

US EPA ARCHIVE DOCUMENT

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

August, 1997

**EPA APPROVED OKLAHOMA STATUTORY REQUIREMENTS
 APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
 August 1997**

Oklahoma Hazardous Waste Management Act, as amended, 27A Oklahoma Statute (O.S.), 1997 Edition, effective August 30, 1996

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Copies of the Oklahoma statutes that are incorporated by reference are available from West Publishing Company, 610 Opperman Drive, P. O. Box 64526, St. Paul, Minnesota 55164-0526.

**OKLAHOMA STATUTES
ANNOTATED**

**Title 27A. Environment and Natural
Resources**

Title 28. Fees

**Under Arrangement of the
Official Oklahoma Statutes**

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~~ing such violation. In addition to other penalties or liabilities as may be imposed by law, violations may be punishable in civil proceedings by assessment of a civil penalty of not more than Ten Thousand Dollars (\$10,000.00) for each violation or, in criminal proceedings, by a fine of not less than Two Hundred Dollars (\$200.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation or by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment. Each day upon which such violation occurs shall constitute a separate violation.~~

B. Part 5 of Article III of Chapter 2 of this act² shall apply to violations under this article except when inconsistent with the provisions of the Oklahoma Pollutant Discharge Elimination System Act.³

C. The provisions of subsection A of this section shall not apply to the Oklahoma Pollutant Discharge Elimination System Act or hazardous waste injection wells.

Laws 1993, c. 145, § 83, eff. July 1, 1993.

¹ Title 27A, § 2-6-101 et seq.

² Title 27A, § 2-3-501 et seq.

³ Title 27A, § 2-6-201 et seq.

ARTICLE VII. HAZARDOUS WASTE MANAGEMENT

Cross References

~~Hazardous Waste Management Advisory Council, jurisdiction to include this article. see Title 27A, § 2-2-201.~~

PART 1. OKLAHOMA HAZARDOUS WASTE MANAGEMENT ACT

~~§ 2-7-101. Short title~~

This article¹ shall be known and may be cited as the "Oklahoma Hazardous Waste Management Act".

Laws 1976, c. 251, § 1. Renumbered from Title 63, § 2751 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Laws 1992, c. 403, § 4, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2001 and amended by Laws 1993, c. 145, §§ 84, 359, eff. July 1, 1993.

¹ Title 27A, § 2-7-101 et seq.

Historical and Statutory Notes

Sections 18 and 19 of Laws 1976, c. 251, provided for a general repealer and codification.

The 1992 amendment substituted "Hazardous" for "Controlled Industrial".

The 1993 amendment substituted "article" for "act" and "Management" for "Disposal".

Cross References

~~Environmental crimes, unlawful hazardous waste transportation without proper manifest, see Title 21, § 1230.3 et seq.~~

~~Oklahoma underground storage tank regulation, hazardous substance, defined, see Title 17, § 303.~~

Law Review and Journal Commentaries

~~Evolution of Oklahoma Controlled Industrial Waste Disposal Act since 1976. William W. Gordon, Jr. 8 Okla.City U.L.Rev. 397 (1983). Hazardous waste injection wells: Need for state controls. 19 Tulsa L.J. 250 (1983).~~

~~**§ 2-7-102. Hazardous waste Regulation and control**~~

~~Hazardous waste shall be subject to the provisions of the "Oklahoma Hazardous Waste Management 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; Laws 1992, c. 403, § 5, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2001.1 and amended by Laws 1993, c. 145, §§ 85, 359, eff. July 1, 1993.~~

~~¹ Title 27A, § 2-7-101 et seq.~~

~~² Title 27A, § 2-10-101 et seq.~~

Historical and Statutory Notes

~~The 1992 amendment substituted "Hazardous" for "Controlled industrial" and "Hazardous" for "Controlled Industrial". The 1993 amendment substituted "subject" for "treated and regulated pursuant" and "Management" for "Disposal".~~

§ 2-7-103. Definitions

As used in the Oklahoma Hazardous Waste Management Act:¹

1. "Affected property owners" means all real property owners within one (1) mile of the outer perimeter of a proposed hazardous waste site;
2. "Affiliated person" means:
 - a. any officer, director or partner of the applicant,
 - b. any person employed by the applicant as a general or key manager who directs the operations of the site or facility which is the subject of the application, and
 - c. any person owning or controlling more than five percent (5%) of the applicant's debt or equity;
3. "Council" means the Hazardous Waste Management Advisory Council;
4. "Demonstrated pattern of prohibited conduct" means a series of conduct of the same or like character in violation of state or federal environmental laws which, as a result of the applicant's or affiliated person's reckless disregard thereof, actually endangers, or reasonably has the potential to endanger, human health or the environment;

5. "Disclosure statement" means a written statement by the applicant which contains:
- a. the full name, business address, and social security number of the applicant, and all affiliated persons,
 - b. the full name and address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%), or which is a parent company or subsidiary of the applicant, and a description of the on-going organizational relationships as they may impact operations within the state,
 - c. a description of the experience and credentials of the applicant, including any past or present permits, licenses, certifications, or operational authorizations relating to environmental facility regulation,
 - d. a listing and explanation of any administrative, civil or criminal legal actions against the applicant or any affiliated person which resulted in a final agency order or final judgment by a court of record including, but not limited to, final orders or judgments on appeal in the ten (10) years immediately preceding the filing of the application relating to the generation, transportation, storage, treatment, recycling or disposal of "hazardous waste" as defined by the Oklahoma Hazardous Waste Management Act or by the United States Environmental Protection Agency pursuant to the Federal Resource Conservation and Recovery Act.¹ Such actions shall include, without limitation, any permit denial or any sanction imposed by a state regulatory authority or the United States Environmental Protection Agency, and
 - e. a listing of any federal environmental agency and any state environmental agency outside this state that has or has had regulatory responsibility over the applicant;
6. "Disposal" means the final disposition of hazardous waste;
7. "Disposal site" means the location where any final disposition of hazardous waste occurs. Disposal sites include but are not limited to injection wells and surface disposal sites;
8. "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 Hazardous Waste Management Act;
9. "Hazardous waste" means waste materials and byproducts, either solid or liquid or containerized gas, which are:
- a. to be discarded by the generator or recycled,

- b. toxic to human, animal, aquatic or plant life, and
- c. generated in such quantity that they cannot be safely disposed of in properly operated, state-approved solid waste landfills or waste, sewage or wastewater treatment facilities.

The term "hazardous 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 hazardous waste. The term "hazardous waste" shall not include domestic sewage;

10. "Hazardous waste facility" means and includes storage and treatment facilities and disposal sites;

11. "History of noncompliance" means any past operations by an applicant or affiliated persons which clearly indicate a reckless disregard for environmental regulation or demonstrate a pattern of prohibited conduct which could reasonably be expected to result in endangerment to human health or the environment if a permit were issued, as evidenced by findings, conclusions and rulings of any final agency order or final order or judgment of a court of record;

12. "Multi-user on-site treatment facility" means a treatment facility for hazardous waste generated by the co-owners of the facility and which meets the criteria specified by the Oklahoma Hazardous Waste Management Act;

13. "Off-site treatment, storage, recycling or disposal" means the treatment, storage, recycling or disposal at a hazardous waste facility of hazardous waste not generated by the owner of the facility;

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

15. "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;

16. "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 a construction permit application;

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

18. "Regeneration" or "regenerated" means the regeneration of spent activated carbon to render it reusable, and any treatment, storage or disposal associated therewith;

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

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

21. "Treatment" means the detoxification, neutralization, incineration or biodegradation of hazardous waste in order to remove or reduce its harmful properties or characteristics; and

22. "Treatment facility" means any location where treating or recycling of hazardous waste occurs.

Laws 1976, c. 251, § 2; Laws 1978, c. 260, § 1, emerg. eff. May 10, 1978. Renumbered from Title 63, § 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; Laws 1992, c. 201, § 1, eff. July 1, 1992; Laws 1992, c. 403, § 6, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2002 and amended by Laws 1993, c. 145, §§ 86, 359, eff. July 1, 1993.

¹ Title 27A, § 2-7-101 et seq.

² 42 U.S.C.A. § 6901 et seq.

Historical and Statutory Notes

The 1978 amendment, in paragraph 1, substituted "discarded by the producer" for "disposed of"; and rewrote paragraph 2, which prior thereto read:

" 'Disposal' means the final disposition of controlled industrial waste;"

; in paragraph 4, substituted "injection wells" for "deep well injection"; added paragraph 5; redesignated former paragraphs 5, 6 and 7 as paragraphs 6, 7 and 8; in paragraph 7, first sentence, inserted "or reduce"; in paragraph 8, deleted "site or" preceding "location"; and deleted former paragraph 8 which read:

" 'Section' means the Controlled Industrial Waste Management Section created herein."

; and added paragraph 10.

The 1981 amendment in paragraph 1, first sentence, substituted "waste materials and byproducts" for "refuse products"; "generator" for "producer" and "generated" for "produced"; and in the second sentence, inserted "containerized

gases," and " and excludes domestic sewage"; in paragraph 7, substituted "treatment" for "processing" and deleted the second sentence which read "The processing shall be done in accordance with any rules and regulations adopted by the Department in conjunction with any other agency authorized by law to regulate controlled industrial waste."; in paragraph 8, substituted "Treatment facility" for "Processing facility"; substituted "treating" for "processing", and substituted "a facility engaged only in recycling" for "in-plant treatment by the producer"; in paragraph 9, first sentence, inserted "treating, neutralizing", substituted "materials and byproducts which, if discarded, would be controlled industrial waste into a product of beneficial use" for "a controlled industrial waste into a usable product", and deleted the former second sentence which read: "Such recycling shall be done in an environmentally acceptable manner"; deleted former paragraph 10 which read:

"Storage" means the temporary placement of waste in a designated tank, pit, lagoon, pond, or other specific place or area, for a specific period of time. Such storage shall be done in an environmentally safe manner, in accordance with any rules and regulations developed by the Department."

; and added paragraphs 10 to 14.

The 1987 amendment added paragraphs 15 to 17 (now paragraphs 19, 14 and 17, respectively).

The 1988 amendment added paragraph 18 (now paragraph 12).

The 1990 amendment, in paragraph 1 (now paragraph 9), in the first sentence, substituted "or recycled" for a comma, in paragraph 8 (now paragraph 22), inserted "or recycling" and deleted ", but does not include a facility engaged only in recycling" from the end, in paragraph 9 (now paragraph 17), in the first sentence deleted "materials and by products which, if discarded, would be" preceding "controlled" and substituted "which is being reused or which has been sold for beneficial use" for "of beneficial use" and added the second sentence, deleted former paragraph 10, which read:

"'Recyclable materials' means those materials and by products which if discarded would be controlled industrial waste;"

; redesignated former paragraphs 11 to 18 as paragraphs 10 to 17 (now paragraphs 20, 10, former paragraph 11 deleted by the 1993 amendment, 3, 19, 14, 13 and 12, respectively), in paragraph 10 (now paragraph 20) deleted "or recyclable material" following "waste", and in paragraph 17 (now paragraph 12) substituted "1-2008.1 of this title" for "2 of this act".

The 1991 amendment, in paragraph 1 (now paragraph 9), in the second sentence, substituted "sludges" for "sludge" and deleted "infectious materials," following "chemicals," deleted former paragraph 5, which read:

"'Division'" means the "Controlled Industrial Waste Management Division;"

; redesignated former paragraphs 6 to 17 as paragraphs 5 to 16 (now paragraphs 15, 21, 22, 17, 20, 10, former paragraph 11 deleted by the 1993 amendment, 3, 19, 14, 13 and 12), and in paragraphs 14 and

15 (now paragraphs 14 and 13, respectively), inserted ", recycling" wherever appearing.

Laws 1992, c. 201, § 1, added paragraph 17 (now paragraph 18).

Laws 1992, c. 403, § 6, substituted "hazardous waste" for "controlled industrial waste" throughout the section.

The 1993 amendment rewrote the section, which prior thereto read:

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

"1. 'Hazardous 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 land fills, waste or sewage treatment facilities.

"Hazardous 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 hazardous waste into a product which is being reused or which has been sold for beneficial use. Hazardous 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 hazardous waste occurs, including any tank, pit, lagoon, pond, or other specific place or area;

"10. 'Hazardous 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 Hazardous Waste Management Council;

"13. 'Site' or 'proposed site' means the surface area of a disposal site, or other hazardous 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 hazardous 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 hazardous waste facility of hazardous waste not generated by the owner of the facility;

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

"17. 'Regeneration' or 'regenerated' means the regeneration of spent activated carbon to render it reusable, and any treatment, storage or disposal associated therewith."

Law Review and Journal Commentaries

Evolution of Oklahoma Controlled Industrial Waste Disposal Act since 1976.

William W. Gorden, Jr. § Okla.City. U.L.Rev. 397 (1983).

Library References

Health and Environment ¶25.5(5).
WESTLAW Topic No. 199.

C.J.S. Health and Environment §§ 61, 65, 66, 91 et seq., 106 et seq., 113, 115 et seq., 125 to 140, 150 et seq.

Notes of Decisions

Construction and application 1

1. Construction and application

The provisions of Title 52, § 139 and Title 63, § 2756 (now repealed) do not prevent the exercise of jurisdiction by the Controlled Industrial Waste Management Division of the Oklahoma State Department of Health over controlled industrial waste produced by a refinery or oil reclaimers even if such waste has no further economic value and is to be discarded by the refiner or oil reclaimer. Op. Atty.Gen. No. 79-249 (Oct. 16, 1979).

The adoption of the Controlled Industrial Waste Disposal Act (Title 63, § 2751 et seq. recodified as Title 27A, § 2-7-101 et seq.), repealed Title 63, § , inasmuch as the provisions of that section were inconsistent with the latter act. Op.Atty. Gen. No. 77-162 (May 27, 1977).

A farming operation which plows into the soil industrial waste, which is not designated by the Controlled Industrial Waste Management Section as controlled industrial waste, is not subject to the provisions of this Act. Op.Atty.Gen., No. 76-367 (Jan. 26, 1977).

~~§ 2-7-104. Hazardous waste management program Personnel~~

~~A hazardous waste management program responsible for the regulation and management of hazardous waste shall be maintained~~

~~within the Department. The hazardous waste management program shall consist of a director, who shall be hired by the Executive Director, and additional employees as the Executive Director deems are necessary and duly qualified to carry out the provisions of the Oklahoma Hazardous Waste Management Act.¹ As a prerequisite for employment as the director of the hazardous waste management program, the applicant shall have expertise and at least two (2) years' experience in waste management. The director and all employees of the hazardous waste management program 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 Title 63, § 2753 and amended by Laws 1981, c. 322, §§ 2, 18, eff. July 1, 1981. Laws 1991, c. 173, § 2; Laws 1992, c. 403, § 7, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2003 and amended by Laws 1993, c. 145, §§ 87, 359, eff. July 1, 1993.

¹ Title 27A, § 2-7-101 et seq.

Historical and Statutory Notes

The 1978 amendment substituted "Division" for "Section" in the first and second sentences.

The 1981 amendment deleted "or environmental" preceding "engineering" in the third sentence.

The 1991 amendment rewrote the section, which prior thereto read:

"There is hereby created a Controlled Industrial Waste Management Division 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, and shall have a degree in chemistry or engineering. The Director shall be subject to the Merit System of Personnel Administration, and all em-

ployees hired by the Commissioner shall be subject to the Merit System."

The 1992 amendment substituted "hazardous" for "controlled industrial" in the first sentence.

The 1993 amendment rewrote the section, which prior thereto read:

"A division responsible for the regulation and management of hazardous 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."

Law Review and Journal Commentaries

Evolution of Oklahoma Controlled Industrial Waste Disposal Act since 1976.

William W. Gorden, Jr. § Okla. City. U.L.Rev. 397 (1983).

§ 2-7-105. Powers and duties of Department of Environmental Quality

~~The Department shall have the power and duty to:~~

- ~~1. Issue permits for the construction and operation and for the post-closure, maintenance and monitoring of hazardous waste facilities;~~
2. Provide the owner or operator of a hazardous 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 hazardous waste facilities and recycling, transporting, and generating facilities to determine the extent of compliance with the Oklahoma Hazardous Waste Management Act¹ and rules promulgated thereunder, and orders, permits and licenses issued pursuant thereto;
4. Develop, maintain, and monitor public records of the source and amount of hazardous 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 hazardous waste off-site for storage, recycling, treatment, or disposal;
6. Require and approve or disapprove disposal plans from all persons generating hazardous waste or shipping hazardous waste within, from, or into Oklahoma indicating the amount of hazardous waste generated, the handling, storage, treatment, and disposal methods, and the hazardous waste facilities used. The disposal plans shall be kept current by the persons generating or shipping hazardous 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 hazardous 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 hazardous waste as may be required by or pursuant to authority of the Oklahoma Hazardous Waste Management Act;
9. Require reports from all operators of hazardous waste facilities who receive hazardous waste for treatment or storage or disposal, listing the amount, transporter, and generator of all hazardous 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 hazardous 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 hazardous 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 hazardous waste and for spills of hazardous materials;

15. Make information obtained by the Department regarding hazardous 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 hazardous waste program in this state were being carried out by the U.S. Environmental Protection Agency;

16. Develop rules with respect to any existing surface impoundment or landfill or class of surface impoundments or landfills from which the Department determines hazardous waste may migrate into groundwater, impose such requirements, including but not limited to 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 hazardous 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 hazardous 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 hazardous 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 development 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 hazardous waste to have a hazardous waste facility permit;~~
23. Issue permits containing any conditions necessary to protect human health and the environment;
24. Issue permits for the storage of hazardous 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 Hazardous Waste Management Act and rules promulgated thereunder;
27. Evaluate the benefit of rules governing labeling practices for any containers used for the disposal, storage, or transportation of hazardous waste which accurately identify such waste, and govern the use of appropriate containers for such waste not otherwise regulated by the federal government;
28. Monitor research and development regarding methods of the handling, storage, use, processing, and disposal of hazardous waste;
29. Cooperate with existing technical reference centers on hazardous 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 hazardous waste and recycling and recovery of resources from hazardous wastes;
31. Determine existing rates of production of hazardous waste;
32. Promote recycling and recovery of resources from hazardous wastes;
33. Encourage the reduction or exchange, or both, of hazardous waste; and
34. Cooperate with an existing information clearinghouse, to develop records of recyclable waste. Every generator of hazardous 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 Title 63, § 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, § 2~~

Laws 1992, c. 403, § 9, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2004 and amended by Laws 1993, c. 145, §§ 88, 359, eff. July 1, 1993. Laws 1994, c. 373, § 17, eff. July 1, 1994.

1 Title 27A, § 2-7-101 et seq.

Historical and Statutory Notes

The 1978 amendment rewrote the introductory clause, which prior thereto read:

"The Section is hereby authorized and it shall be its duty to:"

in paragraph 2 added ", and the transportation and storage of controlled industrial waste. Rules and regulations may also be developed for specific disposal practices for specified wastes", in paragraph 3 inserted "sites", in paragraph 4 substituted "Division" for "Section" in two places, in paragraph 5 substituted "Division's" for "Section's", in paragraph 8, in the first sentence inserted "the handling" and in the third sentence deleted "only" following "required", and in paragraph 9 deleted "quarterly" preceding "reports".

The 1981 amendment rewrote the section which prior thereto read:

"The Division shall have the following duties:

"1. Designate materials as controlled industrial waste;

"2. Develop rules and regulations for adoption by the State Board of Health for the construction and operation of controlled industrial waste processing facilities and disposal sites, and the transportation and storage of controlled industrial waste. Rules and regulations may also be developed for specific disposal practices for specified wastes;

"3. Issue permits for the construction and operation of said facilities, sites, and practices;

"4. Provide the operator of a disposal site a list of any material which the Division deems unacceptable for disposal at the site at the time the Division issues a permit to the operator;

"5. Make periodic inspections of controlled industrial waste processing facilities and disposal sites to determine the extent to which the Division's rules and regulations are complied with;

"6. Develop, maintain and monitor records of the source and amount of controlled industrial waste produced in Oklahoma and the methods used to dispose of or process said waste;

"7. Prescribe to all persons producing controlled industrial waste forms to be used as manifests;

"8. Require and approve plans from all persons producing controlled industrial waste or shipping controlled industrial waste within or into Oklahoma indicating the amount of controlled industrial waste produced, the handling and disposal methods, and the disposal sites used. The plans shall be kept current and the Division shall be advised immediately of any changes in the plans of such persons. The plans shall be required for controlled industrial wastes which are to be disposed. Persons storing or shipping controlled industrial wastes in an environmentally acceptable manner for the purpose of reuse, recycling or rerefining shall be required to file plans only for those wastes which are to be disposed;

"9. Require quarterly reports from all persons producing controlled industrial waste indicating the amount of controlled industrial waste produced, the disposal methods, and the disposal sites used;

"10. Require monthly reports from all operators of controlled industrial waste facilities who receive controlled industrial waste for processing or disposal, listing the amount, transporter and producers of all controlled industrial waste received;

"11. Approve or disapprove methods of disposal of controlled industrial waste, and prohibit certain specific disposal practices;

"12. Inform persons producing controlled industrial waste of available, alternative methods of disposal of such waste and assist the persons in developing satisfactory disposal plans; and

"13. Develop a system to provide information on recyclable waste to persons

rial users of such waste. Such information shall not include any information which the Division deems confidential or private in nature."

The 1986 amendment rewrote the section, which prior thereto read:

"The Department shall have the following duties:

"1. Issue permits for the construction and operation of said facilities, sites and practices;

"2. Provide the owner or operator of a controlled industrial waste facility a list of all materials which the Department deems acceptable at the time the Department issues a permit;

"3. Make periodic inspections of controlled industrial waste facilities and recycling, transporting and generating facilities to determine the extent to which the Department's rules and regulations are complied with;

"4. Develop, maintain and monitor public records of the source and amount of controlled industrial waste and recyclable materials generated in Oklahoma and the methods used to dispose of, recycle or treat said waste or material;

"5. Require and prescribe manifest forms to all persons generating and transporting controlled industrial waste or recyclable materials offsite for storage, recycling, treatment or disposal;

"6. Require and approve disposal plans from all persons generating controlled industrial waste or shipping controlled industrial waste within or into Oklahoma indicating the amount of controlled industrial waste generated, the handling, storage, treatment and disposal methods, and the controlled industrial waste facilities used. The disposal plans shall be kept current and the Department shall be advised within Five (5) working days of any changes in the disposal plans of such persons. The disposal plans shall be required for controlled industrial wastes which are to be treated or disposed. Persons storing or shipping recyclable materials in an environmentally acceptable manner for the purpose of recycling shall be required to file disposal plans only for those wastes which are to be disposed;

"7. Require quarterly reports from all persons generating controlled industrial

waste, or recyclable materials, indicating the amount generated, the treatment and disposal methods, and the treatment, disposal and recycling sites used;

"8. Require monthly reports from all operators of controlled industrial waste facilities who receive controlled industrial waste for treatment, storage or disposal, listing the amount, transporter and generator of all controlled industrial waste received;

"9. Approve or disapprove methods of disposal of controlled industrial waste, and prohibit certain specific disposal practices;

"10. Inform persons generating controlled industrial waste of available, alternative methods of disposal of such waste and assist the persons in developing satisfactory disposal plans;

"11. Develop a system to provide information on recyclable materials to potential users of such materials. Such information shall not include any information which the Department deems confidential or private in nature;

"12. Cooperate and share information with the U.S. Environmental Protection Agency; and

"13. Prepare an emergency response plan for spills of controlled industrial waste and for spills of hazardous materials.

The 1990 amendment, in paragraph 4 deleted "and recyclable materials" following "industrial waste", in paragraph 5 deleted "or recyclable materials" following "industrial waste", in paragraph 6 deleted the former third and fourth sentences which read: "The disposal plans shall be required for controlled industrial wastes which are to be treated or disposed. Persons storing or shipping recyclable materials in an environmentally acceptable manner for the purpose of recycling shall be required to file disposal plans only for those wastes which are to be disposed;", in paragraph 7 deleted "or recyclable materials" following "waste", and in paragraph 12 substituted "wastes" for "materials".

The 1991 amendment, in paragraph 1 inserted "and post-closure", in paragraph 9, in the second sentence inserted "quarterly" and added ", as designated by the Department", and in paragraph 10 inserted "or landfill", substituted "man-

~~for "is likely to", and inserted "and leachate detection and collection systems".~~

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

The 1993 amendment, in the introductory clause substituted "power and duty" for "following powers and duties", in paragraph 3 deleted "the Department's rules and regulations and" following "compliance with", substituted "Management" for "Disposal", and added "and rules promulgated thereunder, and orders, permits and licenses issued pursuant thereto", in paragraph 8 substituted "Management" for "Disposal", in paragraph 16 substituted "Develop rules" for

~~"With" and inserted "but not limited to", in paragraph 26 substituted "Management" for "Disposal" and added "and rules promulgated thereunder", and in paragraph 27 deleted "and regulations" following "rules" and deleted the second sentence which read: "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;".~~

The 1994 amendment, in paragraph 1, substituted "and operation" for a comma and inserted "for the" and "maintenance and monitoring".

Cross References

Transporting waste or materials, driver's manifest, see Title 27A, § 2-7-125.

Law Review and Journal Commentaries

Controlled Industrial Waste Disposal Act. Barbara Rauch. 48 Okla.B.J. 2129 (1977).

William W. Gorden, Jr. 8 Okla.City U.L.Rev. 397 (1983).

Evolution of Oklahoma Controlled Industrial Waste Disposal Act since 1976.

Hazardous waste injection wells: Need for state controls. 19 Tulsa L.J. 250 (1983).

§ 2-7-106. Rules and regulations—Hearings—Consultation and advice

The Council, with at least five members concurring, shall submit recommended rules to the Board concerning the listing and characterization of hazardous waste, the construction and operation of hazardous waste facilities, specific disposal practices for specified wastes, the transportation and storage of hazardous waste, and the recycling, storage and transportation of recyclable materials. The Council shall consult with and advise the Department on matters relating to hazardous waste management.

Laws 1981, c. 322, § 5, eff. July 1, 1981; Laws 1992, c. 403, § 10, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2004.1 and amended by Laws 1993, c. 145, §§ 89, 359, eff. July 1, 1993.

Historical and Statutory Notes

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

The 1993 amendment, in the first sentence deleted "and regulations" following

~~"rules" and deleted the former second sentence, which read: "The Council shall, upon the request of the Department or upon their own initiative, conduct rulemaking hearings."~~

~~Law Review and Journal Commentaries~~

Evolution of Oklahoma Controlled Industrial Waste Disposal Act since 1976. William W. Gorden, Jr. 8 Okl.Cit. U.L.Rev. 397 (1983).

Library References

Health and Environment § 25.5(5).
WESTLAW Topic No. 199.

C.J.S. Health and Environment §§ 61, 65, 66, 91 et seq., 106 et seq., 113, 115 et seq., 125 to 140, 150 et seq.

§ 2-7-107. Rules—Regulation of radioactive waste—Federal preemption

A. In addition to other powers and duties specified by law, the Board shall promulgate rules to:

1. Prohibit the placement of any liquid which is not a hazardous waste in a landfill for which a permit is required or which is operating under interim status;
2. Prohibit or restrict the storage of hazardous 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 hazardous 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 of the Board as a hazardous waste except a waste identified solely on the basis of ignitability;
4. Require such monitoring and control of air emissions at hazardous 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 hazardous waste, and the commercial collection, storage, transportation, marketing, management, burning and disposal of used oil as may be necessary to protect human health and the environment including, but not limited to, labeling and recordkeeping requirements;
6. Control the listed or identified hazardous 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 hazardous 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 hazardous waste facilities evidence of financial responsibility for corrective action as may be required or ordered under the authority of the Oklahoma Hazardous Waste Management Act;²

9. Require that generators of hazardous 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.

B. The hazardous waste component of mixed waste and radioactive waste shall be regulated as hazardous waste. The radioactive waste component shall be regulated as radioactive waste. Both the hazardous waste requirements and the radioactive waste requirements shall apply if physical separation of the two components is not accomplished. If a conflict exists between the two requirements, the requirement most protective of human health and the environment shall take precedence.

C. Rules pertaining to standards for the transportation of hazardous waste and recyclable materials shall not be more stringent than those of the U.S. Department of Transportation, unless a waiver of preemption is granted pursuant to federal statutes and rules promulgated thereunder.

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; Laws 1992, c. 403, § 11, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2004.2 and amended by Laws 1993, c. 145, §§ 90, 359, eff. July 1, 1993. Laws 1994, c. 353, § 19, eff. July 1, 1994.

¹ 42 U.S.C.A. § 6925.

² Title 27A, § 2-7-101 et seq.

Historical and Statutory Notes

The 1988 amendment, in paragraph 7, substituted "Sections 3005(c) and 3005(e)" for "Section 3005(c)".

The 1990 amendment, in paragraph 5, inserted "or used oil".

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

The 1993 amendment designated the existing text as subsection A; in subsection A, in the introductory paragraph, substituted "promulgate rules" for

"adopt rules and regulations", in paragraph 1 deleted "authorized pursuant to Section 1-2009.1 of Title 63 of the Oklahoma Statutes" from the end, in paragraph 3 deleted "and regulations" following "rules", and in paragraph 8 substituted "Management" for "Disposal"; and added subsections B and C.

The 1994 amendment, in subsection A.5, substituted ", and the commercial collection, storage, transportation, marketing, management, burning and disposal of" for "or".

§ 2-7-108. Hazardous waste facilities—Permit for storage, treatment or disposal—Operation of recycling facilities not required to be permitted

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

B. 1. Any person who owned or operated a hazardous 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 Board 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 Hazardous Waste Management 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 the Oklahoma Hazardous Waste Management 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 the Oklahoma Hazardous Waste Management Act shall operate in an environmentally acceptable manner and in accordance with the rules regarding the manifest, transportation and treatment, storage and disposal standards, and generators in the event a hazardous 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; Laws 1992, c. 403, § 25, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2009.1 and amended by Laws 1993, c. 145, §§ 91, 359, eff. July 1, 1993. Laws 1994, c. 353, § 20, eff. July 1, 1994.

¹ Title 27A, § 2-7-101 et seq.

Historical and Statutory Notes

Laws 1990, c. 196, § 6 designated the first sentence of the existing text as subsection A and in subsection A substituted

"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" for "No"; designated the second sentence of the existing text as subsection B.1 and in subsection B.1 substituted "Any" for "Provided that any"; inserted subsection B.2; and designated the third sentence of the existing text as subsection C.

Laws 1990, c. 296, § 3, in subsection A, deleted "or store recyclable" preceding "materials or"; and rewrote subsection C, which prior thereto read:

"Facilities engaged only in recycling shall conduct operation of the facility in an environmentally acceptable manner and in accordance with the rules and regulations regarding the manifest, transportation and storage requirements, and generators in the event a controlled industrial waste is generated therefrom."

The 1991 amendment inserted subsection B.3; and in subsection C, substituted "1-2014.2 of this title" for "6 of this act".

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

The 1993 amendment substituted "Board" for "State Board of Health" in subsections A and B.1; in subsection B.3, substituted "the Oklahoma Hazardous Waste Management Act" for "this act"; and in subsection C, substituted "the Oklahoma Hazardous Waste Management Act" for "Section 1-2014.2 of this title" and deleted "and regulations" following "rules".

The 1994 amendment substituted "Management" for "Disposal" in subsection B.2.

Law Review and Journal Commentaries

Evolution of Oklahoma Controlled Industrial Waste Disposal Act since 1976.

William W. Gorden, Jr. 8 Okl.City U.L.Rev. 397 (1983).

Library References

Health and Environment ¶25.5(5).
WESTLAW Topic No. 199.

C.J.S. Health and Environment §§ 61, 65, 66, 91 et seq., 106 et seq., 113, 115 et seq., 125 to 140, 150 et seq.

~~§ 2-7-109. Limitation on persons eligible for issuance, renewal or transfer of permit—Disclosure of information—Applicability~~

A. In order to protect the public health and safety and the environment of this state, the Department, pursuant to the Oklahoma Hazardous Waste Management Act,¹ shall not issue, renew, or transfer a permit for a hazardous waste facility for treatment, storage, recycling or disposal to any person who:

1. Is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to the generation, storage, transportation, treatment, recycling or disposal of "hazardous waste", as such term is defined by the Oklahoma Hazardous Waste Management Act, or by the United States Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act;²

2. Has evidenced a reckless disregard for the protection of the public and the environment as demonstrated by a history of noncompliance with environmental laws and rules resulting in endangerment of human health or the environment; or

~~3. Has as an affiliated person any person who is described by paragraph 1 or 2 of this subsection.~~

B. 1. Except as provided in paragraph 2 of this subsection, all applicants for the issuance, renewal or transfer of any hazardous waste permit, license, certification or operational authority issued by the Department shall file a disclosure statement with their applications.

2. If the applicant is a publicly held company required to file periodic reports under the Securities and Exchange Act of 1934,³ or a wholly owned subsidiary of a publicly held company, the applicant shall not be required to submit a disclosure statement, but shall submit the most recent annual and quarterly reports required by the Securities and Exchange Commission, which provide information regarding legal proceedings in which the applicant has been involved. The applicant shall submit such other relevant information as the Department may require that relates to the competency, reliability, or responsibility of the applicant and affiliated persons.

C. The Department is authorized to revoke, or to refuse to issue, to renew, or to transfer a permit for a hazardous waste facility for treatment, storage, recycling or disposal to any person who:

1. Is not, due solely to the actions or inactions of the applicant or affiliated person, in substantial compliance with any final agency order or final order or judgment of a court of record secured by the Department issued pursuant to the provisions of the Oklahoma Hazardous Waste Management Act;

2. Is not, due solely to the actions or inactions of the applicant or affiliated person, in substantial compliance with any final agency order or final order or judgment of a court of record secured by any state or federal agency, as determined by that agency, relating to the generation, storage, transportation, treatment, recycling or disposal of any "hazardous waste", as such term is defined by the Oklahoma Hazardous Waste Management Act, or by the United States Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act;

3. Has evidenced a history of a reckless disregard for the protection of the public health and safety or the environment through a history of noncompliance with state or federal environmental laws, including without limitation the rules of the Department or the United States Environmental Protection Agency regarding the generation, storage, transportation, treatment, recycling or disposal of any "hazardous waste", as such term is defined by the Oklahoma Hazardous Waste Management Act, or by the United States Environmental

Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act; or

4. Has as an affiliated person any person who is described by paragraphs 1, 2 or 3 of this subsection.

D. 1. An application for a permit for a hazardous waste facility for treatment, storage, recycling or disposal or a renewal thereof shall be signed under oath by the applicant.

2. The Department may refuse to renew, or may suspend or revoke, a permit issued pursuant to the Oklahoma Hazardous Waste Management Act for a hazardous waste facility for treatment, storage, recycling or disposal to any person who has failed to disclose or states falsely any information required pursuant to the provisions of this section. Any person who willfully fails to disclose or states falsely any such information, upon conviction, shall be guilty of a felony and may be punished by imprisonment for not more than five (5) years or fined not more than One Hundred Thousand Dollars (\$100,000.00) or both such fine and imprisonment.

E. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of such final order or judgment shall not be considered a final order or judgment for the purposes of this section.

F. The Board shall promulgate rules pursuant to the Administrative Procedures Act⁴ as may be necessary and appropriate to implement the provisions of this section.

G. The provisions of this section shall apply to:

1. Any pending or future application for a permit for land disposal or treatment of hazardous waste, except treatment at a facility accepting hazardous waste exclusively for the purpose of conducting research and design tests; and

2. Any application for a permit for hazardous waste treatment, storage, recycling or disposal which is initially submitted to the Department after July 31, 1992, or which has not been determined by the Department to be technically complete by December 31, 1993, regardless of the initial submittal date.

Laws 1992, c. 201, § 3, eff. July 1, 1992. Renumbered from Title 63, § 1-2004.3 and amended by Laws 1993, c. 145, §§ 92, 359, eff. July 1, 1993. Laws 1994, c. 373, § 18, eff. July 1, 1994.

¹ Title 27A, § 2-7-101 et seq.

² 42 U.S.C.A. § 6901 et seq.

³ 15 U.S.C.A. § 77a et seq.

⁴ Title 75, § 250 et seq.

Historical and Statutory Notes

The 1993 amendment substituted "hazardous" for "controlled industrial" throughout the section; in subsection A, in the introductory paragraph, substituted "Department" for "State Department of Health" and "Management" for "Disposal", and in paragraph 1 substituted "Management" for "Disposal" and deleted "'hazardous waste', as such term is defined" following "Act, or"; deleted former subsection B, which read:

"B. As used in this section:

"1. 'Affiliated person' means:

"a. any officer, director or partner of the applicant.

"b. any person employed by the applicant as a general or key manager who directs the operations of the site or facility which is the subject of the application, and

"c. any person owning or controlling more than five percent (5%) of the applicant's debt or equity;

"2. 'Disclosure statement' means a written statement by the applicant which contains:

"a. the full name, business address, and social security number of the applicant, and all affiliated persons,

"b. the full name and address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%), or which is a parent company or subsidiary of the applicant, and a description of the on-going organizational relationships as they may impact operations within the state,

"c. a description of the experience and credentials of the applicant, including any past or present permits, licenses, certifications, or operational authorizations relating to environmental facility regulation,

"d. a listing and explanation of any administrative, civil or criminal legal actions against the applicant or any affiliated person which resulted in a final agency order or final judgment by a court of record including, but not limited to, final orders or judgments on appeal in the ten (10) years immediately preceding the filing of the application relating to the generation, transportation, storage, treatment, recycling or disposal of 'controlled industrial waste' as defined by the Oklahoma Controlled Industrial Waste Disposal Act or 'hazardous

waste' as defined by the United States Environmental Protection Agency pursuant to the Federal Resource Conservation and Recovery Act. Such actions shall include, without limitation, any permit denial or any sanction imposed by a state regulatory authority or the United States Environmental Protection Agency, and

"e. a listing of any federal environmental agency and any state environmental agency outside this state that has or has had regulatory responsibility over the applicant;

"3. 'History of noncompliance' means any past operations by an applicant or affiliated persons which clearly indicate a reckless disregard for environmental regulation or demonstrate a pattern of prohibited conduct which could reasonably be expected to result in endangerment to human health or the environment if a permit were issued, as evidenced by findings, conclusions and rulings of any final agency order or final order or judgment of a court of record;

"4. 'Department' means the Oklahoma State Department of Health; and

"5. 'Demonstrated pattern of prohibited conduct' means a series of conduct of the same or like character in violation of state or federal environmental law which as a result of the applicants or affiliated persons reckless disregard thereof actually endangers, or reasonably has the potential to endanger, human health or the environment."

; redesignated subsections C to H as subsections B to G; in subsection B.2, in the second sentence, substituted "Department" for "Commissioner"; in subsection C.1, substituted "Management" for "Disposal"; in subsections C.2 and C.3, substituted "Management" for "Disposal" and deleted "'hazardous waste', as such term is defined" following "Act, or"; in subsection D.2, in the first sentence, substituted "Management" for "Disposal"; and in subsection F, substituted "Board" for "State Board of Health".

The 1994 amendment deleted "the construction or operation of" in subsections A and C, in the introductory paragraph following "permit for", and in subsections D.1 and D.2, following "permit for" and "Act for" respectively; in subsection G.1, deleted "construction" preceding "permit", and in subsection G.2, deleted

~~construction or operations" preceding
permit"~~

§ 2-7-110. Liquid hazardous waste—Certain disposal prohibited—Exceptions

~~A. The Department shall not issue a permit for the treatment, disposal or temporary storage of any liquid hazardous 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 hazardous 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 hazardous waste authorized by the provisions of the Oklahoma Hazardous Waste Management Act;¹

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 hazardous waste;

provided all liquids and associated solids are removed for proper treatment or disposal in accordance with the rules promulgated by the Board pursuant to the Oklahoma Hazardous Waste Management Act.

Laws 1986, c. 180, § 4, emerg. eff. May 15, 1986; Laws 1992, c. 403, § 20, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2006.1 and amended by Laws 1993, c. 145, §§ 93, 359, eff. July 1, 1993. Laws 1994, c. 373, § 19, eff. July 1, 1994.

¹ Title 27A, § 2-7-101 et seq.

Historical and Statutory Notes

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

The 1993 amendment, in subsection C, in paragraph 1, substituted "the Oklahoma Hazardous Waste Management Act" for "Section 1-2014 of Title 63 of

the Oklahoma Statutes", and in the last undesignated clause, deleted "and regulations" following "rules" and substituted "Management" for "Disposal".

The 1994 amendment, in subsection A, deleted "construction" preceding "permit".

§ 2-7-111. Prohibited disposal—Hazardous waste facility for on-site or off-site treatment, recycling, storage or disposal

A. The practice of plowing hazardous waste into the soil surface for the purpose of disposal is hereby prohibited except pursuant to a

plan approved by the Department of Environmental Quality for biodegradable or inert material. In addition, the site used for such disposal shall not be subject to flooding or extensive erosion. The administrative permit hearing provisions of Sections 2-7-113, 2-7-113.1 and 2-14-304 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 hazardous waste facility for on-site treatment, ~~recycling~~ 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 hazardous waste or hazardous waste constituent.~~

C. ~~1. Except as provided in paragraph 3 of this subsection, a hazardous waste facility for off-site treatment, recycling 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. ~~Except as provided in subparagraph b of this paragraph, a facility for off-site treatment, storage, recycling or disposal of hazardous waste shall not be sited in any other area of the state without the prior written approval of an emergency and release response plan by the affected property owners as such term is defined in Section 2-7-103 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 hazardous waste or constituents thereof.~~

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 Department that such reasonable effort has been made and that a minority of the affected property owners would not consent. The Department may then issue the 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.

- ~~b. Existing industrial facilities not currently receiving hazardous waste which propose to begin receiving hazardous waste from off-site, including facilities at which the hazardous waste is to be utilized as fuel in a recycling unit and all other existing industrial facilities, shall submit an emergency and release response plan as part of the permit application. The plan shall be subject to public review and comment as part of the permit application pursuant to Section 2-7-113 of this title or the Oklahoma Uniform Environmental Permitting Act² prior to final approval or disapproval by the Department. Upon submittal of the proposed plan to the Department, the applicant shall be required to mail a copy of said plan to the affected property owners and shall promptly thereafter certify to the Department that such mailing has been made. If a permit is issued, the permittee shall send the final plan by first-class mail to the last-known address of all affected property owners.~~
- c. An emergency and release response plan for a new or existing facility, located or to be located within the city limits or within the emergency response area of any incorporated city or town, which proposes to begin receiving hazardous waste from off-site shall not be approved by the Department until at least sixty (60) days after the city or town has been served with a copy of the plan by the applicant. During said sixty-day period the city or town shall have the opportunity to review the plan and comment to the Department upon the ability of the city to comply with any item in the plan requiring the participation of or assistance by the city or town or any departments or agencies thereof.

~~3. The Department may grant a variance to an off-site hazardous waste treatment, recycling 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 formal public meeting or administrative permit hearing conducted on the draft permit or proposed permit pursuant to the provisions of Section 2-7-113 of this title or the Oklahoma Uniform Environmental Permitting Act,
- 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 hazardous waste or hazardous 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 new hazardous waste permits; and
3. Applications for permits to modify existing facilities which have either a permit or interim status when the proposed modification involves the opportunity for an administrative permit hearing.

E. The provisions of paragraphs 1 and 2 of subsection C of this section shall not apply to applications to increase existing storage, treatment, recycling 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 Title 63, § 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. March 21, 1988; Laws 1991, c. 336, § 2, eff. July 1, 1991; Laws 1992, c. 403, § 32, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2014 and amended by Laws 1993, c. 145, §§ 94, 359, eff. July 1, 1993. Laws 1993, c. 324, § 29, eff. July 1, 1993; Laws 1994, c. 373, § 13, eff. July 1, 1994; Laws 1995, c. 285, § 3, eff. July 1, 1995.

¹ Repealed; see Title 27A, § 2-14-101 et seq.

² Title 27A, § 2-14-101 et seq.

Historical and Statutory Notes

The 1978 amendment, in the first sentence [now subsection A, first sentence], substituted "Division" for "Section"; in the second sentence [now subsection A, second sentence], substituted "In addition," for "Provided further that"; and added the third sentence [now subsection A, third sentence].

Section 5 of Laws 1981, c. 277 and § 16 of Laws 1981, c. 322, amending this section, were repealed by Laws 1993, c. 10, § 16.

The 1987 amendment, in subsection A, in the third sentence, substituted "1-2006 of this title" for "7 of this act"; in subsection B, rewrote the first sentence, which prior thereto read: "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." and in the second sentence substituted "said principal groundwater resource or recharge area" for "the basin water"; and added subsections C to E.

The 1988 amendment added the third paragraph in subsection C.

The 1991 amendment, in subsection B, in the first sentence, substituted "or storage" for "storage or disposal" and "determined in writing" for "defined", and added the third sentence; in subsection C, designated the first and second paragraphs as paragraphs 1 and 2, rewrote paragraph 1, which prior thereto read:

"A controlled industrial waste facility for off-site treatment, storage or disposal shall not be sited in or over a principal groundwater resource or recharge area as defined by the Oklahoma Geological Survey."

and added paragraph 3; and in subsection E, in the first sentence, substituted "paragraphs 1 and 2 of subsection C of this section" for "subsections C and D" and inserted ", treatment".

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

Laws 1993, c. 145, § 94, in subsection A, in the third sentence, inserted "administrative permit" and substituted "96 of this act" for "1-2006 of this title"; in

subsection C.2, in the first sentence of the first paragraph, deleted "as such term is defined in Section 1-2006 of this title" from the end, and in the second paragraph, substituted "Department" for "State Department of Health" in two places and in the second sentence substituted "a permit" for "said permit"; and in subsection C.3.b, inserted "formal public" and "administrative permit" and substituted "96 of this act" for "1-2006 of this title".

Laws 1993, c. 324, § 29, in subsection A, in the third sentence, substituted "2-7-113 of this title" for "96 of this act"; in subsection C.2, designated the existing text as paragraph a and in paragraph a, in the first paragraph rewrote the first sentence, which prior thereto read: "A hazardous 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.", in the second paragraph in the first sentence substituted "After" for "If, after" and "has been" for "had" and in the second sentence substituted "the" for "a", and added paragraphs b and c; and in subsection C.3.b, substituted "2-7-113 of this title" for "96 of this act".

The 1994 amendment, in subsection A, in the first sentence, inserted "of Environmental Quality"; in subsection C, in paragraph 2.b, in the second sentence, inserted "as part of the permit application", and in paragraph 3.b, inserted "on the draft permit or proposed permit; and in subsection D, in paragraph 2, substituted "new hazardous waste" for "construction", and in paragraph 3, deleted "construction" preceding "permits".

The 1995 amendment inserted "recycling" throughout the section; in subsection A, in the third sentence, substituted "Sections 2-7-113, 2-7-113.1 and 2-14-304" for "Section 2-7-113"; in subsections C.2.b and C.3.b, inserted "or the Oklahoma Uniform Environmental Permitting Act"; and in subsection D.3, deleted "storage or treatment" following "existing" and added "when the proposed modification involves the opportunity for an administrative permit hearing".

Library References

Health and Environment 37.
WESTLAW Topic No. 199.

C.J.S. Health and Environment §§ 44,
113, 114, 141, 143, 148, 149, 153

Law Review and Journal Commentaries

Evolution of Oklahoma Controlled Industrial Waste Disposal Act since 1976. William W. Gorden, Jr. 8 Okl.Cty U.L.Rev. 397 (1983).

Notes of Decisions

Injunction 1

1. Injunction

In order for city to obtain injunction restraining property owners from continuing certain landfill operations on the

ground that the operations violated a supplemental floodway district zoning ordinance, it was necessary that there be a valid ordinance prohibiting the activities of the property owners. *Morland Development Co., Inc. v. City of Tulsa, Okla.*, 596 P.2d 1255 (1979).

§ 2-7-112. Hazardous waste facility construction to be supervised

The design, testing and construction of a hazardous 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 Title 63, § 2758 and amended by Laws 1981, c. 322, §§ 1, 18, eff. July 1, 1981. Laws 1992, c. 403, § 21, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2007 and amended by Laws 1993, c. 145, §§ 95, 359, eff. July 1, 1993.

Historical and Statutory Notes

The 1978 amendment substituted "Division" for "Section" throughout the section.

The 1981 amendment substituted "controlled industrial waste facility" for "processing facility or disposal site" in the first and second sentences, in the first sentence substituted "Department" for "Division", "Board" for "State Board of Health" and in the second sentence substituted "professional engineer, registered in Oklahoma, with training and experience in suitable disciplines" for "registered professional engineer who has

proven to the Division's satisfaction that he is competent to design a disposal site".

The 1992 amendment substituted "hazardous" for "controlled industrial" in two places.

The 1993 amendment deleted the former first sentence, which read: "The Department shall prepare for adoption by the Board definite criteria, including testing methods and minimum or maximum standards, before construction of a hazardous waste facility shall proceed."

~~§ 2-7-113. Repealed by Laws 1994, c. 373, § 31, eff. July 1, 1996~~

Historical and Statutory Notes

~~The repealed section, relating to notice and hearing relating to proposed hazardous waste facility permits, was derived from:~~

Laws 1976, c. 251, § 7.
 Laws 1978, c. 260, § 6.
 Laws 1979, c. 137, § 1.
 63 O.S.Supp.1980, § 2757.
 Laws 1981, c. 322, §§ 7, 18.

Laws 1992, c. 403, § 192.
 63 O.S.Supp.1992, § 1-2006.
 Laws 1993, c. 145, §§ 96, 359.
 Laws 1994, c. 373, § 14.
 See Title 27A, § 2-14-101 et seq.

§ 2-7-113.1. Issuance of permits—Suitability of facility—Administrative procedures

A. The Department of Environmental Quality shall issue permits for hazardous waste facilities. A permit shall be issued only upon proper application and determination by the Department that the proposed site and facility are physically and technically suitable.

B. Upon a finding that a proposed hazardous waste facility is not physically or technically suitable, the Department shall deny the permit.

C. In accordance with the provisions of Section 2-14-304 of this title, an administrative permit hearing shall be available on a proposed permit which is based on a Tier III hazardous waste permit application for a new permit or for the modification of an existing permit involving a fifty percent (50%) or more increase in permitted capacity for storage, treatment or disposal including but not limited to incineration.

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

Laws 1994, c. 373, § 27, eff. July 1, 1996; Laws 1995, c. 285, § 4, eff. July 1, 1996.

¹ Title 27A, § 2-14-101 et seq.

Historical and Statutory Notes

The 1995 amendment rewrote subsection C, which prior thereto read:

"In accordance with the provisions of Section 11 of the Oklahoma Uniform Environmental Permitting Act, an administrative permit hearing shall be available on a proposed permit which is based on a hazardous waste permit application for a new major permit and for the major modification of an existing major permit involving a fifty percent (50%) or more increase in permitted capacity for stor-

age, treatment or disposal (including incineration)."

; deleted former subsection D, which read:

"A major modification of a major hazardous waste permit shall mean a Class III modification as defined in Section 270.42(c) of Title 40 of the Code of Federal Regulations."

; and redesignated former subsection E as subsection D.

~~§ 2-7-114. New hazardous waste facilities within eight miles of corporate limits—Exemptions~~

A. Except as provided in subsections B and C of this section, no permit shall be issued for the off-site disposal of hazardous waste or for the off-site treatment of hazardous waste by incinerator at a new hazardous waste facility proposed to be located within eight (8) miles of the corporate limits of an 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 hazardous waste facility means a hazardous waste facility that was not in operation and actively treating hazardous waste by incineration or disposing of hazardous waste during the year preceding August 30, 1991. Addition of new treatment, storage or disposal units to an existing hazardous waste facility does not constitute a new facility.

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

C. This section shall not apply to a proposed site located on property owned or operated by a person who also owns or operates a hazardous waste facility on contiguous property on which a hazardous waste facility was operating pursuant to a valid permit on August 30, 1991.

Laws 1991, c. 173, § 13; Laws 1992, c. 403, § 35, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2014.3 and amended by Laws 1993, c. 145, §§ 97, 359, eff. July 1, 1993. Laws 1994, c. 373, § 20, eff. July 1, 1994.

Historical and Statutory Notes

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

The 1993 amendment, in subsection A, in the first sentence, deleted "for a new hazardous waste facility" following "issued", inserted "for" preceding "the off-site" and "at a new hazardous waste facility proposed", and substituted "an" for

"any", and in the second sentence substituted "August 30, 1991" for "the effective date of this act"; and in subsection C, inserted "located" and substituted "August 30, 1991" for "the effective date of this act".

The 1994 amendment, in subsection A, in the first sentence, deleted "construction or operation" preceding "permit".

~~§ 2-7-115. New hazardous waste facility permits—Suitability of roads and bridges, upgrading—Notice, grievance procedure~~

A. Regarding a permit application for a new hazardous 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 hazardous 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 board of county commissioners finds that substantial detriment to the roads and bridges in its county would occur, such board shall determine reasonable measures necessary to upgrade the roads and bridges and allow the applicant for a hazardous waste facility to upgrade or pay for the upgrading of such roads and bridges if the applicant receives a permit.~~

~~B. The Department shall not issue a permit for any new hazardous 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.~~

~~The Department shall not authorize the operation of the facility 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 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 board of county commissioners shall be sent to the Department by certified mail, return receipt requested. Failure to respond within such forty-five-day response period 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 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 in the district court of the county wherein the board of county commissioners took such action.~~

E. This section shall apply to any permit application submitted to the Department on or after May 30, 1985, and to any permit application submitted before May 30, 1985, for which a permit has not been issued.

Laws 1985, c. 113, § 5, emerg. eff. May 30, 1985; Laws 1992, c. 403, § 14, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2005.3 and amended by Laws 1993, c. 145, §§ 98, 359, eff. July 1, 1993. Laws 1994, c. 373, § 21, eff. July 1, 1994.

Historical and Statutory Notes

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout section.

The 1993 amendment, in subsection A, in the second sentence, substituted "board" for "of said board", "its county" for "their respective counties", "such board" for "said board", and "such roads" for "said roads"; in subsection C, in the first sentence deleted "disposal" preceding "site", in the second sentence deleted "of said" preceding "board", and in the third sentence substituted "such forty-five-day response period" for "the required time limitation established pursuant to this subsection"; in subsection D, substituted "in" for "to"; and rewrote subsection E, which prior thereto read:

"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."

The 1994 amendment substituted "permit" for "construction permit" throughout the section; in subsection A, in the first sentence, inserted "new"; in subsection B.2, rewrote the second paragraph, which prior thereto read:

"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."

; and in subsection D, deleted "construction permit or operation" preceding "permit".

Cross References

Restrictions on highway use, see Title 47, § 14-113.

Library References

Health and Environment ☞ 31.
Highways ☞ 182.
WESTLAW Topic Nos. 199, 200.

C.J.S. Health and Environment §§ 37 to 40, 44, 47.
C.J.S. Highways § 244.

Notes of Decisions

Department of Transportation 1

1. Department of Transportation

Department of Transportation lacks authority to determine which roads or

bridges will be used for access to proposed controlled industrial waste facility and is limited strictly to establishing design standards for industrial access roads as provided by 63 O.S. Supp. 1985, § 1-2005.3. Op. Atty. Gen. No. 85-134 (Dec. 6, 1985).

§ 2-7-116. Permits—Application—Liability insurance—Bond—
Financial responsibility—Operation of facility—In-
solvency—Liability of guarantors

~~A. Except for emergency permits issued in accordance with Section 2-7-113 or 2-7-113.1 of this title, no permit shall be issued except upon proper application, proof of sufficient liability insurance and financial responsibility, formal public meeting, if requested, and such other requirements as provided by the Oklahoma Hazardous Waste Management Act¹ and the Environmental Quality Code.²~~

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 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 the Oklahoma Hazardous Waste Management 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 2-7-124 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 hazardous waste facility as required by the Oklahoma Hazardous Waste Management Act. If the applicant is not financially able to operate and maintain a hazardous waste facility, as required by the Oklahoma Hazardous Waste Management Act, a permit shall be denied.

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

~~G. 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 hazardous waste facility is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code³ 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 for which evidence of financial responsibility is required pursuant to the Oklahoma Hazardous Waste Management Act 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 for the owner or operator pursuant to the Oklahoma Hazardous Waste Management 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.

Laws 1976, c. 251, § 9; Laws 1978, c. 260, § 8, emerg. eff. May 10, 1978. Renumbered from Title 63, § 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; Laws 1992, c. 403, § 22, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2008 and amended by Laws 1993, c. 145, §§ 99, 359, eff. July 1, 1993. Laws 1994, c. 373, § 22, eff. July 1, 1994; Laws 1995, c. 285, § 5, eff. July 1, 1995.

¹ Title 27A, § 2-7-101 et seq.

² Title 27A, § 2-1-101 et seq.

³ 11 U.S.C.A. § 101 et seq.

⁴ 42 U.S.C.A. § 9601.

Historical and Statutory Notes

The 1978 amendment substituted "Division" for "Section" throughout the section; and in subsection C substituted "Section 2760 of this title" for "Section 10 of this act".

The 1981 amendment substituted "Department" for "Division" and "controlled industrial waste facility" for "processing facility or disposal site" throughout the section; in subsection A, second sentence, inserted ", informal public meeting, if requested,"; in subsection B, first sentence, substituted "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" for "in an amount equal to twice the value of all real property situated within one (1) mile of the facility or site" and deleted the former second and third sentences which read: "Provided, that the liability insurance shall be in an amount of not less than One Hundred Thousand Dollars (\$100,000.00) and need not be more than Five Hundred Thousand Dollars (\$500,000.00). This liability insurance shall apply to bodily injury or property damage on or above the surface."; in subsection C, substituted "Section 11 of this act" for "Section 2760 of this title"; and in subsection E, substituted "meeting qualifications set by the Board appropriate to the type of facility" for "with a science or engineering degree appropriate to the type of facility or site he is to supervise and whose qualifications are acceptable to the Division".

The 1986 amendment, in subsection C, substituted "1-2009 of this title" for "11 of this act"; inserted subsection D; redesignated former subsections D to F as subsections E to G; and added subsection H.

The 1990 amendment, in subsection B, in the fourth sentence, inserted "or alternate financial assurance"; and in subsec-

tion C, inserted "or acceptable alternate financial assurance guaranteeing proper closure and".

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

The 1993 amendment substituted "the Hazardous Waste Management Act" for "this act" throughout the section; in subsection A, in the second sentence, substituted "formal" for "informal" and "provided by the Oklahoma Hazardous Waste Management Act" for "hereinafter provided"; in subsection B, in the first sentence, deleted "and regulations" following "rules"; in subsection C, substituted "107 of this act" for "1-2009 of this title"; in subsection H.1, in the first sentence, substituted "for which" for "of which"; in subsection H.2, in the first sentence, substituted "responsibility for" for "responsibility to"; and deleted subsection H.3, which read:

"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 Hazardous Waste Disposal Act."

The 1994 amendment, in subsection A, deleted the first sentence which read: "The Department shall issue permits for the operation of hazardous waste facilities.", and substituted "Except for emergency permits issued in accordance with subsection C of Section 2-7-113 of this title, no" for "No operation" and added "and the Environmental Quality Code"; and in subsection C, substituted "2-7-124 of this title" for "107 of this act".

The 1995 amendment, in subsection A, substituted "Section 2-7-113" for "subsection C of Section 2-7-113"; and in subsection E, inserted "Oklahoma" in two places.

Law Review and Journal Commentaries

Evolution of Oklahoma Controlled Industrial Waste Disposal Act since 1976.

William W. Gorden, Jr. & Okl. City U.L.Rev. 397 (1983).

Notes of Decisions

Construction and application 1 be subject to the permit requirements of statute. Op. Atty. Gen. No. 76-367 (Jan. 26, 1977).

1. Construction and application An industry which plows its controlled industrial waste into the soil must meet the permit requirements of statute. Op. Atty. Gen. No. 76-367 (Jan. 26, 1977).
Soil farming of industrial waste not designated as controlled industrial waste upon the industry's own land would not

~~§ 2-7-117. Multi-user on-site treatment facilities Permits
Suitability factors~~

A. Two or more persons generating hazardous 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 hazardous waste facility for off-site treatment, storage or disposal of hazardous waste.

B. To be eligible for a permit issued pursuant to the provisions of this section and the Oklahoma Hazardous Waste Management 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 hazardous 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 hazardous 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 hazardous 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 hazardous 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 hazardous 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 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 Hazardous Waste Management Act, this section and rules promulgated thereunder, the Department shall issue a permit for the construction and operation of a multi-user on-site treatment facility.~~

~~E. The board of county commissioners of the county in which a multi-user on-site treatment facility is proposed to be located shall review all transportation routes between such proposed location and the facilities generating hazardous waste which are operated by members of the compact. The provisions of Section 2-7-115 of this title relating to county roads and bridges shall apply to permit applications for multi-user on-site treatment facilities.~~

~~Laws 1988, c. 54, § 2, eff. Nov. 1, 1988; Laws 1991, c. 173, § 7; Laws 1992, c. 403, § 23, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2008.1 and amended by Laws 1993, c. 145, §§ 100, 359, eff. July 1, 1993. Laws 1994, c. 373, § 23, eff. July 1, 1994; Laws 1995, c. 1, § 7, emerg. eff. March 2, 1995.~~

~~† Title 27A, § 2-7-101 et seq.~~

Historical and Statutory Notes

~~The 1991 amendment, in subsection A, in the first sentence, deleted "within the same county" following "waste"; in subsection B.1, substituted "may" for "shall"; inserted subsection C; redesignated former subsections C and D as subsections D and E; and in subsection D, deleted "and regulations" following "rules".~~

~~The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section; and in subsection E, substituted "this title" for "Title 63 of the Oklahoma Statutes".~~

~~The 1993 amendment, in subsection B, in the introductory clause, substituted "Management" for "Disposal"; in subsection D, substituted "Management" for "Disposal"; deleted "any" preceding "rules" and substituted "thereunder" for "thereto"; and in subsection E, rewrote the first sentence, which prior thereto read: "The board of county commission-~~

~~ers of the county in which such multi-user on-site treatment facility is located shall review all transportation routes from the facilities generating hazardous 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 this title." and added the second sentence.~~

~~The 1994 amendment, in subsection D, substituted "a permit" for "permits"; and in subsection E, in the second sentence, substituted "2-7-115 of this title" for "98 of this act" and deleted "construction and operation" preceding "permit".~~

~~Section 21 of Laws 1994, c. 353, amending this section, was repealed by Laws 1995, c. 1, § 40.~~

~~The 1995 amendment, in subsection C, deleted "by the industries located" following "only".~~

§ 2-7-118. Facilities that recycle hazardous waste—Permit requirements, exemption—Prohibition of burning certain hazardous waste as fuel

A. Facilities that recycle hazardous waste shall be exempt from subsection C of Sections 2-7-113 and 2-7-113.1, and Section 2-7-115 of this title with regard to those units exclusively used in the recycling process. Off-site hazardous waste recycling facilities are

subject to the requirements specified by the Oklahoma Hazardous Waste Management Act,¹ the Oklahoma Environmental Permitting Act,² and rules promulgated thereunder, for a permit, and shall also meet design standards as promulgated by the Board. Such recycling facilities which were in existence on July 1, 1990, may but shall not be required to file a permit application pursuant to the provisions of the Oklahoma Hazardous Waste Management 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. An approved class 1 permit modification shall be required for a permitted recycling facility to increase the capacity of its recycling units or add new or different recycling units.

~~B. No hazardous waste having a heating value less than five thousand (5,000) British Thermal Units per pound shall be burned as fuel in any unit in this state permitted as a hazardous waste recycling unit.~~

~~C. No owner or operator of any unit in this state permitted as a hazardous waste recycling unit shall burn as fuel in such unit any substance which the owner or operator knows, or should know, contains hazardous waste which has a heating value of less than five thousand (5,000) British Thermal Units per pound which has been blended with other materials or wastes and produces a hazardous waste fuel with a heating value equal to or exceeding five thousand (5,000) British Thermal Units per pound.~~

Laws 1990, c. 296, § 6, operative July 1, 1990; Laws 1991, c. 173, § 12; Laws 1992, c. 403, § 34, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2014.2 and amended by Laws 1993, c. 145, §§ 101, 359, eff. July 1, 1993. Laws 1993, c. 324, § 30, eff. July 1, 1993; Laws 1994, c. 373, § 24, eff. July 1, 1994; Laws 1995, c. 1, § 8, emerg. eff. March 2, 1995; Laws 1995, c. 285, § 6, eff. July 1, 1995.

¹ Title 27A, § 2-7-101 et seq.

² Title 27A, § 2-14-101 et seq.

Historical and Statutory Notes

Section was editorially renumbered from § 1-2014.1 of Title 63 to § 1-2014.2 to avoid duplication in numbering.

The 1991 amendment, in the second sentence, substituted "Off-site controlled" for "Controlled", and in the third sentence, substituted "Such recycling" for "Recycling".

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

Laws 1993, c. 145, § 101 substituted "Management" for "Disposal" throughout the section, in the first sentence substituted "waste shall be" for "wastes are" and "with regard to" for "for", in the second sentence substituted "Board" for "State Board of Health", and in the third sentence substituted "were" for "are" and "July 1, 1990," for "the effective date of this act".

Laws 1993, c. 324, § 30 designated the existing text as subsection A; and added subsections B and C.

The 1994 amendment, in subsection A, in the first sentence, substituted "subsection C of Section 2-7-113 and Section 2-7-115 of this title" for "construction permit requirements specified by the Oklahoma Hazardous Waste Management Act".

Section 22 of Laws 1994, c. 353, amending this section, was repealed by Laws 1995, c. 1, § 40.

Laws 1995, c. 1, § 8, in subsection A, added the fifth sentence.

Laws 1995, c. 285, § 6, in subsection A, in the first sentence substituted "Sections 2-7-114 and 2-7-113.1," for "Section 2-7-113", in the second sentence inserted "the Oklahoma Environmental Permitting Act, and rules promulgated thereun-

der," and substituted "a permit" for "an operations permit", in the third sentence substituted "a permit" for "an operations permit", and in the fifth sentence deleted "operations" following "class 1"; and re-wrote subsection C, which prior thereto read:

"No hazardous waste which has a heating value of less than five thousand (5,000) British Thermal Units per pound when blended with other materials or wastes to produce a hazardous waste fuel with a heating value equal to or exceeding five thousand (5,000) British Thermal Units per pound shall be burned as fuel in any unit in this state permitted as a hazardous waste recycling unit."

United States Supreme Court

Hazardous waste, incineration of solid waste, regulation, see *City of Chicago v.*

Environmental Defense Fund, 1994, 114 S.Ct. 1588, 128 L.Ed.2d 302.

~~§ 2-7-119. Permit fees~~

A. The Board shall establish a schedule of fees, pursuant to Section 2-3-402 of this title and the Administrative Procedures Act,¹ to be charged for applications to issue and renew permits for hazardous waste facilities and for the regulation of hazardous waste. Such fees shall only be used for the implementation of the provisions of the Oklahoma Hazardous Waste Management Act² pursuant to Section 2-3-402 of this title.

B. 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.

C. The Board shall develop a separate schedule of reduced fees of not less than Twenty-five Dollars (\$25.00) for small quantity generators.

Laws 1985, c. 113, § 1, emerg. eff. May 30, 1985; Laws 1986, c. 229, § 1, emerg. eff. June 10, 1986; Laws 1992, c. 403, § 13, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2005.2 and amended by Laws 1993, c. 145, §§ 102, 359, eff. July 1, 1993. Laws 1994, c. 353, § 23, eff. July 1, 1994.

¹ Title 75, § 250 et seq.

² Title 27A, § 2-7-101 et seq.

Historical and Statutory Notes

The 1986 amendment, in subsection A.1, substituted "Except as provided in subsection C of this section, no" for "No"; in subsection B, added the second sentence; and added subsection C.

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

The 1993 amendment rewrote the section, which prior thereto read:

"A. The State Board of Health may establish a system of fees to be charged for applications to issue and renew permits for hazardous waste facilities and for such environmental health services as are involved in the regulation of hazardous 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 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 Hazardous Waste Disposal Act."

The 1994 amendment, in subsection A, substituted "2-3-402 of this title" for "24 of this act" in two places.

Library References

Licenses §§ 29, 33.
WESTLAW Topic No. 238.
C.J.S. Licenses §§ 66, 71.

§ 2-7-120. Fee for disposal of liquid waste other than hazardous waste in underground injection well

Any person subject to regulation by the Department of Environmental Quality disposing of liquid waste other than hazardous waste in an underground injection well shall pay a fee of two-hundredths of one cent (0.002) per gallon for such disposal, provided that the total fee shall be not less than Ten Thousand Dollars (\$10,000.00) nor

~~more than Fifty Thousand Dollars (\$50,000.00) per year. Said fee shall be paid to the Department on a quarterly basis within one (1) month following the close of each quarter for the waste disposed in that preceding quarter. Said fees shall be deposited into the Department of Environmental Quality Revolving Fund.~~

~~Laws 1991, c. 173, § 5; Laws 1992, c. 403, § 16, eff. Sept. 1, 1992; Laws 1993, c. 10, § 7, emerg. eff. March 21, 1993. Renumbered from Title 63, § 1-2005.3B and amended by Laws 1993, c. 145, §§ 103, 359, eff. July 1, 1993. Laws 1993, c. 324, § 32, eff. July 1, 1993.~~

Historical and Statutory Notes

The 1992 amendment substituted "hazardous" for "controlled industrial" in the first sentence.

Section 1 of Laws 1992, c. 361, amending this section, was repealed by Laws 1993, c. 10, § 16.

Laws 1993, c. 10, § 7 rewrote the first sentence, which prior thereto read: "Any person subject to regulation under this title disposing of liquid waste other than hazardous 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 (\$50,00.00) per year."

Laws 1993, c. 145, § 103, in the first sentence, substituted "chapter" for "title" and deleted the third sentence, which read: "Said fees shall be deposited into the Public Health Special Fund."

Section 1 of Laws 1993, c. 148, amending this section, was repealed by Laws 1993, c. 324, § 58.

Laws 1993, c. 324, § 32, in the first sentence, substituted "by the Department of Environmental Quality" for "under this chapter", "two-hundredths of one cent (0.002)" for "five-hundredths of one cent (\$0.0005)", and "Ten Thousand Dollars (\$10,000.00)" for "Fifteen Thousand Dollars (\$15,000.00)" and added the third sentence.

§ 2-7-121. Annual fee—Exemptions—Expenditure of funds

A. Every hazardous waste treatment facility, storage facility, underground injection facility, disposal facility, or off-site facility that recycles hazardous waste subject to the provisions of the Oklahoma Hazardous Waste Management Act¹ shall pay to the Department of Environmental Quality an annual fee on the amount of hazardous waste managed by such facility.

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

- a. For hazardous waste generated within the State of Oklahoma, Nine Dollars (\$9.00) per ton for on-site or off-site storage, treatment or land disposal.
- b. For hazardous waste generated within the State of Oklahoma, or elsewhere in the case of regeneration, Four Dollars (\$4.00) per ton for off-site recycling.
- c. For hazardous waste generated within the State of Oklahoma, three cents (\$0.03) per gallon for on-site or off-site underground injection.

- ~~d. (1) Effective May 1, 1993, the fee applicable to waste generated outside the State of Oklahoma except as provided in subparagraph b of this paragraph shall be based on the primary purpose for which the waste is imported into the State of Oklahoma, and shall be a reciprocal fee at the rate of and in accordance with the method of imposition of the tax or fee imposed on the storage, treatment, disposal or recycling of such waste in the state, country or territory where the waste was generated, as determined by the Department. In no case, however, shall the fee levied on hazardous waste generated outside the State of Oklahoma be less than the rate charged at the time of its storage, treatment, disposal or recycling for hazardous waste generated and stored, treated, disposed or recycled in the State of Oklahoma.~~
- (2) Any person storing, treating, disposing, or recycling such hazardous waste in the State of Oklahoma shall file with the Department an affidavit showing the applicable tax or fee for any hazardous waste received from another state, country or territory had it been stored, treated, or disposed of in a like manner in that state, country or territory. In preparing the required affidavit, the recipient of the waste is legally entitled to rely upon all information contained in the manifest document accompanying the shipment of waste.
2. Except as otherwise provided by this subsection, there shall be a minimum fee per facility as follows:
- a. Except as provided in subparagraph d of this paragraph, any person owning or operating an off-site hazardous waste treatment facility or disposal facility shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year.
 - b. Any person owning or operating an on-site hazardous waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Twenty Thousand Dollars (\$20,000.00) each state fiscal year; provided, the annual fee for the on-site disposal of hazardous waste by underground injection shall not exceed Fifty Thousand Dollars (\$50,000.00).
 - c. Any person owning or operating an off-site facility for the storage or recycling of hazardous waste shall pay a total fee of not less than Twenty Thousand Dollars (\$20,000.00) each state fiscal year; provided, any such off-site recycling facility which consistently recycles fewer than ten (10) tons of hazardous waste per calendar month shall not be sub

~~ject to this minimum annual fee. For the purpose of this subparagraph, storage includes physical separation or combining of wastes solely to facilitate efficient storage at the facility and/or efficient transportation.~~

d. Any person owning or operating an off-site facility which accepts hazardous waste exclusively for the purpose of conducting research and design tests shall pay a total fee of not less than Ten Thousand Dollars (\$10,000.00) each state fiscal year.

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

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

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

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

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

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

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

C. ~~Payment of the fees required by this section shall be due quarterly for hazardous waste received by the facility during the~~

~~prior quarter. Such quarterly payments shall be due on the first day of the month of the following quarter during the state fiscal year in which the hazardous waste is received. All payments shall be made within thirty (30) days from the date it becomes due.~~

D. The fees required by this section shall be paid in lieu of the monitoring fees imposed in subsection B of Section 2-7-119 of this title. All facilities subject to the provisions of this section shall not be required to pay or collect any additional fees for waste disposal unless specifically required by the Oklahoma Hazardous Waste Management Act.

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

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

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

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

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

1. Contributions required from the state pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act² for remediation or related action upon a site within the state

2. ~~Response, including but not limited to containment and removal,~~ al, to emergency situations involving spillage, leakage, emissions or other discharge of hazardous waste or hazardous waste constituents to the environment where a responsible party cannot be timely identified or found or compelled to take appropriate emergency action to adequately protect human health and the environment;

3. State-funded remediation of sites contaminated by hazardous waste or hazardous waste constituents so as to present a threat to human health or the environment, to the extent that a responsible party cannot be timely identified or found or compelled to take such action, or is unable to take such action;

4. Costs incurred in pursuing an enforcement action to compel a responsible party to undertake appropriate response or remedial actions, or to recover from a responsible party monies expended by the state, as described in paragraphs 1 through 3 of this subsection; or

5. Financial assistance to municipalities or counties for the purposes and under the conditions specified in Section 2-7-305 of this title.

Laws 1990, c. 196, § 9, operative July 2, 1990; Laws 1991, c. 173, § 4; Laws 1992, c. 201, § 2, eff. Jan. 1, 1993; Laws 1992, c. 403, § 15, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2005.3A and amended by Laws 1993, c. 145, §§ 104, 359, eff. July 1, 1993. Laws 1994, c. 353, § 24, eff. July 1, 1994; Laws 1996, c. 356, § 11, emerg. eff. June 14, 1996.

¹ Title 27A, § 2-7-101 et seq.

² 42 U.S.C.A. § 9601 et seq.

Historical and Statutory Notes

The 1991 amendment rewrote the section, which prior thereto read:

"A. Every controlled industrial waste treatment facility, storage facility, disposal facility, or facility which recycles controlled industrial waste subject to the provisions of the Oklahoma Controlled Industrial Waste Disposal Act shall pay

an annual fee on controlled industrial waste to the Department of Health for deposit in the Public Health Special Fund.

"1. Such fees shall be in the amounts stated in the following table:

"LOCATION OF WASTE GENERATION

"DISPOSITION OF WASTE	ON SITE	OFF SITE	OUT OF STATE
"Waste Storage Only		\$2.00 per ton	\$3.00 per ton
"Waste Recycling		\$4.00 per ton	\$6.00 per ton
"Waste Treatment	\$4.00 per ton	\$8.00 per ton	\$12.00 per ton
"Land Disposal	\$6.00 per ton	\$12.00 per ton	\$18.00 per ton
"Underground Injection	\$0.01 per gallon	\$0.02 per gallon	\$0.03 per gallon

~~"2. Any person or group of persons under common control owning an off-site controlled industrial waste treatment facility, storage facility, disposal facility, or facility which recycles 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 fee requirement 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. Any person or group of persons under common control owning a controlled industrial waste treatment facility, storage facility, disposal facility, or facility which recycles controlled industrial waste shall pay a total fee of not more than Five Hundred Thousand Dollars (\$500,000.00) in any one state fiscal year for all such facilities under common control of the ultimate parent of the group. 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.

"5. The amounts of annual fees to be paid as specified in paragraph 1 of this subsection shall be based upon the weight or volume of waste received into a facility during the preceding state fiscal year as reported to the Department of Health. 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 storage 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 July 1 of each year for controlled industrial waste received by the facility during the prior state fiscal year. At the discretion of the facility, payment of the estimated annual fee owned by the facility may be made by quarterly payments. 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. In the event that at the end of the year an estimated fee paid is not the same as owed, the Department shall provide procedures for reconciling the fee paid with the fee owed.

"D. The fees provided for in this section shall be adjusted proportionally on an annual basis to reflect changes in the Producers Price Index as certified to the State Department of Health by the Oklahoma Department of Commerce on July 1 of each year.

"E. 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 Title 63 of the Oklahoma Statutes. 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.

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

~~"1. The administration of the provisions of the Controlled Industrial Waste Disposal Act;~~

"2. The development of an inventory of controlled industrial wastes currently produced in Oklahoma and management needs for the identified wastes;

"3. The implementation of information exchange, technical assistance, public information, and educational programs;

"4. The development and encouragement of waste reduction plans for Oklahoma waste generators; or

"5. Increased inspection of controlled industrial waste facilities which may include full time inspectors at off-site controlled industrial waste facilities."

Section 16 of Laws 1991, c. 173, provides for an effective date of July 2, 1991, but c. 173 does not contain an emergency clause and the proposed effective date falls within 90 days of the adjournment of the Legislature, and pursuant to Const. Art. 5, § 58, is ineffective.

Laws 1992, c. 201, § 2 rewrote subsection A.1, which prior thereto read:

"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."

; in subsection A.2, in paragraph a substituted "Except as provided in subparagraph d of this paragraph, any" for "Any", in paragraph b added the proviso, and added paragraph d; deleted subsection A.3, which read:

"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."

; redesignated former subsections A.4 to A.6 as subsections A.3 to A.5; in subsection A.3, substituted "Off-site facilities may" for "Facilities are hereby authorized to" and "persons" for "the person"; in subsection A.5, in the first sentence substituted "of the controlled industrial

waste. The fee" for "and" thereby creating the second sentence and in the second sentence substituted "was" for "has been"; added subsection A.6; in subsection B, substituted "Facilities" for "Those facilities" in paragraphs 1 and 2; in subsection D, in the first and second sentences, substituted "required by" for "provided for in"; in subsection E.1, in the first sentence inserted "from an off-site controlled industrial waste facility" and substituted "1-2005.3C of this title" for "6 of this act", and in the second sentence inserted "off-site"; and in subsection F, in the introductory clause, substituted "shall" for "may", and in paragraph 2, substituted ", including but not limited to containment and removal," for "(including containment and removal)" and deleted "the" preceding "emergency situations".

Laws 1992, c. 403, § 15 substituted "hazardous" for "controlled industrial" throughout the section.

The 1993 amendment, in subsection A, in the introductory paragraph, substituted "Management" for "Disposal" and "Department" for "State Department of Health for deposit in the Public Health Special Fund", in paragraphs 1.d.(1) and 1.d.(2) substituted "Department" for "State Department of Health", and in paragraph 4 substituted "Department" for "Department of Health"; in subsection D, in the first sentence substituted "subsection B of Section 102 of this act" for "paragraph 2 of subsection A of Section 1-2005.2 of this title" and in the second sentence substituted "Management" for "Disposal"; in subsection E.1, in the first sentence, deleted "established pursuant to Section 1-2005.3C of this title" from the end; in subsection E.2, in the introductory clause substituted "Department" for "State Commissioner of Health" and in paragraph a substituted "Management" for "Disposal"; and in subsection F, in the introductory paragraph substituted "Department" for "Commissioner" and in paragraph 5 substituted "122 of this act" for "1-2019 of this title".

The 1994 amendment, in subsection A, in the introductory paragraph inserted "to the Department of Environmental Quality" and deleted "to the Department" from the end, in paragraph 1 in the introductory clause substituted "En-

~~cept as otherwise provided by this subsection, such~~ for "Such", in paragraph 2 in the introductory clause substituted "Except as otherwise provided by this subsection, there" for "There", and added paragraph 7; in subsection D, in the first sentence, substituted "2-7-119 of this title" for "102 of this act"; and in subsection

~~F.5, substituted "2-7-305 of this title" for "122 of this act".~~

The 1996 amendment rewrote subsection A.2.c, which prior thereto read:

"Any person owning or operating an off-site facility for the recycling of hazardous waste shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year."

Cross References

Hazardous waste reduction program, rules for proportional reduction of waste treatment or disposal fee specified in this section, see Title 27A, § 2-11-204.

§ 2-7-122. Disposal by underground injection—Limitation of annual fee

The Department shall not assess an annual fee for the on-site disposal of hazardous waste by underground injection which exceeds Fifty Thousand Dollars (\$50,000.00).

Laws 1992, c. 201, § 7, emerg. eff. May 12, 1992. Renumbered from Title 63, § 1-2002.a and amended by Laws 1993, c. 145, §§ 105, 359, eff. July 1, 1993.

Historical and Statutory Notes

The 1993 amendment substituted "Department of Health" and "hazardous" for "Oklahoma State Department" and "controlled industrial".

§ 2-7-123. Permit issuance—Notice

Upon issuance of any permit issued pursuant to the requirements of the Hazardous Waste Management Act,¹ the Department 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 was issued.

Laws 1976, c. 251, § 5; Laws 1978, c. 260, § 4, emerg. eff. May 10, 1978. Renumbered from Title 63, § 2755 by Laws 1982, c. 202, § 9. Renumbered from Title 63, § 1-2005.1 and amended by Laws 1993, c. 145, §§ 106, 359, eff. July 1, 1993.

¹ Title 27A, § 2-7-101 et seq.

Historical and Statutory Notes

The 1978 amendment substituted "Division" for "Section" in the first sentence.

The 1993 amendment rewrote the first sentence, which prior thereto read:

"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."

Notes of Decisions

Construction and application 1	upon the industry's own land would not be subject to the permit requirements of statute. Op. Atty. Gen. No. 76-367 (Jan. 26, 1977).
1. Construction and application	
Soil farming of industrial waste not designated as controlled industrial waste	

§ 2-7-124. Monitoring of closed facility

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

Laws 1976, c. 251, § 10; Laws 1978, c. 260, § 9, emerg. eff. May 10, 1978. Renumbered from Title 63, § 2760 and amended by Laws 1981, c. 322, §§ 11, 18, eff. July 1, 1981. Laws 1985, c. 113, § 2, emerg. eff. May 30, 1985; Laws 1992, c. 403, § 24, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2009 and amended by Laws 1993, c. 145, §§ 107, 359, eff. July 1, 1993.

¹ 42 U.S.C.A. § 6901 et seq.

Historical and Statutory Notes

The 1978 amendment substituted "Division" for "Section" throughout the section and substituted "of not more than ten (10) years as determined by the Division" for "determinable by the Section".

The 1981 amendment substituted "Department" for "Division" throughout the section, "controlled industrial waste facility" for "processing facility or disposal site" and "thirty (30) years" for "ten (10) years".

The 1985 amendment, in the first sentence, substituted "time required by rules and regulations of the State Board of Health" for "not more than thirty (30)

years as determined by the Department at the time of issuance of the permit" and added the second sentence.

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

The 1993 amendment, in the first sentence, deleted "and regulations" following "rules" and substituted "Board" for "State Board of Health", and in the second sentence, deleted "and regulations" following "rules" and "rules and" preceding "regulations" and inserted "federal".

Law Review and Journal Commentaries

Evolution of Oklahoma Controlled Industrial Waste Disposal Act since 1976. William W. Gorden, Jr. § Okl. City. U.L.Rev. 397 (1983).

§ 2-7-125. Hazardous waste manifest—Disposal plan number assigned by Department—Transportation, etc. of waste without manifest in possession

A. Persons generating hazardous waste shall provide a manifest to the operator of any mode of any offsite transportation carrying hazardous waste. Such manifest shall be in a form which has been prescribed by the Department and shall indicate a disposal plan number assigned by the Department which shows that the Department has approved the plans of the person generating such waste. The manifest shall also set forth the type, amount, approximate content, origin and destination of the waste. Such operator shall have the manifest in his possession while transporting or handling the hazardous waste. Upon delivery of the hazardous waste to a facility duly authorized to accept such waste, the operator shall submit such manifest to the receiving person for processing pursuant to rules promulgated by the Board.

B. 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 the hazardous waste.

C. No person shall transport, receive, treat or dispose of hazardous 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 Title 63, § 2761 and amended by Laws 1981, c. 322, §§ 12, 18, eff. July 1, 1981. Laws 1990, c. 296, § 4, operative July 1, 1990; Laws 1992, c. 403, § 26, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2010 and amended by Laws 1993, c. 145, §§ 108, 359, eff. July 1 1993.

Historical and Statutory Notes

The 1978 amendment, in the first sentence, substituted "operator of any mode of any transportation" for "driver of any truck or the working crew of any train" and "Section 2754 of this title" for "Section 4 of this act" and in the third sentence substituted "operator" for "driver or crew" and "his" for "their".

The 1981 amendment substituted "Department" for "Division" throughout the section, inserted "or recyclable materials" following "controlled industrial waste" and "or material" following "waste" throughout the section, substituted "generating" for "producing" in two places in the first sentence, inserted "offsite" preceding "transportation" and substituted "Section 4 of this act" for "Section 2754 of this title" in the first

sentence and in the fourth sentence inserted "other than a recycler".

The 1990 amendment, in the first sentence, deleted "or recyclable materials" following "waste" in two places and "or material as provided in paragraph 8 of Section 4 of this act" from the end, in the second sentence deleted "or material" from the end, in the third sentence deleted "or recyclable material" following "industrial waste" and "or material" following "said waste", in the fourth sentence deleted "other than a recycler" following "no person", and in the fifth sentence deleted "or recyclable material" following "waste".

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

The 1993 amendment rewrote the section, which prior thereto read:

Persons generating hazardous waste shall provide the operator of any mode of any offsite transportation carrying hazardous 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 hazardous 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 hazardous waste. Provided, further, that no person shall transport, receive, treat or dispose of hazardous waste without having the manifest in his possession."

~~§ 2-7-126. Orders~~

In addition to any other remedies provided in the Oklahoma Hazardous Waste Management 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 Hazardous Waste Management Act, or any rule promulgated thereunder.

1. Such order may require compliance with the Oklahoma Hazardous Waste Management Act or such rule immediately or within a specified time period or both. Such order may also assess an administrative penalty for any past or current violation of the Oklahoma Hazardous Waste Management 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 Oklahoma Hazardous Waste Management Act, the rules or the order. In assessing such penalties, the Executive Director 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 enforcement hearing. Upon such request the Department shall promptly provide for the hearing. The Department shall dismiss such proceedings where past and current compliance with the Oklahoma Hazardous Waste Management 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 an enforcement hearing may assess an administrative penalty 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 hazardous 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; Laws 1992, c. 403, § 28, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2012.1 and amended by Laws 1993, c. 145, §§ 109, 359, eff. July 1, 1993.

¹ Title 27A, § 2-7-101 et seq.

² Title 75, § 250.1 et seq.

Historical and Statutory Notes

The 1986 amendment added paragraph 3.

The 1990 amendment, in the first paragraph, substituted "promulgated" for "adopted", in paragraph 2, in the first paragraph, substituted "fifteen (15)" for "thirty (30)", and in subparagraph a, deleted "Oklahoma" preceding "Administrative".

The 1991 amendment rewrote the first paragraph and paragraph 1, which prior thereto read:

"In addition to any other remedies provided in the Oklahoma Controlled Industrial Waste Disposal Act, [FN1] the Department, pursuant to rules and regulations, may issue a written order to any person whom the Department has reason to believe is presently in violation of any rule or rules promulgated by the Board pursuant to the Oklahoma Controlled Industrial Waste Disposal Act and to whom the Department has served, no less than fifteen (15) days previously, a written notice of violation of such rule or rules.

"1. Such order may require compliance with such rule or rules immediately or within a specified time period or both.

Such order may also assess an administrative fine 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.

"b. Any penalty assessed in the order shall not exceed Ten Thousand Dollars (\$10,000.00) per day of noncompliance with the order. In assessing such a penalty, the Department shall consider the seriousness of the violation and any efforts to comply with applicable requirements."

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

The 1993 amendment, in the first paragraph, substituted "Management" for "Disposal" in two places, deleted "Section 1-2001 et seq. of this title" preceding "or any" and "or rules" following "rule", and substituted "thereunder" for "by the Board pursuant to this act"; in paragraph 1, in the first paragraph substituted "the Oklahoma Hazardous Waste Management Act" for "this act" in two places.

~~in the first sentence deleted "or rules" following "rule" and in the second sentence substituted "penalty" for "fine", and in subparagraph b substituted, in the first sentence, "Oklahoma Hazardous Waste Management Act" for "act", and in the second sentence "Executive Director" for "Department"; and in paragraph 2, in the first paragraph, in the first sentence inserted "enforcement", in the second sentence substituted "provide for "conduct" and in the third sentence substituted "Oklahoma Hazardous Waste Management Act" for "act", and in subparagraph b substituted "an enforcement" for "a" and "penalty" for "fine".~~

Library References

Administrative Law and Procedure § 301.
 Health and Environment § 9, 25.5(10).
 WESTLAW Topic Nos. 15A, 199.
 C.J.S. Health and Environment §§ 14, 15, 103 et seq., 113, 139, 140 et seq., 150 et seq.
 C.J.S. Public Administrative Law and Procedure §§ 49, 51, 54.

§ 2-7-127. Corrective action—Permit review—Permit renewal—Information and reports

A. In accordance with standards established by the Administrator of the Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act,¹ the Department may require corrective action beyond a hazardous waste facility boundary as a condition of the issuance of a permit pursuant to the Oklahoma Hazardous Waste Management 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 such owner or operator is unable to obtain the necessary permission to undertake such action. The Department may also require, as a condition of a permit issued pursuant to the Oklahoma Hazardous Waste Management Act, corrective action for all releases of hazardous 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 permit 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 hazardous 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 hazardous waste facilities. Nothing in this subsection shall preclude the Department from reviewing and modifying a permit at any time during its term. The Department, in reviewing any application for a permit renewal, shall consider improvements in the state of control and measurement technology and changes in applicable regulations. Each issued or

reissued permit 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 hazardous 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 hazardous wastes as a result of releases from a hazardous 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; Laws 1992, c. 403, § 30, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2012.3 and amended by Laws 1993, c. 145, §§ 110, 359, eff. July 1, 1993.

¹ 42 U.S.C.A. § 6901 et seq.

² Title 27A, § 2-7-101 et seq.

Historical and Statutory Notes

The 1992 amendment substituted "hazardous" for "controlled industrial" throughout the section.

The 1993 amendment, in subsection A, in the first sentence, deleted "now or hereafter" preceding "established", inserted "federal", and substituted "Management" for "Disposal" and "such owner or operator" for "he", in the second

sentence inserted "issued" and substituted "Management" for "Disposal", and in the third sentence substituted "permit" for "permits"; and in subsection B, in the third sentence substituted "The Department, in reviewing" for "Review of" and "and changes" for "as well as changes" and in the fourth sentence deleted "permit" following "Each" and inserted "permit".

~~§ 2-7-128. Administrative penalties—Disposition and use~~

Administrative penalties collected by the Department pursuant to the Oklahoma Hazardous Waste Management Act¹ shall be paid into the Hazardous Waste Fund.

Laws 1985, c. 113, § 4, emerg. eff. May 30, 1985; Laws 1992, c. 403, § 29, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2012.2 and amended by Laws 1993, c. 145, §§ 111, 359, eff. July 1, 1993.

¹ Title 27A, § 2-7-101 et seq.

Historical and Statutory Notes

The 1992 amendment substituted "Hazardous" for "Controlled Industrial" in two places and "this title" for "Title 63 of the Oklahoma Statutes".

The 1993 amendment rewrote the section, which prior thereto read:

"Administrative fines collected by the Department pursuant to this act shall be paid into the Hazardous Waste Fund, created in Section 1-2018 of this title, and shall be used as specified in the Hazardous Waste Fund Act."

Cross References

~~Standards and rules, violations and remedies, see Title 63, §§ 1-1701.1A, 1-1701.2B~~

Library References

States 127.
 WESTLAW Topic No. 360.
 C.J.S. States § 228.

§ 2-7-129. Violations—Civil penalties

In addition to any other remedies provided in the Oklahoma Hazardous Waste Management Act,¹ the Department may:

1. Temporarily suspend the permit of any operator of a hazardous waste facility until such facility conforms to the provisions of the Oklahoma Hazardous Waste Management Act and the rules promulgated thereunder;
2. Revoke the operating permit or license of any person who flagrantly and/or consistently violates the provisions of the Oklahoma Hazardous Waste Management Act or the rules promulgated thereunder, or who 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 shall conform to provisions of the Administrative Procedures Act.² Such person shall not be eligible for reissuance of a license when finally adjudicated as guilty of flagrant and consistent violations of the Oklahoma Hazardous Waste Management Act or rules promulgated thereunder;
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 the Oklahoma Hazardous Waste Management Act or the rules promulgated thereunder or 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 the Oklahoma Hazardous Waste Management Act or the rules promulgated thereunder 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 Title 63, § 2763 and amended by Laws 1981, c. 322, §§ 14, 18, eff. July 1, 1981. Laws 1991, c. 173, § 10; Laws 1992, c. 403, § 27, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2012 and amended by Laws 1993, c. 145, §§ 112, 359, eff. July 1, 1993.

¹Title 27A, § 2-7-101 et seq.

²Title 75, § 250 et seq.

Historical and Statutory Notes

The 1978 amendment substituted "Division" for "Section" throughout the section, in the introductory paragraph, substituted "Section 2756 of this title" for "Section 6 hereof"; inserted subsection

2; redesignated former subsection 2 as subsection 3; and in subsection 3, substituted "Cause proceedings to be instituted" for "Institute proceedings".

The 1981 amendment substituted "Department" for "Division" throughout the section; in the introductory paragraph, substituted "Section 6 of this Act" for "Section 2756 of this title"; in subsection 1, deleted "processing" following "industrial waste", "or disposal site" preceding "until such facility" and "or site" preceding "conforms"; in subsection 2, in the first sentence, substituted "the Administrative Procedures Act" for "Section 301 et seq. of Title 75 of the Oklahoma Statutes"; and added subsection 4.

The 1991 amendment, in the introductory paragraph, substituted "1-2005 of this title" for "6 of this act"; and in paragraph 4, substituted "Twenty-five Thousand Dollars (\$25,000.00)" for "Ten Thousand Dollars (\$10,000.00)".

The 1992 amendment, in paragraph 1, substituted "hazardous" for "controlled industrial".

The 1993 amendment substituted "the Oklahoma Hazardous Waste Management Act" for "this act" throughout the section; in the introductory paragraph, deleted "shall, pursuant to rules and regulations adopted under Section 1-2005" following "Department" and added "may"; in paragraph 1, deleted "regulations and standards" following "rules" and substituted "thereunder" for "by the Department"; in paragraph 2, in the first sentence substituted "promulgated thereunder" for "and regulations promulgated thereto" and "who" for "which", in the second sentence substituted "shall" for "will", and in the third sentence deleted "or rules promulgated thereunder" from the end; in paragraph 3, substituted "promulgated thereunder or" for "regulations or standards adopted hereunder and"; and in paragraph 4, substituted "promulgated thereunder" for "and regulations of the State Board of Health".

Law Review and Journal Commentaries

Evolution of Oklahoma Controlled Industrial Waste Disposal Act since 1976.

William W. Gordon, Jr. 8 Okla.Cty U.L.Rev. 397 (1983).

United States Supreme Court

Toxic waste, private action for recovery of past clean up costs under Resource Conservation and Recovery Act, immi-

nent endangerment requirement, see Meghrig v. KFC Western, Inc. 1996, 116 S.Ct. 1251, 134 L.Ed.2d 121.

§ 2-7-130. Violations—Criminal penalties

Except as otherwise provided by the Oklahoma Hazardous Waste Management Act¹ or other law, any person who violates any of the provisions of the Oklahoma Hazardous Waste Management Act or rules promulgated thereunder shall be deemed 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 Title 63, § 2762 and amended by Laws 1981, c. 322, §§ 13, 18, eff. July 1, 1981. Laws 1991, c. 173, § 9. Renumbered from Title 63, § 1-2011 and amended by Laws 1993, c. 145, §§ 113, 359, eff. July 1, 1993.

¹ Title 27A, § 2-7-101 et seq.

Historical and Statutory Notes

The 1978 amendment substituted "Division" for "Section" and "not less than Two Hundred Dollars (\$200.00) nor more than Two Thousand Five Hundred Dollars (\$2500.00)" for "not more than Two Hundred Dollars (\$200.00)" in the first sentence.

The 1981 amendment substituted "Department" for "Division" and "Ten Thousand Dollars (\$10,000.00)" for "Two Thousand Five Hundred Dollars (\$2500.00)" in the first sentence.

The 1991 amendment substituted "Twenty-five Thousand Dollars

(\$25,000.00)" for "Ten Thousand Dollars (\$10,000.00)".

The 1993 amendment rewrote the first sentence, which prior thereto read: "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."

Law Review and Journal Commentaries

Evolution of Oklahoma Controlled Industrial Waste Disposal Act since 1976.

William W. Gorden, Jr. 8 Okla.City U.L.Rev. 397 (1983).

§ 2-7-131. Initiation and prosecution of actions

Upon request of the Department, the district attorney of the county in which any violation of the Oklahoma Hazardous Waste Management Act¹ or rules promulgated thereunder occurs shall initiate and prosecute any civil or criminal proceeding provided by the Oklahoma Hazardous Waste Management Act.

Laws 1978, c. 260, § 13, emerg. eff. May 10, 1978. Renumbered from Title 63, § 2763.1 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Renumbered from Title 63, § 1-2013 and amended by Laws 1993, c. 145, §§ 114, 359, eff. July 1, 1993.

¹ Title 27A, § 2-7-101 et seq.

Historical and Statutory Notes

The 1993 amendment rewrote the section, which prior thereto read:

"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."

Section 16 of Laws 1978, c. 260, provided for codification.

Law Review and Journal Commentaries

Evolution of Oklahoma Controlled Industrial Waste Disposal Act since 1976.

William W. Gorden, Jr. 8 Okla.City U.L.Rev. 397 (1983).

§ 2-7-132. Appeal of issuance of permit—Stay of time restraints

The filing of a proceeding appealing the issuance of a permit authorizing a hazardous 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; Laws 1992, c. 403, § 31, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2012.4 and amended by Laws 1993, c. 145, §§ 115, 359, eff. July 1, 1993. Laws 1994, c. 373, § 25, eff. July 1, 1994.

Historical and Statutory Notes

The 1992 amendment substituted "hazardous" for "controlled industrial".

The 1993 amendment deleted "issued prior to or after the effective date of this act" preceding "authorizing".

The 1994 amendment deleted "the construction or operation" following "authorizing".

§ 2-7-133. Intervention

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

Laws 1981, c. 322, § 15, eff. July 1, 1981. Renumbered from Title 63, § 1-2013.1 and amended by Laws 1993, c. 145, §§ 116, 359, eff. July 1, 1993.

Historical and Statutory Notes

The 1993 amendment substituted "or rule" for "rule or regulation".

Law Review and Journal Commentaries

Evolution of Oklahoma Controlled Industrial Waste Disposal Act since 1976. William W. Gorden, Jr. 8 Okla. City U.L.Rev. 397 (1983).

PART 2. SPECIAL ECONOMIC DEVELOPMENT TRUST FUND

§ 2-7-201. Special Economic Development Trust Funds

A. The county commissioners of the counties which are within a ten-mile radius of an off-site hazardous waste facility may establish a Special Economic Development Trust Fund for those counties.

B. The trust fund shall be used to market advantages of industrial development and to promote industrial development in the counties located 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 counties located within the trust area.

C. The trust fund shall consist of:

1. All monies received pursuant to Section 2-7-121 of this title;
2. All income from the investment of monies held in the trust

fund;

**EPA APPROVED OKLAHOMA REGULATORY REQUIREMENTS
 APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
 August 1997**

Title 252 (Department of Environmental Quality), Chapter 200 (Hazardous Waste Management) of *The Oklahoma Administrative Code (OAC), 1996 Edition: Sections 252:200-1-1 et seq.*

Section	Description	Page
Subchapter 1: General Provisions		
252:200-1-1(a)	Purpose and applicability.	163
252:200-1-2	Definitions.	163
Subchapter 3: Incorporation By Reference		
252:200-3-1	Reference to 40 CFR (July 1, 1994).	163-164
252:200-3-5	Inclusion of CFR citations and definitions.	164
252:200-3-6	Inconsistencies or duplications.	164
Subchapter 5: Additional Generator Requirements		
252:200-5-3	SQG exemption from disposal plan requirements.	165
252:200-5-5	No endangerment provisions for generators.	165
Subchapter 7: Additional Transporter Requirements		
252:200-7-1	Transporters required to register.	165-166
252:200-7-2	Leakage, other releases prohibited in transport.	166
252:200-7-3	Manifest, disposal plan required.	166
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Subchapter 9: Additional Treatment, Storage Disposal and Recycling Requirements		
252:200-9-1	No endangerment or degradation.	167-168
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252:200-9-4	Buffer zones.	168
252:200-9-5	Provisions for on-site inspectors.	168
252:200-9-8	Receipt of waste.	169

EPA APPROVED OKLAHOMA REGULATORY REQUIREMENTS
 APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
 August, 1997 (cont'd)

Title 252 (Department of Environmental Quality), Chapter 200 (Hazardous Waste Management) of *The Oklahoma Administrative Code (OAC)*, 1996 Edition: Sections 252:200-1-1 *et seq.*

Subchapter 11: Additional Permit Procedures		
252:200-11-1 [except the phrases "or off-site recycling" and "(TSDRs)"]	Permit application procedure.	169
252:200-11-3(a) [except the word "recycling"]	Emergency plans relating to affected property owners.	169
252:200-11-3(b) through 252:200-11-3(d)	Parcel of land owned by affected property owners.	169-170
252:200-11-4(a)(1) [except the phrases "Except as otherwise provided in this Section" and "or recycling"]	Ground water resources and recharge areas.	170
252:200-11-4(a)(5) [except the phrase "For the purposes of this section"]		
252:200-11-4(b) through 252:200-11-4(e)	Water wells; Flood plain; Surface water; Air pollution.	170-171
Subchapter 13: Miscellaneous		
252:200-13-2 introductory paragraph	Incidents.	173
252:200-13-2(1)	Spilled or leaked materials, and soils and other matter that may be contaminated with such materials.	173
252:200-13-2(2) first sentence	Waste materials resulting from a release.	173

**The May 15, 1997 Issue of *The Oklahoma Register*
 (14 Ok Reg 1609 and 1611), effective June 2, 1997**

Subchapter 3: Incorporation By Reference		
252:200-3-2 [except 252:200-3-2(1)&(11)]	Parts of 40 CFR incorporated by reference (Part 124, 260-266, 268, 270 and 279).	1610
252:200-3-4	Terminology related to 40 CFR.	1610-1611
Subchapter 5: Additional Generator Requirements		
252:200-5-1	Disposal plans.	1612
252:200-5-4	Quarterly reporting requirements.	1612

**EPA APPROVED OKLAHOMA REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM
August, 1997 (cont'd)**

252:200-5-6	Manifest requirements.	1612-1613
Subchapter 9: Additional Treatment, Storage Disposal and Recycling Requirements		
252:200-9-2	Reporting.	1613

Copies of the Oklahoma regulations that are incorporated by reference can be obtained from The Oklahoma Register, Office of Administrative Rules, Secretary of State, 101 State Capitol, Oklahoma City, Oklahoma 73105.

OFFICE OF THE SECRETARY OF STATE



I, the undersigned Secretary of State, certify that I am the person having legal custody of the original records of *The Oklahoma Register* (and its predecessor, *The Oklahoma Gazette*) and *The Oklahoma Administrative Code (OAC)*, and that the attached copies represent true and correct copies of certain permanent rules (identified below) filed with the Secretary of State by the DEPARTMENT OF ENVIRONMENTAL QUALITY pursuant to 75 O.S., Sections 250 et seq. and published in *The Oklahoma Administrative Code 1996 Edition*, and of certain permanent rules published in *The Oklahoma Register* (identified below):

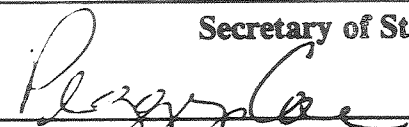
FROM Title 252 (Department of Environmental Quality), Chapter 200 (Hazardous Waste Management) of *The Oklahoma Administrative Code (OAC)*, 1996 Edition:
Sections 252:200-1-1 through 252:200-19-34 (pages 163-182)
Appendices A through C (pages 183-185)

FROM the 5-15-97 issue of *The Oklahoma Register* (14 Ok Reg 1609), effective 6-2-97:
Sections 252:200-3-1 through 3-4, 5-1, 5-4, 5-6, 8-5, 9-2, 13-4, 19-5, and
Appendices B and C (pages 1609-1614)

In testimony whereof, I have hereunto set my hand and affixed the Great Seal of the State of Oklahoma at the City of Oklahoma City this 11th day of July, 1997.




Secretary of State

By: 

CHAPTER 200. HAZARDOUS WASTE MANAGEMENT

Subchapter	Section
1. General Provisions	252:200-1-1
3. Incorporation by Reference	252:200-3-1
5. Additional Generator Requirements	252:200-5-1
7. Additional Transporter Requirements	252:200-7-1
8. Transfer Stations	252:200-8-1
9. Additional Treatment, Storage, Disposal and Recycling Requirements	252:200-9-1
11. Additional Permit Procedures	252:200-11-1
13. Miscellaneous	252:200-13-1
15. Additional Class I Injection Well Requirements [REVOKED]	252:200-15-1
17. Tax Credit and Waste Reduction Incentives	252:200-17-1
19. Additional Rules for Recycling	252:200-19-4
Appendix A. Construction Permit Application Fee [REVOKED]	
Appendix B. Permit Application Fees	
Appendix C. Annual Facility Monitoring Fees	

[Authority: 27A O.S., § 2-7-107]
 [Source: Codified 5-26-94]

SUBCHAPTER 1. GENERAL PROVISIONS

- Section
 252:200-1-1. Purpose and applicability
 252:200-1-2. Definitions

252:200-1-1. Purpose and applicability

(a) This Chapter establishes procedures and standards for handling, transport, treatment, storage, recycling or disposal of hazardous wastes as authorized by the Oklahoma Hazardous Waste Management Act, 27A O.S., Sec. 2-7-101 *et seq.*

~~(b) In addition to the requirements of the Code and this Chapter, all applicants seeking permits or other authorizations are subject to the tiered application procedural requirements of the Oklahoma Uniform Environmental Permitting Act, 27A O.S. Supp. 1995, §2-14-101 *et seq.*, and rules promulgated thereunder in Subchapter 15 of OAC 252:2. Tier classifications for handling, transporting, treatment, storage, recycling or disposal of hazardous waste are listed in Part 5 of OAC 252:2-15.~~

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 13 Ok Reg 1955, eff 7-1-96]

252:200-1-2. Definitions

In addition to the definitions contained in the Oklahoma Hazardous Waste Management Act, 27A O.S., § 2-7-101 *et seq.*, 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 Hazardous Waste

Management Act, 27A O.S., § 2-7-101 *et seq.*, and subsequent amendments.

“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 permit application.

“Director” means the Executive Director of the Department of Environmental Quality.

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

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 13 Ok Reg 1955, eff 7-1-96]

SUBCHAPTER 3. INCORPORATION BY REFERENCE

- Section
 252:200-3-1. Reference to 40 CFR
 252:200-3-2. Incorporation by reference
~~252:200-3-3. Subsequent incorporations~~
 252:200-3-4. Terminology related to 40 CFR
 252:200-3-5. Inclusion of CFR citations and definitions
 252:200-3-6. Inconsistencies or duplications

252:200-3-1. 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, 1994.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 11 Ok Reg 4627, eff 8-15-94 (emergency); Amended at 12 Ok Reg 1631, eff 7-1-95; Amended at 12 Ok Reg 3336, eff 8-11-95; Amended at 13 Ok Reg 1955, eff 7-1-96]

~~252:200-3-2. 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) and (e).
- (2) Part 260. Hazardous Waste Management System: General, with the exception of 260.20 through 260.22 which relate to rulemaking petitions and de-listing.
- (3) Part 261. Identification and Listing of Hazardous Waste.
- (4) Part 262. Standards Applicable to Generators of Hazardous Waste.
- (5) Part 263. Standards Applicable to Transporters of Hazardous Waste.
- (6) Part 264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
- (7) Part 265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
- (8) Part 266. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.
- (9) Part 268. Land Disposal Restrictions.
- (10) Part 270. Permit Programs.
- (11) Part 279. Used Oil Management Standards.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 11 Ok Reg 4627, eff 8-15-94 (emergency); Amended at 12 Ok Reg 3336, eff 8-11-95; Amended at 13 Ok Reg 1955, eff 7-1-96]

252:200-3-3. Subsequent incorporations

Also, the following new or superseding provisions are incorporated by reference: those amendments to 40 CFR Parts 148, 260, 261, 264, 265, 266, 268 and 271 contained in 59 FR No. 180, Monday, September 19, 1994, page 47982, and 60 FR No 1, Tuesday January 3, 1995, page 242 regarding Land Disposal Restrictions Phase II-Universal Treatment Standards, and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes.

[Source: Reserved at 11 Ok Reg 2035, eff 5-26-94; Added at 13 Ok Reg 857, eff 8-21-95 (emergency); Added at 13 Ok Reg 1963, eff 7-1-96]

252:200-3-4. Terminology related to 40 CFR

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

- ~~(1) "Administrator" is synonymous with Executive Director;~~
- (2) "Regional Administrator" is synonymous with Executive Director;
- (3) "Act" is synonymous with Hazardous Waste Management Act;
- (4) "State" is synonymous with Department; and
- (5) "EPA" is the U.S. Environmental Protection Agency.
- (6) "Environmental Appeals Board" is synonymous with Director.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 13 Ok Reg 887, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1955, eff 7-1-96]

252:200-3-5. 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.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-3-6. Inconsistencies or duplications

In the event that there are inconsistencies or duplications in the requirements of those provisions incorporated by reference in 252:200-3-2, and the regulations in this Chapter, the provisions incorporated by reference shall prevail, except where the regulations in this Chapter are more stringent.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

SUBCHAPTER 5. ADDITIONAL GENERATOR REQUIREMENTS

Section	
252:200-5-1.	Disposal plans
252:200-5-2.	[RESERVED]
252:200-5-3.	SQG exemption from disposal plan requirements
252:200-5-4.	Quarterly reporting requirements
252:200-5-5.	No endangerment provisions for generators
252:200-5-6.	Manifest requirements

~~252:200-5-1. Disposal plans~~

All persons generating hazardous waste within Oklahoma or generating wastes to be stored, treated, recycled or disposed of in Oklahoma shall file a disposal plan with the Department for approval, on forms provided by the Department. Persons subject to these provisions shall obtain disposal plan approval prior to offering the waste for transport.

- (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 are planned to be implemented.

~~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.
 (3) The Department may require supporting documentation including but not limited to, laboratory analyses and Material Safety Data Sheets, as necessary to verify information on the disposal plans.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 13 Ok Reg 887, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1963, eff 7-1-96]

252:200-5-2. [RESERVED]

~~[Source: Reserved at 11 Ok Reg 2035, eff 5-26-94]~~

252:200-5-3. SQG exemption from disposal plan requirements

Small quantity generators and conditionally exempt small quantity generators are not subject to the requirements of 252:200-5-1 and 252:200-5-4.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 13 Ok Reg 887, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1963, eff 7-1-96]

~~**252:200-5-4. Quarterly reporting requirements**~~

(a) General. All persons generating hazardous waste within Oklahoma including on-site treatment, storage, recycling, or disposal, shall submit a report to the Department in a prescribed format which may include electronic submissions. This information shall be submitted quarterly to the Department no later than 60 days after the end of the quarter. Reports shall include copies of manifests signed by receiving facilities for wastes transported outside the State of Oklahoma.

(b) Oklahoma generators. Reports for Oklahoma generators shall include the total amount of hazardous waste generated, and when applicable, as a minimum for each hazardous waste generated in a quarter: the waste stream number from the generator's disposal plan; all EPA waste numbers applicable to the waste prior to treatment; all EPA waste numbers under which the waste was shipped; the EPA ID number of all transporters who handled the waste; the EPA ID number of the receiving facility; and for the method of handling expected by the generator to be used at the designated receiving facility, the appropriate handling code(s) as indicated on the quarterly report form. In addition to the applicable requirements outlined above, when characteristic hazardous waste is treated on-site to render the waste non-hazardous, the quarterly report shall be completed to indicate the waste was treated on-site to render the waste non-hazardous.

(c) Reporting exclusions. The reporting requirements of this section do not apply to waste which is not subject to the substantive federal regulations adopted by reference by

~~OAC 252:200-3-2. There are many such exclusions including but not limited to:~~

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

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 13 Ok Reg 887, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1963, eff 7-1-96]~~

252:200-5-5. No endangerment provisions for generators

All generators shall be subject to the provisions of 252:200-9-1.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

~~**252:200-5-6. Manifest requirements**~~

- (a) All large quantity generators shall include the disposal plan number on the Hazardous Waste Manifests before offering hazardous waste for shipment.
- (b) Oklahoma large quantity generators shall, on at least a quarterly basis, submit copies of manifests signed by receiving facilities for wastes transported outside the State of Oklahoma.

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 13 Ok Reg 887, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1963, eff 7-1-96]~~

SUBCHAPTER 7. ADDITIONAL TRANSPORTER REQUIREMENTS

- Section**
- 252:200-7-1. Transporters required to register
 - 252:200-7-2. Leakage, other releases prohibited in transport
 - 252:200-7-3. Manifest, disposal plan required
 - 252:200-7-4. Mixing waste prohibited by transporters

252:200-7-1. Transporters required to register

(a) Each person who owns or leases one or more vehicles which engage in the transportation of hazardous waste and who pick up hazardous waste in Oklahoma or deliver hazardous waste to an Oklahoma site shall be required to register for transportation on forms available from the Department. Persons who transport hazardous 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.

(b) Any person who transports hazardous waste through the state of Oklahoma without picking up hazardous waste in Oklahoma or delivering hazardous waste to an

Oklahoma site shall not be required to register with the Department.

(c) Conditionally exempt small quantity generators (CESQGs) who transport their own hazardous wastes to a facility owned or operated by the CESQG or the CESQG's parent company shall be exempt from the transporter registration requirements of this Subchapter.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 13 Ok Reg 887, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1963, eff 7-1-96]

252:200-7-2. 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.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-7-3. Manifest, disposal plan required

No person shall transport hazardous waste without a completed manifest containing the disposal plan number of the generator thereon if the generator is required to have a disposal plan.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 13 Ok Reg 887, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1963, eff 7-1-96]

252:200-7-4. Mixing waste prohibited by transporters

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

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

~~Transfer Station shall be subject to the provisions of this Subchapter.~~

(1) No person may commence construction of a Transfer Station after the effective date of this Subchapter prior to securing an approved Transfer Station Development and Operations Plan (Plan) from the Department. Any such Plan shall address all of the hazardous wastes which may be managed at the Transfer Station. The Plan shall also identify and discuss the handling of any solid wastes to be managed as non-hazardous at the Transfer Station.

(2) Operators of Transfer Stations that are in operation on the effective date of this Rule, shall be required to submit a Plan which addresses all requirements of this Subchapter. Such Plan shall be submitted no later than 120 days after this Subchapter becomes effective. If an existing Transfer Station does not submit a Plan within the time period specified, or if the Department denies approval of the Plan, the Transfer Station shall be required to cease operation until a Plan for such Transfer Station has been submitted and approved by the Department.

(3) A transfer station which handles hazardous waste or both hazardous and solid wastes destined for management at a hazardous waste facility shall be subject to all requirements of this subchapter. A transfer station which handles hazardous waste destined for management at a hazardous waste facility and solid waste destined for management at a solid waste facility shall also be subject to the requirements of the Solid Waste Management Regulations, .

(b) The following activities are specifically exempted from the Transfer Station Plan requirements of this Subchapter:

- (1) Activities of generators of hazardous waste to consolidate waste on-site prior to shipment.
- (2) Activities specifically regulated by hazardous waste facility permits and which meet all the conditions of 252:200-8-3(b).
- (3) Activities taken during immediate response to any of the following situations:

- (A) A discharge of hazardous waste;
- (B) An imminent and substantial threat of a discharge of hazardous waste;
- (C) A discharge of a material which, when discharged, becomes a hazardous waste.

(c) The requirements of this Subchapter shall not supersede any obligations to secure a RCRA permit under the federal hazardous waste regulations.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-8-3. Transfer Station Development & Operational Plans

(a) Any person proposing to construct and/or operate a Transfer Station must submit three copies of a proposed Transfer Station Development & Operational Plan (Plan).

~~**SUBCHAPTER 8. TRANSFER STATIONS**~~

Section	
252:200-8-1.	Definitions
252:200-8-2.	Transfer Stations
252:200-8-3.	Transfer Station Development & Operational Plans
252:200-8-4.	Public notice required [REVOKED]
252:200-8-5.	Fees
252:200-8-6.	Modifications
252:200-8-7.	Exclusionary siting criteria
252:200-8-8.	No endangerment

252:200-8-1. Definitions

The following words and terms, when used in this Subchapter only, shall have the following meaning, unless the context clearly indicates otherwise:

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-8-2. Transfer Stations

~~(a) Any transfer facility which meets the definition of a~~

~~along with the application fee as designated in 252:200-8-5, to the Department.~~

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

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-8-4. Public notice required [REVOKED]

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Revoked at 13 Ok Reg 1955, eff 7-1-96]

252:200-8-5. Fees

Fees for the review and processing of a Transfer Station Development and Operational Plan shall be equal to the basic processing fee in Appendix B of this Chapter.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-8-6. Modifications

~~(a) Transfer Stations shall be required to operate in~~

~~accordance with their approved Plans. Any proposed modification to an approved plan which would alter the design or operation of a Transfer Station shall be requested in writing and shall not be implemented without prior approval by the Department.~~

(b) The Department may modify an approved Plan to reflect changes consistent with current regulatory requirements.

(c) Modification to approved Plans shall be accomplished in accordance with the procedures outlined in 40 CFR 270.42.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 13 Ok Reg 1955, eff 7-1-96]

252:200-8-7. Exclusionary siting criteria

(a) The siting criteria for locating Transfer Stations shall be the same as those applicable to the siting of any hazardous waste treatment or storage facility.

(b) No Plan approval shall be granted for a Transfer Station proposed to be located over a principal groundwater resource or recharge area, unless the Plan includes specific provisions for protection of the groundwater resources. These provisions shall include financial assurances for the purpose of assuring immediate response and remediation in the event of a release.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-8-8. No endangerment

All owners and operators of Transfer Stations shall be subject to the provisions of Rule 252:200-9-1.

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94]~~

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

- Section
- 252:200-9-1. No endangerment or degradation
- 252:200-9-2. Reporting
- 252:200-9-3. Financial security mechanisms
- 252:200-9-4. Buffer zones
- 252:200-9-5. Provisions for on-site inspectors
- ~~252:200-9-6. Additional closure requirements~~
- ~~252:200-9-7. Additional waste analysis requirements~~
- 252:200-9-8. Receipt of waste

252:200-9-1. No endangerment or degradation

All hazardous 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 a

parameter indicative of hazardous 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: Added at 11 Ok Reg 2035, eff 5-26-94]

~~252:200-9-2. Reporting~~

(a) Hazardous waste treatment, storage, disposal, and recycling facilities shall submit reports monthly in a format prescribed by the Department, which may include electronic submissions, identifying hazardous waste which is managed at the facility. The report for each facility shall be submitted within 30 days of the end of each month and shall include at a minimum:

- (1) for all waste generated on-site and managed in permitted or interim status units, the generator ID number; all waste numbers applicable to the waste; the amount of waste generated; the appropriate treatment, disposal, or recycling codes applicable to the waste; and
- (2) for all waste generated off-site, the generator ID number; all waste numbers applicable to the waste; the amount of waste received; the appropriate treatment, disposal, or recycling codes applicable to the waste; and the EPA ID number of all transporters who handled the waste in Oklahoma.

(b) Copies of all hazardous waste manifests received at the facility during the month shall be submitted to the Department monthly.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 13 Ok Reg 887, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1963, eff 7-1-96]

252:200-9-3. Financial security mechanisms

The owner shall word the financial assurance instruments as provided in 40 CFR 264.151, except that:

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

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-9-4. Buffer zones

(a) 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.

(b) Existing units which become newly regulated due to changes in the statutory or regulatory requirements are excluded from the buffer zone restrictions to the extent of the encroachment existing as of the effective date of the statutory or regulatory changes.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-9-5. 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 hazardous waste storage, treatment, disposal (TSD) or recycling facilities. Permittees subject to these conditions shall provide reasonable office facilities for use by Departmental inspectors.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

~~252:200-9-6. 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 11 Ok Reg 2035, eff 5-26-94]

252:200-9-7. 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 11 Ok Reg 2035, eff 5-26-94]~~

252:200-9-8. Receipt of waste

No hazardous waste treatment, storage, disposal, or recycling facility shall accept hazardous waste from a large quantity generator unless the generator's disposal plan number is included on the manifest.

[Source: Added at 13 Ok Reg 887, eff 8-21-95 (emergency); Added at 13 Ok Reg 1963, eff 7-1-96]

SUBCHAPTER 11. ADDITIONAL PERMIT PROCEDURES

Section

- 252:200-11-1. Permit application procedure
- ~~252:200-11-2. County Commissioner involvement in permit issuance~~
- 252:200-11-3. Emergency plans relating to affected property owners
- 252:200-11-4. Exclusionary siting criteria

252:200-11-1. Permit application procedure

All new treatment, storage, disposal or off-site recycling facilities (TSDRs) shall require a permit.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 12 Ok Reg 1631, eff 7-1-95; Amended at 13 Ok Reg 1955, eff 7-1-96]

~~**252:200-11-2. County Commissioner involvement in permit issuance**~~

(a) The Department shall issue a permit based upon a Tier II (a)(1) or a Tier III (a)(1) application (as described in OAC 252:2-15-43, 44 and 45) [except recycling which is exempt by 27A O.S. Supp. 1995, 2-7-118(A)] 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 2-7-115 of the Act; or
- (2) A resolution from the appropriate board(s) of county commissioners as provided in paragraph (B)(1) of Section 2-7-115 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 2-7-115 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 2-7-115 of the Act.~~

(b) The Department shall authorize actual commencement of operation of a facility subject to 252:200-11-2 (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 2-7-115 of the Act.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 12 Ok Reg 1631, eff 7-1-95; Amended at 13 Ok Reg 1955, eff 7-1-96]

252:200-11-3. 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), persons submitting applications for new proposed off-site treatment, storage, recycling or disposal sites, 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. (See Paragraphs C and D of Section 2-7-111 of the Act.) 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 permit. Issues under this paragraph may be joined at any hearing conducted under Paragraph C of Section 2-7-113 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 Section 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.

~~(e) Industrial facilities which are existing and which propose to begin receiving hazardous waste from off-site for treatment, storage, disposal or recycling are not subject to the provisions of 252:200-11-3(b), (c) or (d). Such facilities shall, however, submit an Emergency Plan as part of the permit application. The Plan shall be subject to public review and comment pursuant to Section 2-7113 of the Act. Upon submittal of the plan to the Department, the applicant shall also mail a copy of the Plan to the affected property owners and shall certify to the Department that this mailing has been made. If a permit is issued, the permittee shall send the final plan by first-class mail to all affected property owners.~~

(f) Any new or existing facility that is located or plans to locate within the city limits or emergency response area of any city or town and that proposes to begin receiving hazardous waste from off-site, must serve that city or town with a copy of the proposed Emergency Plan. The Department shall not approve the Plan for a minimum period of sixty (60) days thereafter to allow the city or town opportunity to review the plan and comment to the Department on the ability of the city to comply with items in the plan that require the city or town's assistance or participation.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 12 Ok Reg 1631, eff 7-1-95]

252:200-11-4.¹ Exclusionary siting criteria

(a) Ground water resources and recharge areas.

~~(1) Except as otherwise provided in this Section, no permit for a proposed new site shall hereafter be granted for an off-site hazardous waste treatment, storage, or recycling facility to be located over or through an unconsolidated alluvial aquifer or terrace deposit aquifer, or over or through a bedrock aquifer or their recharge areas.~~

~~(2) No permit for a proposed new site shall hereafter be granted for any hazardous waste disposal facility to be located over or through an unconsolidated alluvial~~

~~or terrace deposit aquifer or through a bedrock aquifer or their recharge areas.~~

(3) No permit for a proposed new site shall hereafter be granted for an on-site hazardous waste treatment or storage facility to be located over or through a principal groundwater resource or recharge area, except pursuant to a plan approved by the Department for protection of the groundwater resources. This plan shall include financial assurances for the purpose of assuring immediate response and remediation in the event of a release.

(4) In accordance with the provisions of 27A O.S. Section 2-7-111, the Department may grant a variance for the siting of an off-site hazardous waste treatment, storage, or recycling facility over a principal ~~groundwater resource or recharge area.~~

(5) ~~For the purposes of this section,~~ there shall be a presumption that the proposed location is an unapprovable site 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 on-site facility pursuant to 27A O.S. Section 2-7-111(B).] Existing facilities in these areas may continue to operate and may modify or expand their operations to the extent permitted by 27A O.S. Section 2-7-111. 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 permit shall hereafter be granted for a new hazardous 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 permit or modification of an existing permit, except for post-closure, corrective action or remedial activities conducted under the direction of the DEQ, shall hereafter be granted which includes disposal of hazardous waste within a one-hundred year flood plain. For existing facilities, this modification prohibition applies only to land disposal units and to modifications of such units which would increase disposal rates or designate new areas for disposal.

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

~~(f) **Distance from city limits.** Except as provided by 27A O.S. Section 2-7-114, no permit shall be issued for a new facility which disposes of hazardous waste received from off-site, or for an incinerator which treats hazardous waste received from off-site, and which is proposed to be located within eight (8) miles of the corporate limits of any incorporated city or town.~~

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 12 Ok Reg 1631, eff 7-1-95; Amended at 13 Ok Reg 719, eff 11-4-95 (emergency); Amended at 13 Ok Reg 1955, eff 7-1-96¹]

~~EDITOR'S NOTE: The agency promulgated two versions of this Section with the same effective date in 1996. Both both versions have been included in the OAC.~~

~~252:200-11-4.1 Exclusionary siting criteria~~

~~(a) **Ground water resources and recharge areas.**~~

~~(1) Except as otherwise provided in this Section, no permit for a proposed new site shall hereafter be granted for an off-site hazardous waste treatment,~~

~~storage, or recycling facility to be located over or through an unconsolidated alluvial aquifer or terrace deposit aquifer, or over or through a bedrock aquifer or their recharge areas.~~

~~(2) No permit for a proposed new site shall hereafter be granted for any hazardous waste disposal facility to be located over or through an unconsolidated alluvial or terrace deposit aquifer or through a bedrock aquifer or their recharge areas.~~

~~(3) No permit for a proposed new site shall hereafter be granted for an on-site hazardous waste treatment or storage facility to be located over or through a principal groundwater resource or recharge area, except pursuant to a plan approved by the Department for protection of the groundwater resources. This plan shall include financial assurances for the purpose of assuring immediate response and remediation in the event of a release.~~

~~(4) In accordance with the provisions of 27A O.S. Section 2-7-111, the Department may grant a variance for the siting of an off-site hazardous waste treatment, storage, or recycling facility over a principal groundwater resource or recharge area.~~

~~(5) For the purposes of this section, there shall be a presumption that the proposed location is an unapprovable site 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 on-site facility pursuant to 27A O.S. Section 2-7-111(B).] Existing facilities in these areas may continue to operate and may modify or expand their operations to the extent permitted by 27A O.S. Section 2-7-111. 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 permit shall hereafter be granted for a new hazardous 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 permit or modification of an existing permit, except for post-closure, corrective action or remedial activities conducted under the direction of the DEQ, shall hereafter be granted which includes disposal of hazardous waste within a one-hundred year flood plain. For existing facilities, this modification prohibition applies only to land disposal units and to modifications of such units which would increase disposal rates or designate new areas for disposal.

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

(f) **Distance from city limits.** Except as provided by 27A O.S. Section 2-7-114, no permit shall be issued for a new facility which disposes of hazardous waste received from off-site, or for an incinerator which treats hazardous waste received from off-site, and which is proposed to be located within eight (8) miles of the corporate limits of any incorporated city or town.

(g) **Injection wells.** No permit shall hereafter be granted for a hazardous 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.

~~(h) Sources of fresh water. Injection of hazardous wastes~~

~~into or above an underground source of fresh water is prohibited.~~

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 12 Ok Reg 1631, eff 7-1-95; Amended at 13 Ok Reg 719, eff 11-4-95 (emergency); Amended at 13 Ok Reg 1969, eff 7-1-96¹]

EDITOR'S NOTE: ¹ The agency promulgated two versions of this Section with the same effective date in 1996. Both versions have been included in the OAC.

SUBCHAPTER 13. MISCELLANEOUS

Section

~~252:200-13-1. Confidential business information~~

252:200-13-2. Incidents

~~252:200-13-3. Zoning~~

~~252:200-13-4. Fees for services~~

~~252:200-13-1. Confidential business information~~

(a) Information obtained by and copies of official records of the Department regarding hazardous 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 hazardous waste shall be made available to the public in substantially the same manner, and to the same degree, as would be the case if the EPA were carrying out the provisions of federal law in Oklahoma. In accordance with Procedures of the Department of Environmental Quality, copies of all official records of the Department, not privileged or protected from publication by law, may be made and certified by the Director, 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 this Chapter 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 in (a) and (b) of this Section. 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.~~

~~(Source: Added at 11 Ok Reg 2035, eff 5-26-94)~~

252:200-13-2. Incidents

In the event of a release of materials that are or become hazardous waste and which could threaten human health or the environment, 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. For the purposes of this section, a release of materials that are or become hazardous waste which is completely contained in a secondary containment area is not considered a release which requires reporting to the Department. When a report is required to be made to the National Response Center pursuant to 40 CFR 262.34 (a) (4), 262.34 (d) (5), or 264.56 (d) (2) or 265.56 (d) (2), a report must also be made immediately to the Department at 1-800-522-0206.

(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, hazardous waste, or "liquid non-hazardous waste" as defined in *Regulations Governing Non-hazardous Waste Injection Wells*, DEQ 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 Director 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: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 13 Ok Reg 887, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1963, eff 7-1-96)~~

~~**252:200-13-3. Zoning**~~

~~This Chapter 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.~~

~~(Source: Added at 11 Ok Reg 2035, eff 5-26-94)~~

~~**252:200-13-4. Fees for services**~~

~~(a) Fee payment. Fees should be made payable to the Department of Environmental Quality.~~

~~(1) Application fees. 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 renewal of 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.

(3) **Range of fees.**

(A) The following fees may be charged in accordance with Section 2-7-119 of The Act:

- (i) Disposal plans - \$100 to \$10,000 per generator per year.
- (ii) Transporter registration - \$20 per vehicle per year.
- (iii) Permit application - \$5,000 to \$50,000.
- (iv) Application re-submittal - \$100 to \$1,000.
- (v) Facility monitoring - \$100 to \$10,000 per year, except as provided by 27A O.S. 2-7-121.

(B) 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.** The fee for obtaining a disposal plan is \$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) There is no disposal plan fee to handle emergency incidents under 252:200-13-2.

(C) Non-payment of disposal plan fees will result in cancellation of the plan after the second notification. In the event a plan is canceled, a new application must be completed and supportive documentation resubmitted. All past fees, including delinquent fees, must be paid prior to reinstatement of the plan.

(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. Oklahoma generators who file a one-time disposal plan but are not otherwise required to maintain a disposal plan shall not be required to pay the \$100 monitoring and inspection fee.

(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 hazardous 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, 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 hazardous 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) **Permit application fees.** Fees for the initial submission of an application for a permit and any subsequent re-submissions shall be calculated and based upon Appendix B of this Chapter.
 - (2) **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 Appendix B of this Chapter.
 - (3) **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 application processing fee amounts in Appendix B of this Chapter. (Each proposed Class 3 modification application is subject to the assessment of fees.)
 - (4) **Permit renewals.** The fees for renewal of an existing permit are one-half of the "new permit" amounts listed in Appendix B of this Chapter (excluding resubmission fees which shall be charged at the full rate shown), using all units covered by the existing permit.
 - (5) **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.~~

- (6) **Fees for monitoring and inspection.**
- (A) All hazardous waste facilities shall be charged annual fees for monitoring and inspection by the Department. These fees are in addition to the \$100 monitoring fee for generators.
 - (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 2-7-121(A) of the Act, except as provided by 27A O.S. 2-7-121(B). The fee amounts and applicability are depicted in Table 2 of Appendix C of this Chapter. Facilities not subject to Table 2 of Appendix C of this Chapter shall be charged in accordance with Table 1 of Appendix C of this Chapter. (Tables 1 and 2, in Appendix C of this Chapter are included for convenience and are subject to adjustment of the fees by statutory amendment.)
- (7) **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 hazardous waste facility had timely and properly notified, would have been assessed in the applicable years pursuant to 252:200-13-4(d)(7) shall be assessed at the time of notification by (or discovery by the Department of) a previously non-notifying hazardous waste facility, to help cover the costs of non-routine processing, inspection, and evaluation.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 12 Ok Reg 1631, eff 7-1-95; Amended at 13 Ok Reg 887, eff 8-21-95 (emergency); Amended at 13 Ok Reg 1963, eff 7-1-96]

SUBCHAPTER 15. ADDITIONAL CLASS I INJECTION WELL REQUIREMENTS [REVOKED]

Section	
252:200-15-1.	Compliance with this Subchapter [REVOKED]
252:200-15-2.	Construction requirements [REVOKED]
252:200-15-3.	Operating requirements [REVOKED]
252:200-15-4.	Testing and monitoring [REVOKED]
252:200-15-5.	Record-keeping and reporting requirements [REVOKED]
252:200-15-6.	Permit information requirements [REVOKED]
252:200-15-7.	Abandonment and plugging [REVOKED]
252:200-15-8.	Bifurcation of injection well permit hearing [REVOKED]
252:200-15-9.	Dedication [REVOKED]
252:200-15-10.	Lifetime [REVOKED]

~~252:200-15-1. Compliance with this Subchapter [REVOKED]~~

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Revoked at 13 Ok Reg 1955, eff 7-1-96]~~

~~252:200-15-2. Construction requirements [REVOKED]~~

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Revoked at 13 Ok Reg 1955, eff 7-1-96]~~

~~252:200-15-3. Operating requirements [REVOKED]~~

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Revoked at 13 Ok Reg 1955, eff 7-1-96]~~

~~252:200-15-4. Testing and monitoring [REVOKED]~~

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Revoked at 13 Ok Reg 1955, eff 7-1-96]~~

~~252:200-15-5. Record-keeping and reporting requirements [REVOKED]~~

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Revoked at 13 Ok Reg 1955, eff 7-1-96]~~

~~252:200-15-6. Permit information requirements [REVOKED]~~

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 12 Ok Reg 1631, eff 7-1-95; Revoked at 13 Ok Reg 1955, eff 7-1-96]~~

~~252:200-15-7. Abandonment and plugging [REVOKED]~~

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Revoked at 13 Ok Reg 1955, eff 7-1-96]~~

~~252:200-15-8. Bifurcation of injection well permit hearing [REVOKED]~~

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 12 Ok Reg 1631, eff 7-1-95; Revoked at 13 Ok Reg 1955, eff 7-1-96]~~

~~252:200-15-9. Dedication [REVOKED]~~

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Revoked at 13 Ok Reg 1955, eff 7-1-96]~~

~~252:200-15-10. Lifetime [REVOKED]~~

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Revoked at 13 Ok Reg 1955, eff 7-1-96]~~

~~SUBCHAPTER 17. TAX CREDIT AND WASTE REDUCTION INCENTIVES~~

~~PART 1. TAX CREDITS~~

~~Section~~

- ~~252:200-17-1. Definitions~~
- ~~252:200-17-2. Scope and applicability of tax credit~~
- ~~252:200-17-3. Tax credit limitations~~
- ~~252:200-17-4. Application procedures for tax credit~~
- ~~252:200-17-5. Criteria for approval of tax credit~~
- ~~252:200-17-6. Special conditions: new and unproven technologies~~
- ~~252:200-17-7. Required information in tax credit application~~

~~PART 3. WASTE REDUCTION INCENTIVES~~

- ~~252:200-17-20. Scope and applicability~~
- ~~252:200-17-21. Fee reduction calculations~~
- ~~252:200-17-22. Limitations~~
- ~~252:200-17-23. Waste reduction plans~~
- ~~252:200-17-24. Application for fee reduction~~

~~PART 1. TAX CREDITS~~

~~252:200-17-1. Definitions~~

~~The following apply only to actions taken pursuant to the Recycling, Reuse and Source Reduction Incentive Act (RRSRIA) (see 68 O.S. Supp. 1993, Sections 2357.14-2357.20) and are not intended to alter the definitions in 252:200-1-2 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 this Subchapter, recycling applies to materials that if discarded would be hazardous 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 hazardous waste. A material is “reused” if it is:~~

~~(A) Used as an ingredient (including use as an intermediate) in an industrial process to make a product. 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.~~

~~“Source Reduction” means any practice which reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment prior to recycling, treatment or disposal. For this subchapter, the term includes~~

~~equipment used in technology modifications, reformulation or redesign of products, substitution of raw materials and improvements in housekeeping, maintenance, training or inventory control. Under these rules, source reduction applies to the reduction in the generation of a waste defined as hazardous under 40 CFR 261.~~

"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.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-17-2. 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 source reduction of hazardous waste and the storage of such waste immediately prior to recycling or reuse 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, not to exceed a maximum of \$50,000. (Additionally, tax credits received under the RRSRIA cannot exceed a total of \$80,000 during a period of any three (3) consecutive tax years.) Upon evaluation by the Department of an application and a determination that the intent of the Recycling, Reuse, and Source Reduction 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 hazardous waste may be considered as recycling, and the equipment or devices needed to effectuate such recovery may be eligible under this Subchapter. In order to claim energy recovery, the unit must maintain a thermal energy recovery efficiency of at least sixty percent, calculated in terms of the recovered energy compared with the thermal value of the fuel, and at least seventy-five percent of this recovered energy must be exported and utilized on an annual basis. Credit will not be allowed for internal use of recovered heat in the same unit.

(c) Facilities installed for the purpose of recycling or reuse of hazardous waste recovered as a result of the clean-up of spills and/or remedial action at hazardous waste sites may be eligible. ~~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 increased source reduction will be considered regardless of age.

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

(f) Any person who is currently recycling by means of an off-site facility, and who installs his own recycling, reuse or source reduction facility to manage hazardous 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 source reduction 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.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-17-3. Tax credit limitations

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

- (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 source reduction of materials that are not hazardous 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 hazardous waste is not considered as recycling, reuse or source reduction and is therefore not eligible.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-17-4. Application procedures for tax credit

(a) Any person engaged in or proposing to engage in the recycling, reuse, or source reduction of hazardous 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 252:200-17-7 for required information.)

~~(b) Application forms with all supporting documentation~~

~~must be submitted in triplicate to the Chief of the Hazardous 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 in (c) of this Section.

(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 hazardous waste is being recycled, reused, or reduced at the source. 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 the RRSRIA, although it is not relevant to the granting or denying of a tax credit.

~~(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.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-17-5. 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 source reduction of hazardous waste.

- (1) The tax credit must be taken within three years of the installation and initial 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 hazardous waste which must be recycled, reused or reduced at the source to be considered under these rules.
- (4) Only facilities physically located in the State of Oklahoma are eligible for a tax credit.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-17-6. 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 RRSRIA 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.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-17-7. 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 Source Reduction 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 source reduction 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 source reduction 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 hazardous waste expected to result from the proposed facility.

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

(5) The application must certify that the facility will be used in Oklahoma to process hazardous 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.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

PART 3. WASTE REDUCTION INCENTIVES

252:200-17-20. Scope and applicability

(a) Any large quantity generator facility in Oklahoma which prepares and submits a facility Hazardous Waste Reduction Plan may be entitled to a reduction or refund of a portion of the per ton in-state hazardous waste treatment or disposal fees as assessed under Section 2-7-121 of the Act if the facility:

- (1) expands its full-time equivalent employment (FTE) while simultaneously generating less hazardous waste than in the designated baseline year, or;
- (2) significantly reduces the toxicity of all or part of the hazardous waste generated at the facility.

(b) Any small quantity generator facility in Oklahoma which completes the information on waste reduction forms provided by the Department may be entitled to a reduction or refund of a portion of the per ton in-state hazardous

~~waste treatment or disposal fees as assessed under Section 2-7-121 of the Act if the facility:~~

- (1) expands its full-time equivalent employment (FTE) while simultaneously generating less hazardous waste than in the designated baseline year, or,
- (2) reduces the toxicity of all or part of the hazardous waste generated at the facility.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

~~252:200-17-21. Fee reduction calculations~~

(a) If a large quantity generator facility is determined eligible for the hazardous waste disposal fee reduction as a result of increasing its FTE while simultaneously decreasing the amount of hazardous waste generated, the generator will receive a disposal fee refund per ton of waste disposed in the application year calculated as follows:

% Waste Reduction

21-50%	X ÷ 3.5	X ÷ 2.8	X ÷ 2.3	X ÷ 2
11-20%	X ÷ 4.6	X ÷ 3.5	X ÷ 2.8	X ÷ 2.3
1-10%	X ÷ 6.8	X ÷ 4.6	X ÷ 3.5	X ÷ 2.8
	1-25%	26-50%	51-75%	76-100%

% Increase in Employees

X = Applicable fee at time of treatment or disposal

% Waste Reduction = $\frac{\text{waste generated in baseline yr.} - \text{waste generated in application yr.}}{\text{waste generated in baseline yr.}} \times 100$

% Increase in Employees = $\frac{\text{employees in application yr.} - \text{employees in baseline yr.}}{\text{employees in baseline yr.}} \times 100$

(b) If a large quantity generator facility is determined eligible for the hazardous waste disposal fee reduction as a result of significantly reducing the toxicity of all or part of its hazardous wastestream, the generator will receive a disposal fee refund pursuant to the following:

- (1) The generator will receive a disposal fee refund per ton of waste disposed in the application year equal to:

$$\text{Fee Refund} = \frac{\text{Unit of hazardous waste decreased in toxicity} \times X}{\text{Total units of hazardous waste generated}}$$

X = Applicable fee at time of treatment or disposal

(2) The degree to which the toxicity of a wastestream is reduced must be clearly demonstrated by a health-based risk analysis that examines at least the concentrations of hazardous waste constituents and the likely means of exposure to employees and to the public.

(3) For elimination of a hazardous waste stream through source reduction techniques, an additional \$0.50/ton will be added to the hazardous waste disposal fee reduction; however, in no instance may the maximum reduction exceed one-half of the total fees assessed.

(c) If a small quantity generator is determined eligible for the hazardous waste disposal fee reduction as a result of increasing its FTE while simultaneously decreasing the amount of hazardous waste generated, or for reducing the toxicity of waste generated, the generator will receive the

maximum disposal fee refund, i.e., fifty percent (50%) of the disposal fees paid.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-17-22. Limitations

(a) In no event may the reduction in fees calculated in 252:200-17-21 exceed fifty percent of the total fees assessed.

(b) Fee reductions will not be given for reductions in volume or toxicity that result from production phase-outs or decline in production levels.

(c) Fee reductions are limited to the per ton fee assessed for the treatment or disposal of hazardous wastes. Any minimum facility fees as specified in Section 2-7-121 of the Act are not eligible for reductions.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-17-23. Waste reduction plans

(a) To qualify for the fee reductions described in this Part, each large quantity hazardous waste generator shall prepare a Hazardous Waste Reduction Plan for each facility seeking reduction in fees.

(b) Hazardous Waste Reduction Plans shall include:

- (1) A written policy statement describing ownership and management support for hazardous waste reduction and plan implementation;
- (2) Scope and objectives, including the evaluation of technology, procedures and personnel training programs to assure hazardous waste reduction;

- (3) ~~Explanation and documentation of hazardous waste reduction efforts completed or in progress;~~
- (4) ~~Analysis of hazardous wastestreams, and identification of opportunities for source reduction;~~
- (5) ~~Itemized hazardous waste management and hazardous waste reduction costs;~~
- (6) ~~Numeric goals for hazardous waste reduction.~~
- (c) ~~Hazardous Waste Reduction Plans must be updated every two years. The update shall include progress made toward each performance goal. Any necessary amendments shall be included in the updated plan.~~
- (d) ~~Within sixty (60) days after the preparation of the initial Hazardous Waste Reduction Plan and within that same period after each biennial plan update, each generator shall submit to the Department a Hazardous Waste Reduction Plan Summary which must be certified by an authorized agent of the facility. This summary shall detail the types and quantities of hazardous wastes generated and reduced based on the Hazardous Waste Reduction Plan and subsequent amendments. Any new amendments to the Plan shall be described. The certified report shall also include a narrative summary explaining the hazardous waste generation and reduction data, a description of goals and any progress made in reducing hazardous waste, and shall report any impediments to reduction.~~
- (e) ~~Information in Waste Reduction Plans will not be considered as public record. However, all certified summary reports shall be considered public records.~~

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-17-24. Application for fee reduction

- (a) ~~To make application for a fee reduction, a generator must provide:~~
- (1) ~~A written request for reduction in fees, including:~~
- (A) ~~documentation of reduction in hazardous waste generation compared with the applicable baseline year data and information to support claims of increase in employment during the same time period; or~~
- (B) ~~documentation of reduction in hazardous waste toxicity, including health-based risk analysis data.~~
- (2) ~~A copy of the facility's Hazardous Waste Reduction Plan, and the Department's Hazardous Waste Reduction Plan Summary Form.~~
- (3) ~~Small quantity generators shall submit a completed Small Quantity Generator's Hazardous Waste Reduction Plan form in lieu of a Hazardous Waste Reduction Plan and the Hazardous Waste Reduction Plan Summary Form.~~
- (b) ~~The previous state fiscal year's data will be used to establish the baseline for employment and waste generation data for those generators submitting Hazardous Waste Reduction Plans and requests for fee reductions after July 1, 1993. Applications for fee reduction must be~~

~~submitted by October 1, of the fiscal year following the application year.~~

~~(c) Once a baseline year has been established, the data from this year will typically continue to be used as the basis of comparison for future fee reductions. An alternative baseline may be approved if the generator provides a written request for change and includes justification for use of an alternative baseline year.~~

~~(d) Fees shall be refunded on an annual basis after conclusion of each fiscal year. Fees will continue to be refunded as long as the waste reduction criteria of 252:200-17-20 continue to be met. The Department will review the biennial plan summary reports to evaluate any need for fee refund adjustment.~~

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

SUBCHAPTER 19. ADDITIONAL RULES FOR RECYCLING

PART 1. REQUIREMENTS FOR OFF-SITE RECYCLERS

Section

- 252:200-19-1. ~~Off-site recycling facilities~~
- 252:200-19-2. ~~Applicability~~
- 252:200-19-3. ~~Operating record~~
- 252:200-19-4. ~~Additional requirements for recycling hazardous waste fuel~~
- 252:200-19-5. ~~Fees~~
- 252:200-19-6. ~~Processed hazardous waste to be recycled~~

PART 3. MOBILE RECYCLING UNITS

- 252:200-19-15. ~~Mobile Units~~
- 252:200-19-16. ~~Public notice requirements for Mobile Units [REVOKED]~~

PART 5. TANK AND CONTAINER RECYCLERS

- 252:200-19-29. ~~Applicability~~
- 252:200-19-30. ~~No endangerment~~
- 252:200-19-31. ~~Handling of tank and container residue~~
- 252:200-19-32. ~~Notification required~~
- 252:200-19-33. ~~Recordkeeping~~
- 252:200-19-34. ~~Storage requirements~~

PART 1. REQUIREMENTS FOR OFF-SITE RECYCLERS

252:200-19-1. Off-site recycling facilities

~~Any facility which receives off-site shipments of hazardous waste to be recycled or processed for recycling, through any process conducted at the facility including fuel blending or burning, 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 Waste Management Division. 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 11 Ok Reg 2035, eff 5-26-94; Amended at 12 Ok Reg 1631, eff 7-1-95]~~

252:200-19-2. 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.

(c) With respect to recycling unit or storage units excluded from permitting under 252:200-19-1, the operative date of this Rule shall be December 31, 1991.

(d) Replacement of recycling units not required to be permitted with units determined to be equivalent, may be performed with prior approval of the Department. Equivalent units must be functionally equivalent as determined by the Department, and replacement unit capacity shall not exceed ± 10 percent of the original capacity.

(e) An approved Class 1 permit modification shall be required for a permitted recycling facility to increase the capacity of its recycling units or to add new or different recycling units.

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 12 Ok Reg 1631, eff 7-1-95]~~

252:200-19-3. 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 11 Ok Reg 2035, eff 5-26-94]~~

252:200-19-4. Additional requirements for recycling hazardous waste fuel

Blending of low fuel value hazardous waste (containing less than 5,000 btu/pound) with other materials or waste to create a hazardous waste fuel, is prohibited as a form of recycling. Additionally, such waste can not be burned in any hazardous waste recycling unit in Oklahoma.

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 11 Ok Reg 4627, eff 8-15-94 (emergency); Amended at 12 Ok Reg 3336, eff 8-11-95]~~

252:200-19-5. Fees

Application fees for an operations permit for an Off-site Recycling facility, shall be the amounts in Appendix B of this Chapter.

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 12 Ok Reg 1631, eff 7-1-95]~~

252:200-19-6. Processed hazardous waste to be recycled

Units which hold hazardous wastes which have been processed for recycling, which have a demonstrable market, and which have been demonstrated to no longer present a hazard to human health or the environment are not subject to 252:200-19-1(2) or 252:200-19-2(a) or (c). Such a determination would be subject to approval by the Department. [Recycled materials are not considered "products" until reused or sold; 252:200-19-2(b) and 252:200-19-3 still apply to the facility.]

~~[Source: Added at 11 Ok Reg 2035, eff 5-26-94]~~

PART 3. MOBILE RECYCLING UNITS

252:200-19-15. Mobile Units

Mobile recycling units that process hazardous waste at any facility which generates in excess of 1000 kilograms of hazardous waste 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 11 Ok Reg 2035, eff 5-26-94]

252:200-19-16. Public notice requirements for Mobile Units [REVOKED]

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Amended at 12 Ok Reg 1631, eff 7-1-95; Revoked at 13 Ok Reg 1955, eff 7-1-96]

PART 5. TANK AND CONTAINER RECYCLERS

252:200-19-29. 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 252:200-3-2 and 40 CFR 261.7.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-19-30. 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 252:200-13-2.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-19-31. 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 11 Ok Reg 2035, eff 5-26-94]

252:200-19-32. 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 Subchapter) are to submit this information within ninety (90) days after the effective date of this Subchapter. New facilities are to submit this information prior to initiation of recycling operations.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94]

252:200-19-33. 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 11 Ok Reg 2035, eff 5-26-94]

252:200-19-34. 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 11 Ok Reg 2035, eff 5-26-94]

~~APPENDIX A. CONSTRUCTION PERMIT APPLICATION FEE [REVOKED]~~

~~{Source: Added at 11 Ok Reg 2035, eff 5-26-94; Revoked at 12 Ok Reg 1631, eff 7-1-95}~~

APPENDIX B. PERMIT APPLICATION FEES

Facility Type or Description		Fee for Submission	* Fee for Resubmission
All	Basic application processing fee:	\$3,000	\$100
Type 1 (Tanks)	Add for facility: for new Permit with Interim Status	First area \$2,000	First area \$100
		\$2,500	\$125
plus 20% of above for each additional battery.			
Type 2 (Drums)	Add for facility: for new Permit with Interim Status	First area \$2,000	First area \$100
		\$2,500	\$125
plus 20% of above for each additional area.			
Type 3 (Piles)	Add for facility: for new Permit with Interim Status	First pile \$2,500	First pile \$125
		\$3,000	\$150
plus 50% of above for each additional pile.			
Type 4.a (Misc. Thermal unit)	Add for facility: for new Permit with Interim Status	First unit \$2,000	First unit \$100
		\$2,500	\$125
plus 20% of above for each additional unit.			
Type 4.b (Incinerator; Boiler & Ind. Furnaces (including recyclers); thermal treatment &/or similar recycling units)	Add for facility: for new Permit with Interim Status	First unit \$12,000	First unit \$400
		\$12,000	\$400
plus 50% of above for each additional unit. Includes both trial burn and final operations permits.			
Type 5 (Deep Well)	Add for facility: for new Permit with Interim Status	First well \$15,000	First well \$250
		\$20,000	\$300
plus 50% of above for each additional well.			
Type 6 (Land Treatment Unit)	Add for facility: for new Permit with Interim Status	First area \$4,000	First area \$300
		\$5,000	\$450
plus 40% of above for each additional area. Includes both treatment demonstration and final operations permit.			
Type 7 (Landfill, Surface Impoundment)	Add for facility: for new Permit with Interim Status	First unit \$20,000	First unit \$350
		\$25,000	\$1,000
plus 20% of above for each additional unit.			
Type 8 (Research)	Add for facility: for new Permit with Interim Status	Each \$3,000	Each \$150
		\$4,500	\$200
Type 9 (Recyclers)	Add for Off-site Recycling facility:	Each unit \$2,000	Each unit \$100

* 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.

[Source: Added at 11 Ok Reg 2035, eff 5-26-94; Revoked and reinserted at 12 Ok Reg 1631, eff 7-1-95]

APPENDIX C. ANNUAL FACILITY MONITORING FEES

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
D.	Injection wells (Type 5)	\$2,000 each	\$10,000
E.	Storage and treatment by impoundments or piles; disposal in impoundments or landfills (Types 3 & 7)	\$2,500 each unit	\$10,000
F.	Research facilities and sites not otherwise described (Type 8)	\$2,000 each	\$5,000 each

Table 1.

Location of Waste Generation

Disposition of Waste	On-site	Off-site
Waste Storage, Treatment*, or Land Disposal	Generated in-state: \$9.00/ton Generated out-of-state: *Reciprocal fee if greater than \$9.00/ton (minimum \$20,000/yr per facility)	Generated in-state: \$9.00/ton Generated out-of-state: *Reciprocal fee if greater than \$9.00/ton (minimum \$50,000/yr per receiving facility)
Waste Recycling	—	Generated in-state: \$4.00/Ton Generated out-of-state: *Reciprocal fee if greater than \$9.00/ton (minimum \$50,000/yr per receiving facility)
Underground Injection	\$0.03 per gallon Generated out-of-state: *Reciprocal fee if greater than \$9.00/ton	Generated in-state: \$0.03 per gallon Generated out-of-state: *Reciprocal fee if greater than \$9.00/ton
Facilities Conducting Research & Design Tests	—	\$9.00/ton in-state treatment, storage, or disposal \$4.00/ton in-state recycling Generated out-of-state: *Reciprocal fee if greater than \$9.00/ton (minimum \$10,000/yr per receiving facility)

Table 2.

* See Section 2-7-121(A)(1) for discussion of reciprocal fees

[Source: Added at 11 Ok Reg 3035, eff 5-26-94; Revoked and reinserted at 12 Ok Reg 1631, eff 7-1-95]

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~~or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.~~

"Small unit" means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

"State-only requirement" means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S. 1993 Supp. Sec. 2-5101 et seq. as amended) that is not contained in the State Implementation Plan (SIP).

"State program" means a program approved by the Administrator under 40 C.F.R Part 70.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

[OAR Docket #97-528; filed 4/11/97]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 200. HAZARDOUS WASTE MANAGEMENT**

[OAR Docket #97-512]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 252:200-3-1 [AMENDED]
- 252:200-3-2 [AMENDED]
- 252:200-3-3 [REVOKED]
- 252:200-3-4 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201

DATES:

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June 27, 1996

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June 27, 1996

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August 1, 1996

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Failure of the Legislature to disapprove the rules resulted in approval on March 26, 1997.

Final adoption:

March 26, 1997

Effective:

June 2, 1997

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- 252:200-3-1 [AMENDED]
- 252:200-3-2 [AMENDED]
- 252:200-3-3 [REVOKED]
- 252:200-3-4 [AMENDED]

Gubernatorial approval:

August 1, 1996

Register publication:

13 Ok Reg 3549

Docket number:

96-1043

INCORPORATION BY REFERENCE:

40 CFR as amended through July 1, 1995

ANALYSIS:

These proposed amendments change the "Reference to 40 CFR", "Incorporation by Reference", and "Terminology related to 40 CFR" Sections of Subchapter 3, to allow the State of Oklahoma to continue to implement a hazardous waste management program in Oklahoma in lieu of the United States Environmental Protection Agency. This adoption by reference update is necessary for the Oklahoma hazardous waste management program to remain equivalent to and no less stringent than the federal program. The Section 3-1 amendment will update the reference of 40 CFR Hazardous Waste Regulations by changing "...as amended through July 1, 1994" to "...as amended through July 1, 1995". The Section 3-2 and 3-4 amendments are remedial. They correct existing inadvertent minor errors in the state's adoption by reference of federal rules. In particular, these amendments correct the adoption of non-delegable program elements and the replacement of federal terminology (e.g. "Regional Administrator") with state terminology (e.g. "Executive Director") in those limited circumstances where the context makes such replacement inappropriate.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

The rules are for adoption by reference of federal rules.

CONTACT PERSON:

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PURSUANT TO THE ACTION DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. § 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 2, 1997.

SUBCHAPTER 3. INCORPORATION BY REFERENCE

252:200-3-1. 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, 1994, 1995, except those regulations promulgated on December 6, 1994 which were published at 59 FR 62896-62953 and those regulations promulgated on May 19, 1995 which were published at 60 FR 26828-26829. The

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~~excepted regulations deal with organic air emissions standards for hazardous waste tanks, surface impoundments and containers.~~

252:200-3-2. Incorporation by reference

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

~~(1) Part 124. Procedures For Decision making, except those sections not required by 40 CFR 271.14, plus 124.19 (a) through (e) and (e).~~

~~(4)(2) Part 260. Hazardous Waste Management System: General, with the exception of 260.20 through 260.22 which relate to rulemaking petitions and de-listing. In the 260.10 definitions of "new tank system" and "existing tank system", the reference to "July 14, 1986" relative to the commencement of tank installation applies only to tank regulations promulgated pursuant to the federal Hazardous and Solid Waste Amendment ("HSWA") requirements. The following categories outline HSWA requirements: (a) Interim status and permitting requirements applicable to tank systems owned and operated by small quantity generators [3001(d)]; (b) Leak detection requirements for all new underground tank systems [3004(o)(4)]; and (c) permitting standards for underground tanks that cannot be entered for inspection [3004(w)]. For tank regulations promulgated pursuant to statutory authority other than HSWA, the date relative to the commencement of installation is November 2, 1987. In 260.33(a) delete "in the region where the recycler is located".~~

~~(5)(3) Part 261. Identification and Listing of Hazardous Waste. In 261.4(e)(3)(iii) delete "in the Region where the sample is collected".~~

~~(6)(4) Part 262. Standards Applicable to Generators of Hazardous Waste. In 262.42(a)(2) delete "for the Region in which the generator is located".~~

~~(7)(5) Part 263. Standards Applicable to Transporters of Hazardous Waste.~~

~~(8)(6) Part 264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except 264.149, 264.150, 264.301(l) and Appendix VI to Part 264. In 264.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988. In 264.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987. In 264.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.~~

~~(9)(7) Part 265. Interim Status Standards for owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except 265.149 and 265.150. In 265.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA~~

~~tanks the compliance date is November 2, 1988. In 265.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987. In 265.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.~~

~~(10)(8) Part 266. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.~~

~~(11)(9) Part 268. Land Disposal Restrictions, except 268.5, 268.6, 268.10, 268.11, 268.12, 268.13, 268.42(b) and 268.44.~~

~~(12)(10) Part 270. Permit Programs, except 270.14(b)(18).~~

~~(11) Part 273. Universal Waste Rule.~~

~~(13)(12) Part 279. Used Oil Management Standards. The only portion of 279.82 which is adopted by reference is "The use of used oil as a dust suppressant is prohibited."~~

~~Agency note: Due to an early incorporation by reference, for purposes of Part 266 only, HSWA and non-HSWA dates are the same. Authority for carrying out excepted CFR regulations remains with EPA.~~

252:200-3-3. Subsequent incorporations [REVOKED]

~~Also, the following new or superseding provisions are incorporated by reference: those amendments to 40 CFR Parts 148, 260, 261, 264, 265, 266, 268 and 271 contained in 59 FR No. 180, Monday, September 19, 1994, page 47982, and 60 FR No. 1, Tuesday January 3, 1995, page 242 regarding Land Disposal Restrictions Phase II Universal Treatment Standards, and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes.~~

252:200-3-4. Terminology related to 40 CFR

(a) For purposes of interfacing with 40 CFR, with the exceptions set forth in paragraph (c) of this rule, the following terms apply:

(1) "Administrator" is synonymous with Executive Director;

(2) "Regional Administrator" and "EPA Regional Administrator" are synonymous with Executive Director;

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

(4) "State" is synonymous with Department;

(5) "EPA" is the U.S. Environmental Protection Agency; and

(6) "Environmental Appeals Board" is synonymous with Director.

~~(7) Sections "3008", "3013" and "7003" of the federal Resource Conservation and Recovery Act when referenced in the CFR should be read as including the analogous State enforcement authority set forth in the Oklahoma Environmental Quality Code.~~

synonymous with "Director", the term as used in this section retains the meaning as defined at 40 CFR 270.2.

[OAR Docket #97-512, filed 4-11-97]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 200. HAZARDOUS WASTE MANAGEMENT**

[OAR Docket #97-529]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 252:200-5-1 [AMENDED]
- 252:200-5-4 [AMENDED]
- 252:200-5-6 [AMENDED]
- 252:200-8-5 [REVOKED]
- 252:200-9-2 [AMENDED]
- 252:200-13-4 [AMENDED]
- 252:200-19-5 [AMENDED]
- Appendix B [REVOKED AND REENACTED]
- Appendix C [REVOKED AND REENACTED]

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201 and 27-107

DATES:

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September 3, 1996 - November 26, 1996

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November 26, 1996

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December 5, 1996

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January 16, 1997

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Failure of the Legislature to disapprove the rules resulted in approval on March 26, 1997

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March 26, 1997

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June 2, 1997

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- 252:200-5-1 [AMENDED]
- 252:200-5-4 [AMENDED]
- 252:200-5-6 [AMENDED]
- 252:200-8-5 [REVOKED]
- 252:200-9-2 [AMENDED]
- 252:200-13-4 [AMENDED]
- 252:200-19-5 [AMENDED]

(b)

- (1) In 124.5(d), "Regional Administrator" is not synonymous with "Director", the term as used in this section retains the meaning as defined at 40 CFR 260.10.
- (2) In 124.6(e), the term "EPA" should be replaced with "DEO".
- (3) In 124.10(b), "Regional Administrator" is not synonymous with "Director", the term as used in this section retains the meaning as defined at 40 CFR 260.10.
- (4) In 260.10, definitions of "Administrator", and "Regional Administrator" are not synonymous with "Director", the terms as used in this section retain the meaning as defined at 40 CFR 260.10.
- (5) In 262.12, "Administrator" is not synonymous with "Director", the term as used in this section retains the meaning as defined at 40 CFR 260.10.
- (6) In 262.55, 262.56 and 262.57, "Administrator" and "Regional Administrator" are not synonymous with "Director", the terms as used in these sections retain their meaning as defined at 40 CFR 260.10.
- (7) In 263.11, "Administrator" is not synonymous with "Director", the term as used in this section retains the meaning as found at 40 CFR 260.10.
- (8) In 264.12(a) and 265.12(a), "Regional Administrator" should be replaced with "Regional Administrator and Director".
- (9) In 270.2, definitions of "Administrator" and "Regional Director" are not synonymous with "Director", the terms as used in this section retain their meaning as defined in 270.2.
- (10) In 270.5, "Administrator" and "Regional Administrator" are not synonymous with "Director", the terms as used in this section retain their meaning as defined in 270.2.
- (11) In 270.10(e)(2) and 270.10(e)(3) "Administrator" is not synonymous with "Director", the term as used in these sections retains the meaning as defined at 40 CFR 270.2.
- (12) In 270.10(f)(2) and 270.10(f)(3) "Regional Administrator" and "Administrator" are not synonymous with "Director", the terms as used in these sections retain the meaning as defined at 40 CFR 270.2.
- (13) In 270.10(g)(1)(i) & (iii), "Regional Administrator" is not synonymous with "Director", the term as used in this section retains the meaning as defined at 40 CFR 270.2.
- (14) In 270.11(a)(3), "Regional Administrator" is not synonymous with "Director", the term as used in this section retains the meaning as defined at 40 CFR 270.2.
- (15) In 270.14(b)(20), "Regional Administrator" is not synonymous with "Director", the term as used in this section retains the meaning as defined at 40 CFR 270.2.
- (16) In 270.32(b)(2), "Administrator" is not

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~~Appendix B [REVOKED AND REENACTED]~~

~~Appendix C [REVOKED AND REENACTED]~~

Gubernatorial approval:

January 16, 1997

Register publication:

14 Ok Reg 1036

Docket number:

97-149

INCORPORATION BY REFERENCE:

None

ANALYSIS:

These proposed amendments change the existing rules by: specifically allowing engineering knowledge of process in the submittal of disposal plan applications; removing the requirement for submittal of hazardous waste manifests except for international shipments; removing the requirement for submitting federal hazardous waste numbers on quarterly reports; eliminating fees for review of transfer station plans; eliminating or modifying fees for review and processing of permit modifications, for recycling permits and for non-notifiers; reducing monitoring fees for inactive treatment, storage, disposal facilities to the statutory minimum (\$100/year); additionally, the Oklahoma Hazardous Waste Management Act was amended earlier this year to modify the monitoring fees assessed upon facilities involved in the off-site storage and recycling of hazardous waste and the rules are being updated to reflect this statutory change.

SUMMARY OF DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

There are no analogous federal rules.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 2, 1997.

SUBCHAPTER 5. ADDITIONAL GENERATOR REQUIREMENTS

252:200-5-1. Disposal plans

All persons generating hazardous waste within Oklahoma or generating wastes to be stored, treated, recycled or disposed of in Oklahoma shall file a disposal plan with the Department for approval, on forms provided by the Department. Persons subject to these provisions shall obtain disposal plan approval prior to offering the waste for transport.

(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 are planned to be implemented. 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.

(3) The Department may require supporting documentation including but not limited to, laboratory analyses and Material Safety Data Sheets, as necessary to verify information on the disposal plans. If specific technical process knowledge is provided which the Department determines adequately identifies the waste, laboratory analysis will not be required.

252:200-5-4. Quarterly reporting requirements

(a) General. All persons generating hazardous waste within Oklahoma including on-site treatment, storage, recycling, or disposal, shall submit a report to the Department in a prescribed format which may include electronic submissions. This information shall be submitted quarterly to the Department no later than 60 days after the end of the quarter. Reports shall include copies of manifests signed by receiving facilities for wastes transported outside the State of Oklahoma ~~United States~~.

(b) Oklahoma generators. Reports for Oklahoma generators shall include the total amount of hazardous waste generated, and when applicable, as a minimum for each hazardous waste generated in a quarter: the appropriate waste stream number from the generator's disposal plan; ~~all EPA waste numbers applicable to the waste prior to treatment; all EPA waste numbers under which the waste was shipped;~~ the EPA ID number of all transporters who ~~handled~~ transported the waste; the EPA ID number of the receiving facility; and for the method of handling expected by the generator to be used at the designated receiving facility, the appropriate handling code(s) as indicated on the quarterly report form. In addition to the applicable requirements outlined above, when characteristic hazardous waste is treated on-site to render the waste non-hazardous, the quarterly report shall be completed to indicate the waste was treated on-site to render the waste nonhazardous.

(c) Reporting exclusions. The reporting requirements of this section do not apply to waste which is not subject to the substantive federal regulations adopted by reference by OAC 252:200-3-2. There are many such exclusions, including but not limited to:

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

252:200-5-6. Manifest requirements

(a) All large quantity generators shall include the disposal plan number on the Hazardous Waste Manifests before offering hazardous waste for shipment.

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

~~SUBCHAPTER 8. TRANSFER STATIONS~~

~~252:200-8-5. Fees [REVOKED]
Fees for the review and processing of a Transfer Station Development and Operational Plan shall be equal to the basic processing fee in Appendix B of this Chapter.~~

~~SUBCHAPTER 9. ADDITIONAL TREATMENT, STORAGE, DISPOSAL AND RECYCLING REQUIREMENTS~~

~~252:200-9-2. Reporting
(a) Hazardous waste treatment, storage, disposal, and recycling facilities shall submit reports monthly in a format prescribed by the Department, which may include electronic submissions, identifying hazardous waste which is managed at the facility. The report for each facility shall be submitted within 30 days of the end of each month and shall include at a minimum:~~

- ~~(1) for all waste generated on-site and managed in permitted or interim status units, the generator ID number; all waste numbers applicable to the waste; the amount of waste generated; the appropriate treatment, disposal, or recycling codes applicable to the waste; and~~
- ~~(2) for all waste generated off-site, the generator ID number; all waste numbers applicable to the waste; the amount of waste received; the appropriate treatment, disposal, or recycling codes applicable to the waste; and the EPA ID number of all transporters who handled the waste in Oklahoma.~~

~~(b) Copies of all hazardous waste manifests for waste generated outside the United States received at the facility during the month shall be submitted to the Department monthly.~~

~~SUBCHAPTER 13. MISCELLANEOUS~~

~~252:200-13-4. Fees for services
(a) Fee payment. Fees should be made payable to the Department of Environmental Quality.~~

~~(1) Application fees. 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 renewal of 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.~~

~~(3) Range of fees.~~

~~(A) The following fees may be charged in accordance with Section 2-7-119 of The Act:~~

- ~~(i) Disposal plans - \$100 to \$10,000 per generator per year.~~
- ~~(ii) Transporter registration - \$20 per vehicle per year.~~
- ~~(iii) Permit application - \$5,000 to \$50,000.~~
- ~~(iv) Application re-submittal - \$100 to \$1,000.~~
- ~~(v) Facility monitoring - \$100 to \$10,000 per year, except as provided by 27A O.S. 2-7-121.~~

~~(B) Fees will not be re-assessed at time of transfer of ownership if units and EPA ID number remain unchanged.~~

~~(b) Generator fees.~~

~~(1) Disposal plan. The fee for obtaining a disposal plan is \$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) There is no disposal plan fee to handle emergency incidents under 252:200-13-2.~~

~~(C) Non-payment of disposal plan fees will result in cancellation of the plan after the second notification. In the event a plan is canceled, a new application must be completed and supportive documentation resubmitted. All past fees, including delinquent fees, must be paid prior to reinstatement of the plan.~~

~~(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. Oklahoma generators who file a one-time disposal plan but are not otherwise required to maintain a disposal plan shall not be required to pay the \$100 monitoring and inspection fee.~~

~~(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~~

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- ~~to carry hazardous 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, 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 hazardous 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 Division~~ prior to the movement of waste in that vehicle.
- (d) **Treatment, storage and disposal facility fees.**
- (1) **Permit application fees.** Fees for the initial submission of an application for a permit and any subsequent re-submissions shall be calculated and based upon Appendix B of this Chapter. ~~Fees for re-submission of an application shall be the minimum amount established by 27A O.S. § 2-7-119(B). Re-submission is deemed to occur when an applicant, at the request of the Department, provides additional information to make an application complete, which constitutes substantial recomposition of the application.~~
- (2) **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 Appendix B of this Chapter.
- (3) **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 Tier 3 modifications are the application processing submission fee amounts in Appendix B of this Chapter. ~~(Each proposed Class 3 modification application is subject to the assessment of fees.)~~
- (4) **Permit renewals.** The fees for renewal of an existing permit are one-half of the "new permit" amounts listed in Appendix B of this Chapter (excluding resubmission fees which shall be charged at the full rate shown), using all units covered by the existing permit.
- (5) **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.~~

~~(6) Fees for monitoring and inspection.~~

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

~~(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 2-7-121(A) of the Act, except as provided by 27A O.S. 2-7-121(B). The fee amounts and applicability are depicted in Table 2 of Appendix C of this Chapter. Facilities not subject to Table 2 of Appendix C of this Chapter shall be charged in accordance with Table 1 of Appendix C of this Chapter. the minimum annual monitoring fee established at 27A O.S. § 2-7-119(B). (Tables 1 and Table 2 in Appendix C of this Chapter are included for convenience and are subject to adjustment of the fees by statutory amendment.)~~

~~(7) 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 hazardous waste facility had timely and properly notified, would have been assessed in the applicable years pursuant to 252:200-13-4(d)(7) shall be assessed at the time of notification by (or discovery by the Department of) a previously non-notifying hazardous waste facility, to help cover the costs of non-routine processing, inspection, and evaluation.~~

SUBCHAPTER 19. ADDITIONAL RULES FOR RECYCLING

PART 1. REQUIREMENTS FOR OFF-SITE RECYCLERS

252:200-19-5. Fees

Application fees for an operations permit for an Off-site Recycling facility shall be the amounts in Appendix B of this Chapter minimum amounts established by 27A O.S. § 2-7-119(B).

~~APPENDIX B. PERMIT APPLICATION FEES [REVOKED]~~

Facility Type or Description		Fee for Submission	* Fee for Resubmission
All	Basic application processing fee:	\$3,000	\$100
Type 1 (Tanks)	Add for facility: for new Permit with 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: for new Permit with 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: for new Permit with 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 unit)	Add for facility: for new Permit with Interim Status	First unit \$2,000 \$2,500	First unit \$100 \$125
		plus 20% of above for each additional unit.	
Type 4.b (Incineration; Boiler & Ind. Furnaces (including recyclers); thermal treatment &/or similar recycling units)	Add for facility: for new Permit with 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: for new Permit with Interim Status	First well \$15,000 \$20,000	First well \$250 \$500
		plus 50% of above for each additional well.	

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Type 6 (Land Treatment Unit)	Add for facility: for new Permit with 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, Surface Impoundment)	Add for facility: for new Permit with Interim Status	First unit \$20,000 \$25,000	First unit \$350 \$1,000
		plus 20% of above for each additional unit.	
Type 8 (Research)	Add for facility: for new Permit with 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

* 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.

~~APPENDIX C. ANNUAL FACILITY MONITORING FEES [REVOKED]~~

Table 1.

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
D.	Injection wells (Type 5)	\$2,000 each	\$10,000
E.	Storage and treatment by impoundments or piles: disposal in impoundments or landfills (Types 3 & 7)	\$2,500 each unit	\$10,000
F.	Research facilities and sites not otherwise described (Type 8)	\$2,000 each	\$5,000 each

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~~Location of Waste Generation
Table 2.~~

Disposition of Waste	On-site	Off-site
Waste Storage, Treatment*, or Land Disposal	Generated in-state: \$9.00/ton Generated out-of state: *Reciprocal fee if greater than \$9.00/ton (minimum \$20,000/yr per facility)	Generated in-state: \$9.00/ton Generated out-of-state: *Reciprocal fee if greater than \$9.00/ton (minimum \$50,000/yr per receiving facility)
Waste Recycling	-----	Generated in-state: \$4.00/Ton Generated out-of-state: *Reciprocal fee if greater than \$9.00/ton (minimum \$50,000/yr per receiving facility)
Underground Injection	\$0.03 per gallon Generated out-of state: *Reciprocal fee if greater than \$9.00/ton	Generated in-state: \$0.03 per gallon Generated out-of-state: *Reciprocal fee if greater than \$9.00/ton
Facilities Conducting Research & Design Tests	-----	\$9.00/ton in-state treatment, storage, or disposal \$4.00/ton in-state recycling Generated out-of-state: *Reciprocal fee if greater than \$9,00/ton (minimum \$10,000/yr per receiving facility)

~~* See Section 2-7-121(A)(1) for discussion of reciprocal fees~~

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~~APPENDIX B. PERMIT APPLICATION FEES (NEW)~~

Facility Type or Description	Fee for Submission
All	\$3,000
Type 1 (Tanks & Containers)	\$2,000
Type 2 (Piles)	\$2,500
Type 3.a (Misc. Thermal unit)	\$2,000
Type 3.b (Incineration; Boiler & Ind. Furnaces; thermal treatment)	\$12,000
Type 4 (Deep Well)	\$15,000
Type 5 (Land Treatment Unit)	\$6,000
Type 6 (Landfill, Surface Impoundment)	\$20,000
Type 7 (Research)	\$2,000
Type 8 (Recyclers)	\$2,000

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APPENDIX C. ANNUAL FACILITY MONITORING FEES (NEW)

Table 1.
Location of Waste Generation

Disposition of Waste	On-site	Off-site
Waste Storage, Treatment, or Land Disposal	\$9.00/ton (minimum \$20,000/yr per facility)	\$9.00/ton (minimum \$50,000/yr per receiving treatment or land disposal facility, minimum \$20,000/yr per storage facility*)
Waste Recycling	-----	\$6.00/ton (minimum \$20,000/yr per receiving facility, excluding receiving facilities which consistently receive or recycle fewer than ten (10) tons of hazardous waste per month)
Underground Injection	\$0.03 per gallon	\$0.03 per gallon
Facilities Conducting Research & Design Tests	-----	\$9.00/ton treatment, storage, or disposal \$6.00/ton recycling (minimum \$10,000/yr per receiving facility)

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

[GAR Docket #97-520, filed 4-11-97]