service life.
- (d) One hundred eighty days before the end of the projected life of the well, the owner or operator shall either commence closure of the well in accordance with the approved closure plan, or submit a revised well life projection.

~~SUBCHAPTER 17. TAX CREDIT~~

Section

310:270-17-1. Definitions

310:270-17-2. Scope and applicability of tax credit

310:270-17-3. Tax credit limitations

310:270-17-4. Application procedures for tax credit

310:270-17-5. Criteria for approval of tax credit

310:270-17-6. Special conditions: new and unproven technologies

~~310:270-17-7. Required information in tax credit application~~

~~310:270-17-1. Definitions~~

The following apply only to actions taken pursuant to the Recycling, Reuse and Ultimate Destruction Incentive Act (RRUDIA) (see 68 O.S. Supp. 1988, Sections 2357.14-2357.20) and are not intended to alter the definitions in 310:270-1-2 or in 40 CFR Parts 260-270. The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Recycling" means the processing, reclaiming, treating, neutralizing or re-refining of materials and by-products into products of beneficial use. Under these rules, recycling applies to materials that if discarded would be controlled industrial waste.

"Reuse" means the introduction (or reintroduction) of a material into a manufacturing process. Under these rules, reuse applies to materials that if discarded would be classified as controlled industrial waste. A material is "reused" if it is:

(A) Used as an ingredient (including use as an intermediate) in an industrial process to make a product. For example, distillation bottoms from one process being used as a feedstock in another process.

(B) Used in a particular function or application as an effective substitute for a commercial product. For example, spent caustic soda used as a precipitant and/or sludge conditioner in wastewater treatment.

"Speculative accumulation" means accumulation of a material before being recycled. A material is not accumulated speculatively if the person accumulating it can show that during the calendar year, commencing January 1, the amount of material removed for recycling equals at least seventy-five percent by weight or volume of the amount of the material accumulated at the beginning of the period. In calculating the percentage of turnover, the seventy-five percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulated in units that are exempt from regulation under 40 CFR 261.4(c) are not to be included in making the speculative accumulation calculation.

"Ultimate destruction" means that a waste material has been treated so that the weight or volume of waste containing harmful properties remaining for disposal, and any emissions of hazardous constituents to the air, have been substantially reduced. Also, there must be no demonstrated process or technology commercially available to further reduce the material's weight or volume or remove or reduce its harmful properties.

[Source: Amended at 8 Ok Reg 3185; eff 7-18-91 (emergency); Amended at 9 Ok Reg 1447, eff 5-1-92]

~~310:270 17 2. Scope and applicability of tax credit~~

- (a) Any person making a capital investment in buildings, fixtures and/or equipment (collectively known as the "facility") and their installation for the purpose of recycling, reuse, or ultimate destruction of controlled industrial waste and the storage of such waste immediately prior to recycling, reuse or ultimate destruction may be entitled to an income tax credit of twenty percent of the amount actually invested in the facility and its installation in accordance with these rules. Upon evaluation by the Department of an application and a determination that the intent of the Recycling, Reuse, and Ultimate Destruction Incentive Act has been met, the Department will issue a certificate to the Oklahoma Tax Commission specifying the capital investment expense eligible for the tax credit and any limitations.
- (b) Energy recovery from the destruction of a controlled industrial waste may be considered as recycling, and the equipment or devices needed to effectuate such recovery may be eligible under these rules. In order to claim energy recovery, the unit must maintain a thermal energy recovery efficiency of at least sixty percent, calculated in terms of the recovered energy compared with the thermal value of the fuel, and at least seventy-five percent of this recovered energy must be exported and utilized on an annual basis. Credit will not be allowed for internal use of recovered heat in the same unit.
- (c) Facilities installed for the purpose of recycling, reuse or ultimate destruction of controlled industrial waste recovered as a result of the clean-up of spills and/or remedial action at controlled industrial waste sites may be eligible. The facility may receive a tax credit in proportion to the amount of waste that is generated in Oklahoma and is processed by the facility.
- (d) Replacement of existing equipment is eligible for consideration only if the equipment being replaced has exceeded its design lifetime as specified at the time of installation. Replacement of existing equipment with equipment that will allow more complete recycling or a higher standard of destruction will be considered regardless of age.
- (e) Any particular piece of equipment, plant, or property shall only be eligible for one tax credit allowance. Sale or transfer of that item to a new owner shall not recreate the eligibility for a tax credit.
- (f) Any person who is currently recycling or destroying wastes by means of an off-site facility, and who installs his own facility for the recycling, reuse or ultimate destruction of controlled industrial waste, may be eligible to claim a tax credit for the facility and its installation.
- (g) Trucks, trailers, containers, portable storage units or similar items that are necessary for the installation of a recycling, reuse or ultimate destruction facility may be eligible on a one-time basis for a tax credit. Items purchased or leased but not used solely for installation of the facility will be prorated based on use. Only items that are physically used in Oklahoma will be considered.

~~310:270-17-3. Tax credit limitations~~

The following activities and facilities are not eligible for consideration for a tax credit under these rules:

- (1) Storage facilities used for the purpose of speculative accumulation are not eligible.
- (2) Recycling of materials in a manner constituting disposal as described in 40 CFR Part 266 will not be eligible.
- (3) Recycling, reuse or ultimate destruction of materials that are not controlled industrial waste will not be eligible.
- (4) Expenses necessary to operate the facility, interest charges, design costs and permit application costs are not eligible.
- (5) Dilution of a controlled industrial waste is not considered as recycling, reuse or ultimate destruction and is therefore not eligible.

~~(j) Once the facility has been approved and the actual or estimated capital investment costs have been calculated, the Department shall certify to the Oklahoma Tax Commission the actual or estimated capital investment expense. The Tax Commission is required by statute to adjust any estimates to actual cost outlay by the applicant at the time the tax credit is taken.~~

~~(k) Following installation, the applicant shall notify the Department that the facility is ready to be inspected. The Department will verify that the specified equipment has been installed and that it is operational. The applicant is required to point out any deviations from the approved application. Deviations will be evaluated to determine if a new application will be required. If the completed facility passes the inspection, the Department will issue to the Oklahoma Tax Commission the certification allowing the owner/operator to claim a tax credit.~~

~~310:270-17-4. Application procedures for tax credit~~

- (a) Any person engaged in or proposing to engage in the recycling, reuse, or ultimate destruction of controlled industrial waste who wishes to apply for a tax credit, must make application to the Department on specified forms and provide information needed to support the application. Application forms are available from the Department. (See also 310:270-17-7 for required information.)
- (b) Application forms with all supporting documentation must be submitted in triplicate to the Chief of Waste Management Service for the Department.
- (c) The Department will respond to the application in one of the following ways:
- (1) Approve the application and certify to the Tax Commission the actual capital investment expense or the estimated capital investment expense subject to verification upon installation.
 - (2) Approve the application in part, while withholding approval or denying part.
 - (3) State that the application is deficient and must be revised or that additional information is needed before it can be reviewed further. The response will specify which portions of the application are deficient or need additional information.
 - (4) Deny the application, giving reasons for the denial.
- (d) Upon resubmission of an application after revision, the Department will again review it and respond as stated above.
- (e) An application for a tax credit must be submitted separately from applications for other permits.
- (f) An application for a tax credit and its supporting documentation will be considered as public record and be available to the public for inspection, unless the applicant declares the application to contain information that is a trade secret and must therefore be kept confidential. In such a case, the applicant should provide a general summary description that can be made available to the public. Although the detailed financial data contained in the application may be declared as confidential, the dollar amount of any tax credit allowed will be public information.
- (g) The application must include the actual or estimated capital expenditures required to purchase and install the facility. Estimates must show all unit costs and bid quotations from equipment suppliers. All suppliers, contractors, and related participants in the installation of the facility should be listed with addresses and telephone numbers provided so the Department may contact them regarding pertinent parts of the application.
- (h) All applications shall be thoroughly evaluated to verify the accuracy of the information provided and to determine the extent that controlled industrial waste is being recycled, reused, or ultimately destroyed, as compared to the extent produced within the facility. In order to be approved, the Department's review must result in a determination that the procedures specified will be effective and result in a significant reduction in the amount of waste requiring disposal.
- (i) After approval of the facility, the Department shall determine the actual or estimated capital investment of the equipment and its installation. Income or savings resulting from the facility's operation is required by RRUDIA although it is not relevant to the granting or denying of a tax credit.

~~310:270-17-5. Criteria for approval of tax credit~~

The following criteria and specifications are to be met in order to qualify for approval of a tax credit for the recycling, reuse, or ultimate destruction of controlled industrial waste.

- (1) Only expenditures after January 1, 1987, are eligible for consideration and the tax credit must be taken within three years of the installation and use of the facility.
- (2) The facility proposed for consideration must have been previously demonstrated to be effective and to perform as specified unless unproven technology procedures are followed. These are considered under "Special conditions: new and unproven technologies."
- (3) There is no minimum amount of a controlled industrial waste which must be recycled, reused or ultimately destroyed to be considered under these rules.
- ~~(4) Only facilities physically located in the State of Oklahoma are eligible for a tax credit.~~

~~310:270-17-6. Special conditions: new and unproven technologies~~

The following criteria and standards will apply to those persons wishing to apply for a tax credit under the RRUDIA and who wish to use technologies that have not been proven to be effective or workable:

- (1) Application for a tax credit when using technologies that have not been demonstrated to be effective and workable shall be the same as application for proven technologies.
- (2) If the review and evaluation of an application for a tax credit using unproven technologies indicates that the proposed facility has a high likelihood of being successful, but supporting data is not available to allow final approval by the Department, the Department may issue an Approval in Principle in lieu of the formal approval and certification to the Tax Commission. The Approval in Principle shall list the assumptions made in deciding upon its issuance and the conditions the facility is expected to meet before a formal approval and certification to the Oklahoma Tax Commission can be made.
- (3) The Approval in Principle will automatically expire two years from the date of its issuance. It may be reissued if a new application is submitted to the Department and a determination made that the conditions under which the first approval was issued are still applicable and that a high likelihood of success is still feasible.
- (4) Once the owner/operator of the facility in question has satisfactorily demonstrated that the technology performs as specified, and has supplied documentation to the Department showing that the conditions of the Approval in Principle have been satisfied, the Department shall issue a formal approval and provide certification to the Oklahoma Tax Commission showing eligibility for a tax credit.
- (5) The applicant must notify the Department of any significant change in the design of the facility or in the equipment actually installed, or if there is an increase in costs of more than twenty percent from that specified in the application. Any significant change from the original application shall be cause for the Department to reevaluate the application and make a new determination whether or not the project should be approved.

~~310:270-17-7. Required information in tax credit application~~

The following minimum information is to be included in all applications for a tax credit submitted to the Department under the Recycling, Reuse and Ultimate Destruction Incentive Act. Additional information may be required as deemed necessary by the Department. The Tax Commission will allow the tax credit to be taken only after the required information has been supplied, the application has been approved, and the facility is operational.

- (1) The application must provide a description of the current plant process, as it relates to the recycling, reuse or ultimate destruction operations, including flow diagrams and engineering drawings. If there is no current process in existence, the applicant must include a description of the process which would be used in the operation of the plant.
- (2) The application must provide a detailed description of the proposed recycling, reuse or ultimate destruction facility. This should include flow diagrams and engineering design drawings, specifying either by brand name and serial number, or by design specifications and drawings, the exact equipment necessary for the facility to perform as specified. Additionally, the applicant should supply the estimated life expectancy and the vendor's name for each piece of equipment.
- (3) The application must include the amount and character of waste streams prior to use of the facility and the amount and character of waste streams after use of the facility. If there is no current plant process, the applicant should provide information on the amount of controlled industrial waste expected to result from the proposed facility.
- (4) The application must include a justification for the process decisions made, including a determination of the most effective recycle, reuse, or ultimate destruction facility and a description of alternatives considered.
- (5) The application must certify that the facility will be used in Oklahoma to process controlled industrial waste generated in Oklahoma. If the facility will be processing other states' waste, the applicant must specify the percentage of waste that is from Oklahoma.
- (6) The application must include any income or savings that will be generated from the installation and operation of this facility.
- (7) The application must include actual invoices of installed unit costs or estimates of costs if the facility has not been built.
- (8) The application should specify whether the facility to be installed is a proven technology. If it is not a proven technology, the application must specify when support documentation will be available to determine if the technology will perform as specified.
- (9) The application must include the date that construction or installation of the facility is scheduled to begin and the date the facility is scheduled to begin operations.

~~SUBCHAPTER 19. ADDITIONAL RULES FOR RECYCLING~~

PART 1. REQUIREMENTS FOR OFF-SITE RECYCLERS

Section

- 310:270-19-1. Off-site recycling facilities
- 310:270-19-2. Applicability
- 310:270-19-3. Operating record
- 310:270-19-4. Additional requirements for recycling hazardous waste fuel
- 310:270-19-5. Fees

PART 5. MOBILE RECYCLING UNITS

- 310:270-19-15. Mobile Units
- 310:270-19-16. Public notice requirements for Mobile Units
- 310:270-19-17. Spills or releases
- 310:270-19-18. Notification of mobilization
- 310:270-19-19. Fees

PART 7. TANK AND CONTAINER RECYCLERS

- 310:270-19-29. Applicability
- 310:270-19-30. No endangerment
- 310:270-19-31. Handling of tank and container residue
- 310:280-19-32. Notification required
- 310:270-19-33. Recordkeeping
- 310:270-19-34. Storage requirements

[Source: Codified 5-1-92]

PART 1. REQUIREMENTS FOR OFF-SITE RECYCLERS~~310:270-19-1. Off site recycling facilities~~

Any facility which receives off-site shipments of controlled industrial waste to be recycled or processed for recycling, through any process conducted at the facility including fuel blending or burning, will be considered an Off-site Recycling facility subject to the provisions of this Subchapter.

(1) Off-site Recycling facilities shall not be required to obtain a permit under this section for recycling units which were operational on or before July 1, 1990, but shall be required to meet all standards specified herein.

(2) Owners or operators of Off-site Recycling facilities initiating operation of any recycling unit(s) after July 1, 1990, shall be required to obtain an operations permit for such unit(s) from the Hazardous Waste Management Service. For the purposes of this section, such facilities shall be subject to the permit requirements specified in 40 CFR 270 and in Subchapter 11 of this Chapter. These provisions shall be interpreted to include all hazardous waste recycling units, staging and process areas, and permanent and temporary storage areas for recycled products and wastes.

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]

~~310:270-19-2. Applicability~~

(a) Off-site Recycling facilities shall be subject to the following provisions of 40 CFR 264. These provisions shall be interpreted to include all hazardous waste recycling units, staging and process areas, and permanent and temporary storage areas for recycled products and wastes:

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

(b) Additionally, Off-site Recycling facilities shall be subject to the provisions of Subchapter 9 of this Chapter and the additional requirements of this Subchapter.

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]

~~310:270-19-3. Operating record~~

The owner or operator of an Off-site Recycling facility must keep a written operating record at his facility. The following information must be recorded as it becomes available, and maintained in the operating record, until closure of the facility:

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

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]

~~310:270-19-4. Additional requirements for recycling hazardous waste fuel~~

~~Blending of low fuel value hazardous waste (containing less than 5,000 btu/pound) with other solid or hazardous materials to create a hazardous waste fuel, is prohibited as a form of recycling.~~

~~[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]~~

~~310:270-19-5. Fees~~

~~Application fees for an operations permit for an Off-site Recycling facility, shall be the 310:270-13-4 Table 2 Amounts.~~

~~[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]~~

PART 5. MOBILE RECYCLING UNITS

~~310:270-19-15. Mobile Units~~

Mobile recycling units that process controlled industrial waste at any facility which generates in excess of 1000 kilograms of CIW in any calendar month, are required to obtain a Recycling Permit for a Mobile Unit. Application for such permit shall include the application fee and three copies of the following:

- (1) A detailed description of the proposed recycling unit(s). This should include flow diagrams and engineering design drawings, specifying either by brand name and serial number, or by design specifications and drawings, the exact equipment necessary for the unit(s) to perform as specified.
- (2) The amount and nature (including waste codes and available laboratory analyses) of current hazardous waste streams able to be processed and the amount and nature of waste streams expected to result from operation of the proposed unit(s).
- (3) A description and quantification of any releases to the air, sewer, water, or ground that will result from operation of the recycling unit(s).
- (4) A description of the procedures used to decontaminate the unit, and including disposal of all contaminated residuals, after completion of the on-site processing.
- (5) Evidence of compliance with personnel training requirements equivalent to 40 CFR 265.16 for all personnel dealing with waste handling or processing.
- (6) A generic contingency and safety plan which meets all applicable provisions of 40 CFR 265, Subparts C and D.

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]

~~310:270-19-16. Public notice requirements for Mobile Units~~

(a) Upon submission of an application for a Recycling Permit for a Mobile Unit, the applicant shall give notice by one publication in two newspapers, of statewide circulation, of the filing of such application with the Department. Such notice shall be worded as follows:

(Unit operator name) has made application to the Oklahoma State Department of Health for a Recycling Permit for a Mobile Unit, which would allow for the beneficial recycling of controlled industrial waste currently generated at facilities throughout the state. (Unit Operator) is a company which has a corporate location at (Facility address, in City, State). Any Oklahoma resident who wishes to submit comments, or who wishes an informal public meeting to present written or oral comments opposing this application, may submit a written request to the Hazardous Waste Management Service of the Oklahoma State Department of Health, P.O. Box 53551, Oklahoma City, OK 73152. Such requests must be received no later than the close of business on (forty-five days from date of publication).

(b) Proof-of-publication shall be submitted to the Department within ten (10) calendar days of publication.

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]

~~310:270-19-17. Spills or releases~~

The unit operator, as well as the waste generating facility, is considered responsible for remediation of any spills or releases to the environment as a result of operation of this unit or handling of related wastes, and is subject to provisions of Rules 310:270-9-1 and 310:270-13-2.

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]

~~310:270-19-18. Notification of mobilization~~

After receipt of a permit, the unit operator shall be required to notify the Department, in writing, at least fifteen (15) days in advance of unit mobilization for the purpose of recycling at any site within the state. Such notification shall include the facility name, address, and county; estimations and nature of waste to be recycled; and the intended date(s) of unit operation. The disposition of each product, by-product, waste and other materials resulting from operation of this unit on-site must be addressed. A site specific safety and contingency plan shall accompany this notification.

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]

~~310:270-19-19. Fees~~

~~Fees for the review and processing of a Recycling Permit for Mobile Units shall be the 310:270-13-4 Table 2 Basic application processing fee. Annual Monitoring Fees for permitted mobile recycling units shall be \$100.00 per mobilization, not to exceed \$500.00.~~

~~[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]~~

PART 7. TANK AND CONTAINER RECYCLERS

~~310:270-19-29. Applicability~~

Facilities which receive tanks or containers from off-site containing hazardous waste residues, or which through their operations generate tanks or containers containing hazardous waste residues, shall be subject to the provisions of this Part. These rules shall apply to "empty" waste containers as described in Rule 310:270-3-2 and 40 CFR 261.7.

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]

~~310:270-19-30. No endangerment~~

All tanks or containers containing hazardous waste residues shall be managed and stored to minimize releases to the ground, air, or water. Any spilled or leaking material shall be remediated in accordance with Rule 310.270-13-2.

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]

~~310:270 19-31. Handling of tank and container residue~~

(a) The cleaning of hazardous waste tanks or containers containing residues of listed wastes shall result in the generation of hazardous waste. All collected residues and wastewaters resulting from the cleaning of such tanks and containers shall be managed as listed hazardous waste.

(b) The residues and wastewaters resulting from the cleaning of waste tanks or containers are considered hazardous waste if they meet any characteristic of a hazardous waste.

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]

~~310:270-19-32. Notification required~~

Facilities which engage in recycling or reconditioning of tanks or containers containing hazardous waste residues, must notify the Department of this activity and provide a description of the recycling process, along with documentation of how the process will be conducted in a manner that minimizes releases to ground, air, and water. Existing facilities (in operation on the effective date of this rule) are to submit this information within ninety (90) days after the effective date of these regulations. New facilities are to submit this information prior to initiation of recycling operations.

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]

~~310:270-19-33. Recordkeeping~~

Facilities which engage in recycling or reconditioning of tanks or containers containing hazardous waste residues, must maintain records documenting the date, number, type of tanks or containers received and the nature of the residue therein, as well as documentation of the appropriate disposal of all wastes.

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]

~~310:270 19-34. Storage requirements~~

- (a) Facilities may not store or accumulate tanks or containers which are awaiting recycling or reconditioning and which contain hazardous waste residues in excess of one year.
- (b) All tanks and containers shall be stored in a closed or covered manner to prevent evaporation or rainwater accumulation.
- (c) Stored tanks and containers containing hazardous waste residues shall be inspected on a weekly basis. All leaking containers or tanks shall be decontaminated and/or disposed, and any spills promptly remediated.
- (d) Records shall be kept documenting weekly inspections, any problems detected, and the date of remediation for a period of three years.

[Source: Added at 8 Ok Reg 3185, eff 7-18-91 (emergency); Added at 9 Ok Reg 1447, eff 5-1-92]