

US EPA ARCHIVE DOCUMENT

**EPA-APPROVED OKLAHOMA  
STATUTORY AND REGULATORY  
REQUIREMENTS APPLICABLE  
TO THE  
HAZARDOUS WASTE  
MANAGEMENT PROGRAM**



**MAY, 2011**

## TABLE OF CONTENTS

### EPA APPROVED OKLAHOMA STATUTORY REQUIREMENTS APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM May, 2011

**Oklahoma Hazardous Waste Management Act, as amended, 27A Oklahoma Statute (O.S.),  
1997 Edition, as amended in the 2010 Annual Cumulative Pocket Part**

Section (1997 Edition, unless otherwise specified)	Description	Page
2-7-103 (2010 Annual Cumulative Pocket Part)	Definitions.  <i>See pages 65-67 of the 27A Oklahoma Statute (O.S.) 2010 Annual Cumulative Pocket Part for the authorized definitions.</i>	
2-7-108(A) (2010 Annual Cumulative Pocket Part)	Permit for storage, treatment or disposal.  <i>See page 67-68 of the 27A Oklahoma Statute (O.S.) 2010 Annual Cumulative Pocket Part for the authorized provision.</i>	
2-7-108(B)(1)&(3) (2010 Annual Cumulative Pocket Part)	Permit requirement for any person who owned or operated a hazardous waste facility which was operating or under construction on November 19, 1980.  <i>See page 68 of the 27A Oklahoma Statute (O.S.) 2010 Annual Cumulative Pocket Part for the authorized provision.</i>	
2-7-108(C) (2010 Annual Cumulative Pocket Part)	Permit requirement for facilities engaged in recycling.  <i>See page 68 of the 27A Oklahoma Statute (O.S.) 2010 Annual Cumulative Pocket Part for the authorized provision.</i>	
2-7-110(B)&(C)	Certain disposal of liquid hazardous waste prohibited; exceptions.	209
2-7-111(A)	Prohibited disposal.	209-210
2-7-111(B)	Prohibition: Siting of hazardous waste facility in or over a principal groundwater resource or recharge area.	210
2-7-111(C)(1)	Prohibition: Siting of hazardous waste facility in or over a principal groundwater resource or recharge area.	210
2-7-111(C)(2)(a)	Prohibition: Siting of hazardous waste facility in any other area of the state without written approval of an emergency and release response plan.	210-211
2-7-111(D)	Applicability of the prohibited disposal provisions.	212
2-7-111(E)	Applicability of the prohibited disposal provisions; exception.	212
2-7-112	Hazardous waste facility construction to be supervised.	214
2-7-116(B) through 2-7-116(F)	Permits; liability insurance; bond; financial responsibility; operation of facility.	219-220
2-7-116(H)(2)	Liability of guarantors.	220
2-7-118	Facilities that recycle hazardous waste; permit requirements; exemption prohibition of burning certain hazardous waste as fuel.	223-224
2-7-124	Monitoring of closed facility.	235
2-7-125 (2010 Annual Cumulative Pocket Part)	Hazardous waste manifest; disposal plan number assigned by Department; transportation, etc. of waste without manifest in possession.  <i>See page 73 of the 27A Oklahoma Statute (O.S.) 2010 Annual Cumulative Pocket Part for the authorized provision.</i>	

<b>Section (1997 Edition, unless otherwise specified)</b>	<b>Description</b>	<b>Page</b>
2-7-127	Corrective action; permit review; permit renewal; information and reports.	239-240
2-10-301(G) (2010 Annual Cumulative Pocket Part)	Disposal sites approved by the Department to receive solid waste shall not accept hazardous waste.  <i>See page 86 of the 27A Oklahoma Statute (O.S.) 2010 Annual Cumulative Pocket Part for the authorized provision.</i>	

*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; Phone: 1-800-328-4880; Website: <http://west.thomson.com>..*

OKLAHOMA STATUTES  
ANNOTATED

Titles 27A to 28

Environment and  
Natural Resources

to  
Fees

# OKLAHOMA STATUTES ANNOTATED

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

---

## **Title 28. Fees**

Under Arrangement of the  
Official Oklahoma Statutes

WEST PUBLISHING CO.  
ST. PAUL, MINN.

COPYRIGHT © 1997  
By  
WEST PUBLISHING CO.

WESTLAW is a registered trademark of West Publishing Co.  
Registered in U.S. Patent and Trademark Office

OKLAHOMA STATUTES ANNOTATED is a trademark of West Publishing Co.



PRINTED ON 10% POST CONSUMER RECYCLED PAPER



~~"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;<sup>1</sup>

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.

<sup>1</sup> 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,<sup>1</sup> 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 Act<sup>2</sup> 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.

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

<sup>2</sup> 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".

27A § 2-7-111

ENVIRONMENTAL QUALITY CODE

Library References

Health and Environment §37.  
WESTLAW Topic No. 199.

C.J.S. Health and Environment §§ 48,  
113, 114, 141, 143, 148, 149, 155.

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).

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, §§ 8, 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:~~

§ 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 Act<sup>1</sup> and the Environmental Quality Code.<sup>2</sup>~~

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 Code<sup>3</sup> 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 1980<sup>4</sup> 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.

<sup>1</sup> Title 27A, § 2-7-101 et seq.

<sup>2</sup> Title 27A, § 2-1-101 et seq.

<sup>3</sup> 11 U.S.C.A. § 101 et seq.

<sup>4</sup> 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. 8 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

Soil farming of industrial waste not designated as controlled industrial waste upon the industry's own land would not

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).

~~§ 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,<sup>1</sup> 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.

<sup>1</sup> 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,<sup>1</sup> the Oklahoma Environmental Permitting Act,<sup>2</sup> 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.

<sup>1</sup> Title 27A, § 2-7-101 et seq.

<sup>2</sup> 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 rewrote 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,<sup>1</sup> 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 Act<sup>2</sup> 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.

<sup>1</sup>Title 75, § 250 et seq.

<sup>2</sup>Title 27A, § 2-7-101 et seq.

---

**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.<sup>1</sup>

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.

<sup>1</sup> 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. 8 Okl. City. U.L.Rev. 397 (1983).

~~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,<sup>1</sup> 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,<sup>2</sup> 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.

<sup>1</sup> 42 U.S.C.A. § 6901 et seq.

<sup>2</sup> 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 Act <sup>1</sup> 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.

<sup>1</sup> 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, 1-1701.1B.~~

**Oklahoma Hazardous Waste Management Act  
[27A O.S. § 2-7-101 *et seq*]**

**OKLAHOMA STATUTES  
2010 CUMULATIVE ANNUAL POCKET PART**

**OKLAHOMA STATUTES  
ANNOTATED**

**Title 27A. Environment and  
Natural Resources  
Title 28. Fees**

**2010  
Cumulative  
Annual Pocket Part**

*For Use In 2009–2010*

Replacing 2009 pocket part supplementing 1997 main volume

**Includes laws through the 2009 First Regular  
Session of the 52nd Legislature**

**WEST®**

A Thomson Reuters business

© 2009 Thomson Reuters

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

West's and Westlaw are registered in the U.S. Patent and Trademark Office.

OKLAHOMA STATUTES ANNOTATED  
is a trademark of West Publishing Corporation.



PRINTED ON 10% POST CONSUMER RECYCLED PAPER



~~supply shall be constructed, sealed or plugged as required by the Department in a manner to avoid pollution of water-bearing strata.~~

~~Laws 1963, c. 325, art. 9, § 902, operative July 1, 1963. Renumbered from Title 63, § 1-902 and amended by Laws 1993, c. 145, §§ 81, 359, eff. July 1, 1993; Laws 2000, c. 364, § 4, emerg. eff. June 6, 2000.~~

## PART 9. ENFORCEMENT

~~§ 2-6-901. Penalties—Misdemeanor—Injunctions—  
Assessment of civil penalties~~

~~United States Supreme Court~~

~~Citizen group standing, violations of pollution discharge permit, subsequent compliance with permit or shutdown of facility, mootness doctrine, see Friends of Earth v. Laidlaw Environmental Services (TOC), Inc., 2000, 120 S.Ct. 693.~~

## ARTICLE VII. HAZARDOUS WASTE MANAGEMENT

## PART 1. OKLAHOMA HAZARDOUS WASTE MANAGEMENT ACT

## § 2-7-103. Definitions

As used in the Oklahoma Hazardous Waste Management Act:

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.<sup>1</sup> 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. "Recycling" means the reuse, processing, treating, neutralizing or re-refining 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;

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

18. "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;

19. "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;

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

21. "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. Laws 2005, c. 20, § 2, emerg. eff. April 5, 2005.

<sup>1</sup> 42 U.S.C.A. § 6901 et seq.

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

~~Law Review and Journal Commentaries~~

~~Scaring the states into submission? Divergent approaches to environmental compliance. 35 Tulsa L.J. 193 (1999).~~

**§ 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 Environmental Quality 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. The provisions of this subsection shall not include remediation activities under an order of the Department of Environmental Quality which would not require a federal hazardous waste permit from the Environmental Protection Agency if conducted pursuant to a federal order.

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.<sup>1</sup>~~

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; Laws 1999, c. 284, § 3, emerg. eff. May 27, 1999.

<sup>1</sup> Title 27A, § 2-7-101 et seq.

### ~~§ 2-7-119. Permit fees~~

A. The Environmental Quality Board shall establish a schedule of fees, pursuant to Section 2-3-402 of this title and the Administrative Procedures Act,<sup>1</sup> 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 Act<sup>2</sup> pursuant to Section 2-3-402 of this title.

B. The Environmental Quality Board shall charge fees only within the following ranges:

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

~~E. Any notice filed pursuant to this section shall run with the land. It may not be extinguished, limited, or impaired by application of the provisions of Section 71 through 85 of Title 16 of the Oklahoma Statutes or the Uniform Unclaimed Property Act.~~

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. Laws 2000, c. 74, § 1, emerg. eff. April 14, 2000; Laws 2004, c. 141, § 2, eff. Nov. 1, 2004; Laws 2005, c. 1, § 25, emerg. eff. March 15, 2005; Laws 2009, c. 5, § 1, eff. July 1, 2009.

<sup>1</sup> 42 U.S.C.A. § 9601 et seq.

#### Historical and Statutory Notes

~~Section 2 of Laws 2004, c. 111, amending this section, was repealed by Laws 2005, c. 1, § 26.~~

#### § 2-7-125. Hazardous waste manifest

A. Persons generating hazardous waste shall provide a manifest to the operator of any mode of any off-site transportation carrying hazardous waste. Such manifest shall be in a form which has been prescribed by the Department of Environmental Quality. 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 or her 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 transport, receive, treat or dispose of hazardous waste without having the manifest in his or her 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; Laws 2000, c. 130, § 2, emerg. eff. April 24, 2000; Laws 2006, c. 175, § 2, eff. July 1, 2006.

#### ~~§ 2-7-126. Orders~~

~~In addition to any other remedies provided in the Oklahoma Hazardous Waste Management Act,<sup>1</sup> the Department of Environmental Quality 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.~~

~~Department shall require, sufficient to allow the Department to know the remaining landfill life.~~

E. Information and data submitted in support of a permit application or a permit modification application for any site serving a population equivalent of five thousand (5,000) or more persons shall be prepared and sealed by a professional engineer licensed to practice in this state. Applicants for smaller site permits are encouraged but not required to seek professional engineering assistance.

F. The Department shall not issue any permit for the siting or expansion of an asbestos monofill which will be located closer than five hundred (500) yards from any occupied residence. No asbestos monofill shall be constructed within three (3) miles of the corporate boundaries of any city or town.

G. Disposal sites approved by the Department to receive only solid waste shall not accept for disposal any waste classified as hazardous waste.

~~H. No permit shall be required for a disposal site constructed pursuant to an order issued by the Department in an effort to remediate an abandoned or inactive waste site. Such disposal site shall only receive waste from the remediation project, and shall be designed, constructed, and operated in accordance with the technical standards established in the applicable rules promulgated by the Environmental Quality Board. Such rules shall not be less stringent than those which would apply to a federally funded remediation project pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act.<sup>2</sup>~~

I. The Department shall not issue any permit for the siting of a new municipal solid waste landfill in any location that is both:

1. Within a locally fractured or cavernous limestone or cherty limestone bedrock; and
2. Within five (5) miles of any water well owned by a rural water district that is used or has the potential to be used to provide water to customers of the district.

~~J. No permit shall be required for a project approved by the Department and a local conservation district to use suitable portions of the solid waste stream to reclaim and restore Oklahoma lands.~~

Laws 1970, c. 69, § 8, emerg. eff. March 17, 1970; Laws 1976, c. 134, § 1, emerg. eff. May 24, 1976; Laws 1985, c. 109, § 1, emerg. eff. May 29, 1985; Laws 1986, c. 113, § 1, emerg. eff. April 9, 1986. Renumbered from Title 63, § 2258 and amended by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990; Laws 1990, c. 225, §§ 5, 11, eff. Sept. 1, 1990. Laws 1990, c. 337, § 15; Laws 1991, c. 336, § 5, eff. July 1, 1991; Laws 1992, c. 50, § 2, emerg. eff. April 8, 1992; Laws 1992, c. 403, § 41, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2414 and amended by Laws 1993, c. 145, §§ 146, 359, eff. July 1, 1993; Laws 1997, c. 371, § 1, eff. July 1, 1997; Laws 1998, c. 401, § 2, emerg. eff. June 10, 1998; Laws 2000, c. 202, § 1, emerg. eff. May 15, 2000; Laws 2001, c. 5, § 8, emerg. eff. March 21, 2001.

<sup>1</sup> So in enrolled bill; probably should read "Oklahoma Uniform Environmental Permitting Act", Title 27A, § 2-14-101 et seq.

<sup>2</sup> 42 U.S.C.A. § 9601 et seq.

### Historical and Statutory Notes

Section 1 of Laws 2000, c. 8, amending this section, was repealed by Laws 2001, c. 5, § 9.

## TABLE OF CONTENTS

### EPA APPROVED OKLAHOMA REGULATORY REQUIREMENTS APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM May, 2011

**Title 252 (Department of Environmental Quality), Chapter 205 (Hazardous Waste Management) of *The Oklahoma Administrative Code (OAC)*, effective July 1, 2009: Sections 252:205-1-1 et seq.**

Section (2006 Edition, unless otherwise specified)	Description	Page
<b>Subchapter 1: General Provisions</b>		
252:205-1-1(a)	Purpose and applicability.	219
252:205-1-1(c) introductory paragraph and (c)(1)	Applicability of the OHWMA Rules.	219
252:205-1-2 introductory paragraph	Introductory paragraph for definitions.	219
252:205-1-2 "OHWMA"	Definitions.	219
252:205-1-2 "Post-closure permit"	Definitions.	219
252:205-1-3(c)	Persons subject to this Chapter must also comply with all applicable State and Federal laws and rules.	220
<b>Subchapter 3: Incorporation By Reference</b>		
252:205-3-1 (2009 Supplement)	Reference to 40 CFR.  <i>See page 83 of the Oklahoma Administrative Code (OAC) 2009 Supplement for the authorized provision.</i>	
252:205-3-2(a)(2) (2009 Supplement)	Incorporation by reference of 40 CFR 124.31 through 124.33.  <i>See page 83 of the Oklahoma Administrative Code (OAC) 2009 Supplement for the authorized provision.</i>	
252:205-3-2(b) - (m) (2009 Supplement)	Incorporation by reference of 40 CFR Parts 260 through 268, 270, 273 and 279.  <i>See pages 83 – 84 of the Oklahoma Administrative Code (OAC) 2009 Supplement for the authorized provision.</i>	
252:205-3-2(n) (2009 Supplement)	Excepted CFR Regulations.  <i>See page 84 of the Oklahoma Administrative Code (OAC) 2009 Supplement for the authorized provision.</i>	
252:205-3-4	Terminology related to 40 CFR.	221-222
252:205-3-5	Inclusion of CFR Citations and Definitions.	222
252:205-3-6	Inconsistencies and duplications.	222
<b>Subchapter 5: Additional Generator Requirements</b>		
252:205-5-1 (except 252:205-5-1(4))	Disposal plan requirements.	222
252:205-5-2	SQG and CESQG exemption from disposal plan requirements.	222-223
252:205-5-3	Quarterly reporting.	223
252:205-5-4	No endangerment provisions for generators.	223
252:205-5-5	Manifest requirements.	223
<b>Subchapter 7: Additional Transporter Requirements</b>		
252:205-7-2	Leakage, other releases prohibited in transport.	223

Section (2006 Edition, unless otherwise specified)	Description	Page
252:205-7-4 (except the phrase “or in accordance with 252:205-15-1(d)”) )	Mixing waste prohibited by transporters.	223
<b>Subchapter 9: Additional Treatment, Storage, Disposal and Recycling Requirements</b>		
252:205-9-1	No endangerment or degradation.	224
252:205-9-2	Monthly Reports.	224
252:205-9-3	Buffer zones.	224
252:205-9-4	Provisions for on-site inspectors.	224
<b>Subchapter 11: Additional Permit Procedures</b>		
252:205-11-1(a) [except the word "recycling"]	Emergency plans relating to affected property owners.	225
252:205-11-1(b) through 252:205-11-1(e)	Parcel of land owned by affected property owners.	225
252:205-11-2	Ground water resources and recharge areas; Permit requirements relative to water wells, flood plain, surface water, air pollution.	225-226
<b>Subchapter 13: Miscellaneous</b>		
252:205-13-1(a) - (c)	Incidents.	226
252:205-13-1(d)	Testing of spilled or leaked materials.	226
252:205-13-1(e)	Waste materials resulting from a release.	226

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. Phone number: 405-521-4010. Website: [www.sos.state.ok.us/oar/oar\\_welcome.htm](http://www.sos.state.ok.us/oar/oar_welcome.htm)

OFFICE OF THE SECRETARY OF STATE



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

FROM *Oklahoma Administrative Code (OAC)*, 2006 Edition:

FROM Title 252 (Department of Environmental Quality):

Chapter 205 (Hazardous Waste Management) - Pages 219 through 240

FROM *Oklahoma Administrative Code (OAC)*, 2009 Supplement:

FROM Title 252 (Department of Environmental Quality):

FROM Chapter 205 (Hazardous Waste Management):

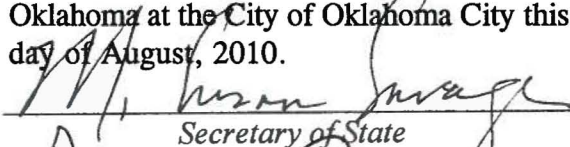
FROM Subchapter 3 (Incorporation by Reference):

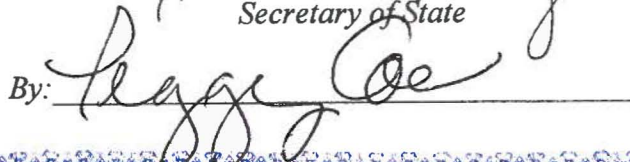
Section 252:205-3-1 [as amended 7-1-09; previously amended 7-1-08, 6-15-07 and 1-4-07 (emergency)] - Page 83

Section 252:205-3-2 [as amended 7-1-09; previously amended 6-15-07 and 1-4-07 (emergency)] - Pages 83 and 84



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 20th day of August, 2010.

  
Secretary of State

By: 

**2006 Edition**

**Oklahoma Administrative Code  
Title 252, Chapter 205  
Hazardous Waste Management**

## CHAPTER 205. HAZARDOUS WASTE MANAGEMENT

Subchapter	Section
1. General Provisions .....	252:205-1-1
3. Incorporation by Reference .....	252:205-3-1
5. Additional Generator Requirements .....	252:205-5-1
7. Additional Transporter Rules .....	252:205-7-1
9. Additional Treatment, Storage, Disposal and Recycling Requirements .....	252:205-9-1
11. Additional Permit Procedures .....	252:205-11-1
13. Miscellaneous .....	252:205-13-1
15. Transfer Stations .....	252:205-15-1
17. Tax Credits .....	252:205-17-1
19. Additional Rules for Recycling .....	252:205-19-1
21. Fees .....	252:205-21-1
23. Hazardous Waste Fund Act Projects .....	252:205-23-1
25. Additional Requirements for Excluding a Waste From a Particular Facility .....	252:205-25-1
Appendix A. Refund for Volume Reduction [REVOKED]	
Appendix B. Permit Application Fees	
Appendix C. Annual Facility Monitoring Fees	
Appendix D. Waste Exclusion Fees	
Appendix E. Wastes Excluded From the Lists in Subpart D of 40 CFR Part 261 as Applicable in Oklahoma	

[Authority: 27A O.S., §§ 2-2-101, 2-2-104, 2-2-201, 2-7-105, 2-7-106, 2-7-107 and 2-7-119]  
 [Source: Codified 6-11-99]

### SUBCHAPTER 1. GENERAL PROVISIONS

Section	Purpose
252:205-1-1.	Purpose, authority and applicability
252:205-1-2.	Definitions
252:205-1-3.	Consideration of other laws
252:205-1-4.	Public records and confidential information

**252:205-1-1. Purpose, authority and applicability**  
 (a) **Purpose.** The rules in this Chapter implement the Oklahoma Hazardous Waste Management Act, 27A O.S. § 2-7-101 *et seq.*, the Hazardous Waste Fund Act, 27A O.S. § 2-7-301 *et seq.*, and the Recycling, Reuse and Source Reduction Incentive Act, 27A O.S. § 2-11-301 *et seq.*  
~~(b) **Authority.** OAC 252:205 was promulgated and adopted under the Oklahoma Environmental Quality Code, 27A O.S. § 2-1-101 *et seq.*, and the laws set forth in paragraph (a) above.~~  
 (c) **Applicability.** The rules in this Chapter apply to:  
 (1) Any person who handles, transports, treats, stores, recycles, and/or disposes of hazardous wastes pursuant to the OHWMA;  
~~(2) Any municipality or county seeking a matching grant for emergency response training and protective equipment pursuant to the Hazardous Waste Fund Act; and~~  
 (3) Any person seeking a tax credit pursuant to the Recycling, Reuse and Source Reduction Incentive Act.

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 23 Ok Reg 931, eff 6-15-06]

#### 252:205-1-2. Definitions

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

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

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

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

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

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

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

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

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

US EPA ARCHIVE DOCUMENT

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 23 Ok Reg 931, eff 6-15-06]

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

~~(a) **Permitting.** All applicants seeking licenses, permits, certificates, registration, approval, charter or similar form of permission by law required by any of the statutes specified in OAC 252:205-1-1(a) are also subject to the Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-14-101 *et seq.*, and the Environmental Permit Process of Subchapter 7 of OAC 252:4.~~

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

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 23 Ok Reg 931, eff 6-15-06]

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

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

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

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

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

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

~~confidential, the dollar amount of any tax credit allowed will be public information.~~

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 23 Ok Reg 931, eff 6-15-06]

## SUBCHAPTER 3. INCORPORATION BY REFERENCE

### Section

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

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

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, 2005, and the amendment to 40 CFR promulgated at 70 FR 45508-45522.

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 17 Ok Reg 1475, eff 4-10-00 (emergency); Amended at 17 Ok Reg 1896, eff 6-12-00; Amended at 18 Ok Reg 1945, eff 6-11-01; Amended at 19 Ok Reg 1661, eff 6-13-02; Amended at 20 Ok Reg 1604, eff 6-12-03; Amended at 21 Ok Reg 1520, eff 6-11-04; Amended at 22 Ok Reg 1452, eff 6-15-05; Amended at 23 Ok Reg 931, eff 6-15-06]

### 252:205-3-2. Incorporation by reference

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

- (1) § 124.19(a) through (c) and (e);
- (2) §§ 124.31, 124.32, & 124.33, substituting DEQ for EPA, and deleting the following sentence from each section: "Hazardous waste management units over which EPA has permit issuance authority" refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR Part 271.

(b) **Part 260.** Hazardous Waste Management System: General, except 260.21.

- (1) In 260.20, "Federal Register" is synonymous with "The Oklahoma Register."
- (2) In 260.20(e), strike the words "or a denial."
- (3) In 260.22, references to the lists in Subpart D of Part 261 and the reference to § 261.3(a)(2)(ii) or (c) shall mean the lists in Subpart D of Part 261 and §261.3(a)(2)(ii) or (c) as adopted by reference and applicable in Oklahoma.
- (4) In the 260.10 definitions of "new tank system" and "existing tank system", the reference to "July 14, 1986" for commencement of tank installation applies only to tank regulations promulgated pursuant to the federal Hazardous and Solid Waste Amendment ("HSWA") requirements.

~~The following categories outline HSWA requirements:~~

- (A) ~~interim status and permitting requirements applicable to tank systems owned and operated by small quantity generators [3001(d)];~~  
 (B) ~~leak detection requirements for all new underground tank systems [3004(o)(4)]; and~~  
 (C) ~~permitting standards for underground tanks that cannot be entered for inspection [3004(w)]. For tank regulations promulgated pursuant to statutory authority other than HSWA, the date relative to the commencement of installation is November 2, 1987.~~

(c) **Part 261.** Identification and Listing of Hazardous Waste except 261.4(b)(18) which pertains to Utah only, thus should be excluded.

(1) In 261.4(e)(3)(iii) delete "in the Region where the sample is collected".

(2) In 261.5(f)(3)(iv), and (v), and in 261.5(g)(3)(iv), and (v) add "other than Oklahoma" after the word "State".

(d) **Part 262.** Standards Applicable to Generators of Hazardous Waste except Subpart E and Subpart H. In 262.42(a)(2) and 262.42(b) delete "for the Region in which the generator is located".

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

(f) **Part 264.** Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. The following sections and subsections are not adopted by reference: 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), and 264.1080(g).

(1) In 264.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.

(2) In 264.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987.

(3) In 264.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.

(4) In 264.570(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

(g) **Part 265.** Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except 265.1(c)(4), 265.1(g)(12), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g).

(1) In 265.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.

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

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

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

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

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

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

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

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

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 16 Ok Reg 3484, eff 8-3-99 (emergency); Amended at 17 Ok Reg 1475, eff 4-10-00 (emergency); Amended at 17 Ok Reg 1896, eff 6-12-00; Amended at 18 Ok Reg 643, eff 1-2-01 (emergency); Amended at 18 Ok Reg 1945, eff 6-11-01; Amended at 19 Ok Reg 1661, eff 6-13-02; Amended at 20 Ok Reg 1604, eff 6-12-03; Amended at 21 Ok Reg 1520, eff 6-11-04; Amended at 22 Ok Reg 1452, eff 6-15-05; Amended at 23 Ok Reg 931, eff 6-15-06]

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 16 Ok Reg 3484, eff 8-3-99 (emergency); Amended at 17 Ok Reg 1475, eff 4-10-00 (emergency); Amended at 17 Ok Reg 1896, eff 6-12-00; Revoked at 18 Ok Reg 1945, eff 6-11-01; Added at 19 Ok Reg 45, eff 8-17-01 (emergency); Added at 19 Ok Reg 1026, eff 6-1-02; Amended at 20 Ok Reg 60, eff 10-31-02 (emergency); Revoked at 20 Ok Reg 1604, eff 6-12-03]

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

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

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

(2) **"Regional Administrator"** and **"EPA Regional Administrator"** are synonymous with Executive Director except in §§ 124.5(d), 124.10(b), 262.55, 262.56, 262.57, Item 19 of the Appendix to Part 262, 270.5, 270.10(f)(2) and (3) and (g)(1)(i) & (iii), 270.11(3) and 270.14(b)(20). See also §§ 264.12(a) and 265.12(a) where "Regional

Administrator" should be replaced with "Regional Administrator and Executive Director". In 260.10 and 270.2, the definition of "Regional Administrator" is not synonymous with "Executive Director". The terms as used in the excepted sections retain the meanings as defined in CFR;

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

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

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

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

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

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

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

(1) the phrase "Department of Environmental Quality" ("DEQ" or "the Department"), an agency of the State of Oklahoma" shall be used instead of "Environmental Protection Agency";

(2) "Director" shall be used instead of "Regional Administrator";

(3) "DEQ" shall replace "EPA";

(4) "Act" shall replace § 3008 of the Resource Conservation and Recovery Act"; and

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99]

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

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99]

#### 252:205-3-6. Inconsistencies or duplications

In the event that there are inconsistencies or duplications in the requirements of those rules incorporated by reference in 252:205-3-2, and the rules in this Chapter, the federal rules

incorporated by reference shall prevail, except where the state rules in this Chapter are more stringent.

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99]

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Revoked at 17 Ok Reg 1475, eff 4-10-00 (emergency); Revoked at 17 Ok Reg 1896, eff 6-12-00]

## SUBCHAPTER 5. ADDITIONAL GENERATOR REQUIREMENTS

### Section

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

#### 252:205-5-1. Disposal plans

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

(1) The generator must update the disposal plan as needed and must notify the DEQ at least five working days before any changes are implemented. The DEQ requires a minimum of five (5) working days to process and approve new or amended disposal plans. Changes shall not be implemented until approved by the DEQ.

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

(3) The DEQ may require supporting documentation including but not limited to, laboratory analyses and Material Safety Data Sheets to verify information submitted. If specific technical process knowledge is provided which the Department determines adequately identifies the waste, laboratory analysis will not be required.

~~(4) If a disposal plan is canceled for non-payment of fees, the generator must complete a new application and re-submit supporting documentation to the DEQ for approval.~~

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 17 Ok Reg 1130, eff 6-1-00]

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

Small quantity generators and conditionally exempt small quantity generators are not required to file disposal plans

(252:205-5-1) or quarterly reports (252:205-5-3) with the DEQ.

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99]

**252:205-5-3. Quarterly reporting requirements**

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

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

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

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

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

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99]

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

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99]

**252:205-5-5. Manifest requirements**

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 23 Ok Reg 931, eff 6-15-06]

**SUBCHAPTER 7. ADDITIONAL TRANSPORTER RULES**

**Section**

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

~~**252:205-7-1. Transporters required to register<sup>1</sup>**~~  
~~**[REVOKED]**~~

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 17 Ok Reg 1130, eff 6-1-00; Revoked at 18 Ok Reg 644, eff 1-2-01 (emergency); Revoked at 18 Ok Reg 1495, eff 6-1-01]

*EDITOR'S NOTE: <sup>1</sup> This section was revoked in 2001 pursuant to Laws 2000, c. 130, § 3. This legislation, which was effective 4-24-00, assigned rulemaking authority to the Corporation Commission for "administer[ing] a hazardous waste transportation registration and permitting program for motor carriers engaged in transporting hazardous wastes." See also OAC 165:30.*

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

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99]

~~**252:205-7-3. Manifest, disposal plan required<sup>1</sup>**~~  
~~**[REVOKED]**~~

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Revoked at 18 Ok Reg 644, eff 1-2-01 (emergency); Revoked at 18 Ok Reg 1495, eff 6-1-01]

*EDITOR'S NOTE: <sup>1</sup> This section was revoked in 2001 pursuant to Laws 2000, c. 130, § 3. This legislation, which was effective 4-24-00, assigned rulemaking authority to the Corporation Commission for "administer[ing] a hazardous waste transportation registration and permitting program for motor carriers engaged in transporting hazardous wastes." See also OAC 165:30.*

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

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 17 Ok Reg 1130, eff 6-1-00]

US EPA ARCHIVE DOCUMENT

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

### Section

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

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

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99]

### 252:205-9-2. Monthly reports

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 17 Ok Reg 1130, eff 6-1-00]

### 252:205-9-3. Buffer zones

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 17 Ok Reg 1130, eff 6-1-00]

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

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99]

### 252:205-9-5. Additional closure requirements

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99]

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

- (a) Prior to receipt of a hazardous waste for storage, treatment, disposal or recycling, the owner/operator of a treatment, storage or disposal facility or off-site recycling facility must obtain detailed chemical and physical analyses of a representative sample of the waste. The analyses must contain all information necessary to appropriately treat, store, dispose, or recycle the waste.
- (b) Prior to receipt of any industrial waste not identified as hazardous waste at a treatment, storage or disposal facility or off-site recycling facility, the owner/operator must obtain the following records and maintain them in the facility operating record:
- (1) Information regarding the chemical and physical nature of the waste which reasonably, considering the source, establishes that the waste does not exhibit any characteristic of hazardous waste as described by 40 CFR 261, Subpart C. This information may include laboratory analyses, material safety data sheets, and analysis of raw materials, feedstocks, and process descriptions; and

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

~~[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 23 Ok Reg 931, eff 6-15-06]~~

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

~~[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 17 Ok Reg 1130, eff 6-1-00; Revoked at 23 Ok Reg 931, eff 6-15-06]~~

## **SUBCHAPTER 11. ADDITIONAL PERMIT PROCEDURES**

### **Section**

- 252:205-11-1. Emergency plans relating to affected property owners  
 252:205-11-2. Exclusionary siting criteria  
 252:205-11-3. Upgrades of county roads and bridges

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

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

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

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

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

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

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

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

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

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99]

### **252:205-11-2. Exclusionary siting criteria**

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

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

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

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

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

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

- (6) **Existing facilities.** Existing facilities in these areas may continue to operate and may modify or expand their operations to the extent permitted by 27A O.S. § 2-7-111.
- (b) **Water wells.** The DEQ shall not grant a permit for a new hazardous waste disposal facility proposed to be located within one-quarter mile of any public or private water supply well except private water supply wells on the applicant's property. Water supply wells that are demonstrated by the applicant to be permanently abandoned may be plugged upon a demonstration that the applicant has the right to plug them. The applicant shall notify the DEQ that the abandoned water wells have been plugged. If abandoned water wells are identified by the applicant during the preparation of his application or during the permit process, the applicant shall notify the DEQ so that these wells can be included in the Class V well inventory.
- (c) **Flood plain.** No permit or modification of an existing permit which includes disposal of hazardous waste within a one-hundred year flood plain shall be granted, except for post-closure, corrective action or remedial activities conducted under the direction of the DEQ. For existing facilities, this modification prohibition applies only to land disposal units and to modifications of such units which would increase disposal rates or designate new areas for disposal.
- (d) **Surface water.** No permit shall be granted for a new hazardous waste disposal facility proposed to be located within one mile of the conservation pool elevation of any reservoir which supplies water for a public water supply or within one mile of any scenic river.
- (e) **Air pollution.** No permit shall be granted for a new off-site hazardous waste disposal facility proposed to be located within one mile of any public school, educational institution, nursing home, hospital or public park.
- (f) The Hazardous Waste Management Act also contains exclusionary siting criteria. See 27A O.S. § 2-7-111(B) and (C)(1) and § 2-7-114, as amended.

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 17 Ok Reg 1130, eff 6-1-00]

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

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99]

## SUBCHAPTER 13. MISCELLANEOUS

### Section

252:205-13-1. Incidents

## 252:205-13-1. Incidents

- (a) **Release of hazardous waste.** Upon release of materials that are or become hazardous waste whether by spillage, leakage, or discharge to soils or to air or to surface or ground waters (outside the limits of a discharge permit), or by other means, and which could threaten human health or the environment, the owner or operator shall immediately notify the DEQ and take all necessary action to contain, remediate, and mitigate hazards from the release.
- (b) **Contained releases.** The owner/operator is not required to notify the DEQ of a release if it is completely contained in a secondary containment area.
- (c) **National Response Center.** When a report is required to be made to the National Response Center pursuant to 40 CFR 262.34 (a) (4), 262.34 (d) (5), or 264.56 (d) (2) or 265.56 (d) (2), a report must also be made immediately to the DEQ at 1-800-522-0206.
- (d) **Determination of waste category.** Spilled or leaked materials and soils and other matter that may be contaminated with such materials shall be tested by the responsible person to determine whether they are hazardous waste, nonhazardous industrial waste or solid waste.
- (e) **Proper disposal of waste from release.** Waste materials resulting from a release shall be properly disposed of in accordance with the applicable rules.
- ~~(f) **Recyclable materials.** Materials that are to be recycled shall be collected and properly stored to prevent further contamination of the environment.~~
- (g) **Remediation plan.** The DEQ may require submission of a remediation plan that meets the closure requirements of 40 CFR 265.111 and 265.114.
- (h) **Costs.** The Executive Director may assess costs relating to expenses and damages incurred by the DEQ in responding to a release and overseeing its remediation. Costs shall be borne by the responsible person(s).

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99]

## SUBCHAPTER 15. TRANSFER STATIONS

### Section

252:205-15-1.	Applicability and consideration of other laws
252:205-15-2.	Development and Operations Plan
252:205-15-3.	Design and operation
252:205-15-4.	Modifications
252:205-15-5.	Exclusionary siting criteria
252:205-15-6.	No endangerment

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

- (a) **Types of waste handled.** The owner/operator of a transfer station which handles hazardous waste or both hazardous and solid wastes must comply with this Subchapter.
- (b) **Solid waste permits.** The owner/operator of a hazardous waste transfer station operating or proposing to operate

**2009 Supplement**

**Oklahoma Administrative Code  
Title 252, Chapter 205  
Hazardous Waste Management**

**CHAPTER 205. HAZARDOUS WASTE MANAGEMENT**

**Subchapter**

**Section**

3. Incorporation by Reference ..... 252:205-3-1

[Authority: 27A O.S., §§ 2-2-101, 2-2-104, 2-2-201, 2-7-105, 2-7-106, 2-7-107 and 2-7-119]

[Source: Codified 6-11-99]

**SUBCHAPTER 3. INCORPORATION BY REFERENCE**

**Section**

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

252:205-3-2. Incorporation by reference

**252:205-3-1. 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, 2008.

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 17 Ok Reg 1475, eff 4-10-00 (emergency); Amended at 17 Ok Reg 1896, eff 6-12-00; Amended at 18 Ok Reg 1945, eff 6-11-01; Amended at 19 Ok Reg 1661, eff 6-13-02; Amended at 20 Ok Reg 1604, eff 6-12-03; Amended at 21 Ok Reg 1520, eff 6-11-04; Amended at 22 Ok Reg 1452, eff 6-15-05; Amended at 23 Ok Reg 931, eff 6-15-06; Amended at 24 Ok Reg 580, eff 1-4-07 (emergency); Amended at 24 Ok Reg 1281, eff 6-15-07; Amended at 25 Ok Reg 1129, eff 7-1-08; Amended at 26 Ok Reg 1192, eff 7-1-09]

**252:205-3-2. Incorporation by reference**

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

- (1) ~~§ 124.19(a) through (e) and (e)-~~
- (2) §§ 124.31, 124.32, & 124.33, substituting DEQ for EPA, and deleting the following sentence from paragraph (a) of each section: "For the purposes of this section only, 'hazardous waste management units over which EPA has permit issuance authority' refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR Part 271"; and

~~(3) Subpart G.~~

(b) **Part 260.** Hazardous Waste Management System: General, except 260.21.

- (1) In 260.20, "Federal Register" is synonymous with "The Oklahoma Register."
- (2) In 260.20(e), strike the words "or a denial."
- (3) In 260.22, references to the lists in Subpart D of Part 261 and the reference to § 261.3(a)(2)(ii) or (c) shall mean the lists in Subpart D of Part 261 and § 261.3(a)(2)(ii) or (c) as adopted by reference and applicable in Oklahoma.
- (4) In the 260.10 definitions of "new tank system" and "existing tank system", the reference to "July 14, 1986" for commencement of tank installation applies only to tank regulations promulgated pursuant to the federal Hazardous

and Solid Waste Amendment ("HSWA") requirements. The following categories outline HSWA requirements:

- (A) interim status and permitting requirements applicable to tank systems owned and operated by small quantity generators [3001(d)];
- (B) leak detection requirements for all new underground tank systems [3004(o)(4)]; and
- (C) permitting standards for underground tanks that cannot be entered for inspection [3004(w)]. For tank regulations promulgated pursuant to statutory authority other than HSWA, the date relative to the commencement of installation is November 2, 1987.

(c) **Part 261.** Identification and Listing of Hazardous Waste except 261.4(b)(18) which pertains to Utah only, thus should be excluded.

- (1) In 261.4(e)(3)(iii) delete "in the Region where the sample is collected".
- (2) In 261.5(f)(3)(iv), and (v), and in 261.5(g)(3)(iv), and (v) add "other than Oklahoma" after the word "State".
- (3) In 261.31(a), the listing for F019, add at the end: "Zinc phosphate sludges meeting exemption conditions remain subject to regulation as hazardous waste if the waste exhibits a hazardous waste characteristic."

(d) **Part 262.** Standards Applicable to Generators of Hazardous Waste except Subpart E and Subpart H. In 262.42(a)(2) and 262.42(b) delete "for the Region in which the generator is located".

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

(f) **Part 264.** Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. The following sections and subsections are not adopted by reference: 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), and 264.1080(g).

- (1) In 264.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.
- (2) In 264.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987.
- (3) In 264.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.
- (4) In 264.570(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990

US EPA ARCHIVE DOCUMENT

and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

(g) **Part 265.** Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except 265.1(c)(4), 265.1(g)(12), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g).

(1) In 265.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.

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

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

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

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

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

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

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

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

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

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

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

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

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

[Source: Added at 16 Ok Reg 244, eff 11-2-98 (emergency); Added at 16 Ok Reg 1819, eff 6-11-99; Amended at 16 Ok Reg 3484, eff 8-3-99 (emergency); Amended at 17 Ok Reg 1475, eff 4-10-00 (emergency); Amended at 17 Ok Reg 1896, eff 6-12-00; Amended at 18 Ok Reg 643, eff 1-2-01 (emergency); Amended at 18 Ok Reg 1945, eff 6-11-01; Amended at 19 Ok Reg 1661, eff 6-13-02; Amended at 20 Ok Reg 1604, eff 6-12-03; Amended at 21 Ok Reg 1520, eff 6-11-04; Amended at 22 Ok Reg 1452, eff 6-15-05; Amended at 23 Ok Reg 931, eff 6-15-06; Amended at 24 Ok Reg 580, eff 1-4-07 (emergency); Amended at 24 Ok Reg 1281, eff 6-15-07; Amended at 26 Ok Reg 1192, eff 7-1-09]