

US EPA ARCHIVE DOCUMENT

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



MAY, 2012

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Copies of the Oklahoma statutes that are incorporated by reference are available from West Publishing Company, 610 Opperman Drive, P. O. Box 64526, St. Paul, Minnesota 55164-0526; Phone: 1-800-328-4880; Website: <http://west.thomson.com..>

OKLAHOMA STATUTES ANNOTATED

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

Title 28. Fees

Under Arrangement of the
Official Oklahoma Statutes

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EFFECTIVE DATES OF LAWS

Constitution Article 5, § 58, provides that: "No act shall take effect until ninety days after the adjournment of the session at which it was passed, except enactments for carrying into effect provisions relating to the initiative and referendum, or a general appropriation bill, unless, in case of emergency, to be expressed in the act, the Legislature, by a vote of two-thirds of all members elected to each House, so directs. An emergency measure shall include only such measures as are immediately necessary for the preservation of the public peace, health, or safety, and shall not include the granting of franchises or license to a corporation or individual, to extend longer than one year, nor provision for the purchase or sale of real estate; nor the renting or encumbrance of real property for a longer term than one year. Emergency measures may be vetoed by the Governor, but such measures so vetoed may be passed by a three-fourths vote of each House, to be duly entered on the journal."

The following Table shows the date of adjournment and the effective date of non-emergency acts enacted at legislative sessions subsequent to 1951.

Year	Legislature	Adjournment Date	Effective Date
1953	24th	June 6, 1953	September 5, 1953
1955	25th	May 27, 1955	August 26, 1955
1957	26th	May 29, 1957	August 28, 1957
1959	27th	July 3, 1959	October 2, 1959
1961	28th	July 28, 1961	October 27, 1961
1963	29th	June 14, 1963	September 13, 1963
1965	30th	July 22, 1965	October 21, 1965
1967	31st (1st Reg.)	May 11, 1967	August 10, 1967
1968	31st (2d Reg.)	May 3, 1968	August 2, 1968
1969	32nd (1st Reg.)	April 29, 1969	July 29, 1969
1970	32nd (2d Reg.)	April 15, 1970	July 15, 1970
1971	33rd (1st Reg.)	June 11, 1971	September 10, 1971
1972	33rd (2d Reg.)	March 31, 1972	June 30, 1972
1973	34th (1st Reg.)	May 17, 1973	August 16, 1973
1974	34th (2d Reg.)	May 17, 1974	August 16, 1974
1975	35th (1st Reg.)	June 6, 1975	September 5, 1975
1976	35th (2d Reg.)	June 9, 1976	September 8, 1976
1976	35th (1st Ex.Sess.)	June 23, 1976	*
1977	36th (1st Reg.)	June 8, 1977	September 7, 1977
1977	36th (1st Ex.Sess.)	June 17, 1977	September 16, 1977

EFFECTIVE DATES OF LAWS

Year	Legislature	Adjournment Date	Effective Date
1978	36th (2d Reg.)	April 28, 1978	July 28, 1978
1979	37th (1st Reg.)	July 2, 1979	October 1, 1979
1980	37th (2d Reg.)	June 16, 1980	September 15, 1980
1980	37th (1st Ex.Sess.)	July 11, 1980	*
1981	38th (1st Reg.)	July 20, 1981	October 19, 1981
1981	38th (1st Ex.Sess.)	Sept. 4, 1981	*
1982	38th (2d Reg.)	July 12, 1982	October 11, 1982
1983	39th (1st Reg.)	June 23, 1983	September 22, 1983
1983	39th (1st Ex.Sess.)	Sept. 23, 1983	*
1983	39th (2d Ex.Sess.)	Nov. 30, 1983	No legislation.
1984	39th (2d Reg.)	May 31, 1984	August 30, 1984
1985	40th (1st Reg.)	July 19, 1985	October 17, 1985
1986	40th (2d Reg.)	June 12, 1986	September 11, 1986
1987	41st (1st Reg.)	July 17, 1987	October 16, 1987
1987	41st (1st Ex.Sess.)	July 7, 1987	No legislation
1987	41st (2d Ex.Sess.)	July 14, 1987	No legislation
1988	41st (2d Reg.)	July 12, 1988	October 11, 1988
1988	41st (3d Ex.Sess.)	Sept. 2, 1988	*
1989	42nd (1st Reg.)	May 26, 1989	August 25, 1989
1989	42nd (1st Ex.Sess.)	May 2, 1990	*
1990	42nd (2d Reg.)	May 25, 1990	August 24, 1990
1991	43rd (1st Ex.Sess.)	Jan. 18, 1991	*
1991	43rd (1st Reg.)	May 31, 1991	August 30, 1991
1992	43rd (2d Reg.)	May 29, 1992	August 28, 1992
1993	44th (1st Reg.)	May 28, 1993	August 27, 1993
1994	44th (2d Reg.)	May 27, 1994	August 26, 1994
1994	44th (1st Ex.Sess.)	May 27, 1994	No legislation
1994	44th (2d Ex.Sess.)	Nov. 4, 1994	*
1995	45th (1st Reg.)	May 26, 1995	August 25, 1995
1995	45th (1st Ex.Sess.)	Nov. 19, 1996**	No legislation
1996	45th (2d Reg.)	May 31, 1996	August 30, 1996
1997	46th (1st Reg.)	May 30, 1997	August 29, 1997
1998	46th (2nd Reg.)	May 29, 1998	August 28, 1998
1998	46th (1st Ex.Sess.)	June 19, 1998	*
1999	47th (1st Reg.)	May 28, 1999	August 27, 1999
1999	47th (1st Ex.Sess.)	June 28, 2000**	*
2000	47th (2nd Reg.)	May 26, 2000	August 25, 2000
2001	48th (1st Reg.)	May 25, 2001	August 24, 2001
2001	48th (1st Ex.Sess.)	Oct. 23, 2001	*
2002	48th (2nd Reg.)	May 24, 2002	August 23, 2002
2002	48th (1st Ex. Sess.)	Nov. 18, 2002	*

EFFECTIVE DATES OF LAWS

Year	Legislature	Adjournment Date	Effective Date
2003	49th (1st Reg.)	May 30, 2003	August 29, 2003
2004	49th (2nd Reg.)	May 28, 2004	August 27, 2004
2004	49th (1st Ex.Sess.)	Nov. 16, 2004**	No legislation
2005	50th (1st Reg.)	May 27, 2005	August 26, 2005
2005	50th (1st Ex. Sess.)	Nov. 21, 2006**	*
2006	50th (2nd Reg.)	May 26, 2006	August 25, 2005
2006	50th (2nd Ex.Sess.)	June 23, 2006	September 22, 2006
2007	51st (1st Reg.Sess.)	May 25, 2007	August 24, 2007
2008	51st (2nd Reg.Sess.)	May 23, 2008	August 22, 2008
2009	52nd (1st Reg.Sess.)	May 27, 2009	August 26, 2009
2010	52nd (2nd Reg.Sess.)	May 28, 2010	August 27, 2010

* Emergency measures only

** Expired

*

HAZARDOUS WASTE MANAGEMENT**27A § 2-7-103****~~§ 2-7-102. Hazardous waste Regulation and control~~**

Hazardous waste shall be subject to the provisions of the "Oklahoma Hazardous Waste Management Act"¹ and shall not be subject to the provisions of the "Oklahoma Solid Waste Management Act".² Laws 1990, c. 196, § 8, emerg. eff. May 10, 1990; Laws 1992, c. 403, § 5, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2001.1 and amended by Laws 1993, c. 145, §§ 85, 359, eff. July 1, 1993.

¹Title 27A, § 2-7-101 et seq.

²Title 27A, § 2-10-101 et seq.

Library References

Environmental Law § 410.

Westlaw Topic No. 149E.

C.J.S. Health and Environment § 170.

§ 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.¹ Such actions shall include, without limitation, any permit denial or any sanction imposed by a state regulatory authority or the United States Environmental Protection Agency, and
 - e. a listing of any federal environmental agency and any state environmental agency outside this state that has or has had regulatory responsibility over the applicant;
6. "Disposal" means the final disposition of hazardous waste;
7. "Disposal site" means the location where any final disposition of hazardous waste occurs. Disposal sites include but are not limited to injection wells and surface disposal sites;
8. "Guarantor" means any person other than the owner or operator, who provides evidence of financial responsibility for an owner or operator pursuant to the Oklahoma Hazardous Waste Management Act;
9. "Hazardous waste" means waste materials and byproducts, either solid or liquid or containerized gas, which are:
- a. to be discarded by the generator or recycled,
 - b. toxic to human, animal, aquatic or plant life, and
 - c. generated in such quantity that they cannot be safely disposed of in properly operated, state-approved solid

HAZARDOUS WASTE MANAGEMENT**27A § 2-7-103**

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 rerefining of hazardous waste into a product which is being reused or which has been sold for beneficial use. Hazardous waste which is intended for fuel is not deemed to be recycled until it is actually burned;

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;

27A § 2-7-103

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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.

¹ 42 U.S.C.A. § 6901 et seq.

Law Review and Journal Commentaries

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

Notes of Decisions

Construction and application 1

inconsistent with the latter act. Op.Atty. Gen. No. 77-162 (May 27, 1977).

1. Construction and application

The adoption of the Controlled Industrial Waste Disposal Act (Title 63, § 2751 et seq. recodified as Title 27A, § 2-7-101 et seq.), repealed Title 63, § , inasmuch as the provisions of that section were

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

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

A hazardous waste management program responsible for the regulation and management of hazardous waste shall be maintained within the Department. The hazardous waste management program shall consist of a director, who shall be hired by the Executive Director, and additional employees as the Executive Director deems are necessary and duly qualified to carry out the provisions of the Oklahoma Hazardous Waste Management Act.¹ As a prerequisite for employment as the director of the hazardous waste management program, the applicant shall have expertise and at least two (2) years' experience in waste management. The director and all employees of the hazardous waste management program shall be subject to the Merit System of Personnel Administration.

Laws 1976, c. 251, § 3; Laws 1978, c. 260, § 2, emerg. eff. May 10, 1978. Renumbered from Title 63, § 2753 and amended by Laws 1981, c. 322, §§ 2,

HAZARDOUS WASTE MANAGEMENT

27A § 2-7-108

§ 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.¹~~

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

C. Facilities engaged in recycling which are not required to be permitted pursuant to the provisions of the Oklahoma Hazardous Waste Management Act shall operate in an environmentally acceptable manner and in accordance with the rules regarding the manifest, transportation and treatment, storage and disposal standards, and generators in the event a hazardous waste is generated therefrom.

Laws 1981, c. 322, § 10, eff. July 1, 1981; Laws 1990, c. 196, § 6, emerg. eff. May 10, 1990; Laws 1990, c. 296, § 3, operative July 1, 1990; Laws 1991, c. 173, § 8; Laws 1992, c. 403, § 25, eff. Sept. 1, 1992. Renumbered from

27A § 2-7-108**ENVIRONMENTAL QUALITY CODE**

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.

¹ Title 27A, § 2-7-101 et seq.

Law Review and Journal Commentaries

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

Library References

Environmental Law ¶430, 432.

Westlaw Topic No. 149E.

C.J.S. Health and Environment § 170.

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

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

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

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

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

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

2. If the applicant is a publicly held company required to file periodic reports under the Securities and Exchange Act of 1934,³ or a wholly owned subsidiary of a publicly held company, the applicant shall not be required to submit a disclosure statement, but shall

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~~this section. Any person who willfully fails to disclose or states falsely any such information, upon conviction, shall be guilty of a felony and may be punished by imprisonment for not more than five (5) years or fined not more than One Hundred Thousand Dollars (\$100,000.00) or both such fine and imprisonment.~~

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

F. The Board shall promulgate rules pursuant to the Administrative Procedures Act ⁴ as may be necessary and appropriate to implement the provisions of this section.

G. The provisions of this section shall apply to:

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

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

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

¹ Title 27A, § 2-7-101 et seq.

² 42 U.S.C.A. § 6901 et seq.

³ 15 U.S.C.A. § 77a et seq.

⁴ Title 75, § 250 et seq.

Library References

Environmental Law ¶432.

Westlaw Topic No. 149E.

C.J.S. Health and Environment § 170.

§ 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.

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D.C. The provisions of this section shall not prohibit:

1. The practice of soil farming of hazardous waste authorized by the provisions of the Oklahoma Hazardous Waste Management Act;¹
2. The construction and operation of surface impoundments solely for the collection of rainfall runoff; or
3. The construction of impoundments solely for the emergency retention of spills of substances which are or may become hazardous waste;

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

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

¹ Title 27A, § 2-7-101 et seq.

Library References

Environmental Law §430.

Westlaw Topic No. 149E.

C.J.S. Health and Environment § 170.

§ 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 2-7-113,¹ 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~~

27A § 2-7-111

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~~—described and for the purposes specified in subsection B of this section.~~

D. The provisions of this section shall apply to:

1. Applications for future proposed sites;
2. Pending applications for new hazardous waste permits; and
3. Applications for permits to modify existing facilities which have either a permit or interim status when the proposed modification involves the opportunity for an administrative permit hearing.

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

Laws 1976, c. 251, § 16; Laws 1978, c. 260, § 15, emerg. eff. May 10, 1978. Renumbered from Title 63, § 2765 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Laws 1987, c. 51, § 2, emerg. eff. April 29, 1987; Laws 1988, c. 42, § 2, emerg. eff. March 21, 1988; Laws 1991, c. 336, § 2, eff. July 1, 1991; Laws 1992, c. 403, § 32, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2014 and amended by Laws 1993, c. 145, §§ 94, 359, eff. July 1, 1993; Laws 1993, c. 324, § 29, eff. July 1, 1993; Laws 1994, c. 373, § 13, eff. July 1, 1994; Laws 1995, c. 285, § 3, eff. July 1, 1995.

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

² Title 27A, § 2-14-101 et seq.

Historical and Statutory Notes

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

Law Review and Journal Commentaries

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

Library References

Environmental Law ¶430.

Westlaw Topic No. 149E.

C.J.S. Health and Environment § 170.

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). Zoning And Planning ¶ 1800

HAZARDOUS WASTE MANAGEMENT**27A § 2-7-113.1****§ 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.

Library References

Environmental Law ¶430.

Westlaw Topic No. 149E.

C.J.S. Health and Environment § 170.

~~§ 2-7-113. Repealed by Laws 1994, c. 373, § 31, eff. July 1, 1996~~**Historical and Statutory Notes**

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

Laws 1976, c. 251, § 7.

Laws 1978, c. 260, § 6.

Laws 1979, c. 137, § 1.

63 O.S.Supp.1980, § 2757.

Laws 1981, c. 322, §§ 7, 18.

Laws 1992, c. 403, § 192.

63 O.S.Supp.1992, § 1-2006.

Laws 1993, c. 145, §§ 96, 359.

Laws 1994, c. 373, § 14.

See Title 27A, § 2-14-101 et seq.

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

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

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

C. In accordance with the provisions of Section 2-14-304 of this title, an administrative permit hearing shall be available on a proposed permit which is based on a Tier III hazardous waste permit application for a new permit or for the modification of an existing permit involving a fifty percent (50%) or more increase in permitted

~~and financial responsibility, formal public meeting, if requested, and such other requirements as provided by the Oklahoma Hazardous Waste Management Act¹ and the Environmental Quality Code.²~~

^{1C} B. Liability insurance shall be provided by the applicant and shall apply to sudden and nonsudden bodily injury or property damage on, below or above the surface, as required by the rules of the Board. Additional insurance shall be required as deemed necessary by the Department to protect the property rights of owners or leaseholders of underground resources such as oil, gas, water or other mineral substances. Such insurance shall be maintained for the period of operation of the facility and shall provide coverage for damages resulting from operation of the facility during operation and after closing. In lieu of liability insurance required by this or any other section of the Oklahoma Hazardous Waste Management Act, an equivalent amount of cash, securities or alternate financial assurance of a type and in an amount acceptable to the Department, may be substituted; provided, that such deposit shall be maintained for a period of five (5) years after the date of last operation of the facility.

C. Prior to the issuance of any permit, the applicant shall post a bond or acceptable alternate financial assurance guaranteeing proper closure and guaranteeing the performance of the maintenance and monitoring functions set out in Section 2-7-124 of this title.

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

E. Prior to the issuance of any permit, the applicant shall, upon request of the Department, produce evidence of the applicant's financial status indicating that the applicant is financially able to operate and maintain a hazardous waste facility as required by the Oklahoma Hazardous Waste Management Act. If the applicant is not financially able to operate and maintain a hazardous waste facility, as required by the Oklahoma Hazardous Waste Management Act, a permit shall be denied.

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

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

H. 1. ~~In any case where the owner or operator of a hazardous waste facility is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code³ or if jurisdiction in any state court or any federal court cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility is required pursuant to the Oklahoma Hazardous Waste Management Act may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action taken pursuant to this section, such guarantor shall be entitled to claim all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if any action had been brought against the guarantor by the owner or operator.~~

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

Laws 1976, c. 251, § 9; Laws 1978, c. 260, § 8, emerg. eff. May 10, 1978. Renumbered from Title 63, § 2759 and amended by Laws 1981, c. 322, §§ 9, 18, eff. July 1, 1981. Laws 1986, c. 140, § 1, emerg. eff. April 21, 1986; Laws 1990, c. 196, § 5, emerg. eff. May 10, 1990; Laws 1992, c. 403, § 22, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2008 and amended by Laws 1993, c. 145, §§ 99, 359, eff. July 1, 1993. Laws 1994, c. 373, § 22, eff. July 1, 1994; Laws 1995, c. 285, § 5, eff. July 1, 1995.

¹ Title 27A, § 2-7-101 et seq.

² Title 27A, § 2-1-101 et seq.

³ 11 U.S.C.A. § 101 et seq.

⁴ 42 U.S.C.A. § 9601.

Law Review and Journal Commentaries

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

Library References

Environmental Law ¶430, 432, 435.
Westlaw Topic No. 149E.
C.J.S. Health and Environment § 170.

27A § 2-7-117**ENVIRONMENTAL QUALITY CODE**

~~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.

¹ Title 27A, § 2-7-101 et seq.

Historical and Statutory Notes

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

Library References

Environmental Law 430, 432.

Westlaw Topic No. 149E.

C.J.S. Health and Environment § 170.

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

A. Facilities that recycle hazardous waste shall be exempt from subsection C of Sections 2-7-113 and 2-7-113.1, and Section 2-7-115 of this title with regard to those units exclusively used in the recycling process. Off-site hazardous waste recycling facilities are subject to the requirements specified by the Oklahoma Hazardous Waste Management Act,¹ the Oklahoma Environmental Permitting Act,² and rules promulgated thereunder, for a permit, and shall also meet design standards as promulgated by the Board. Such recycling facilities which were in existence on July 1, 1990, may but shall not be required to file a permit application pursuant to the provisions of the Oklahoma Hazardous Waste Management Act. A permit modification is not required for a permitted recycling facility to use new, improved, or better methods of recycling if the Department has approved the plans as being environmentally acceptable. An approved class 1 permit modification shall be required for a permitted

HAZARDOUS WASTE MANAGEMENT

27A § 2-7-119

recycling facility to increase the capacity of its recycling units or add new or different recycling units.

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

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

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

¹ Title 27A, § 2-7-101 et seq.

² Title 27A, § 2-14-101 et seq.

Historical and Statutory Notes

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

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

Library References

Environmental Law ¶430, 432, 433(1).

Westlaw Topic No. 149E.

C.J.S. Health and Environment § 170.

United States Supreme Court

Hazardous waste, incineration of solid waste, regulation, see *City of Chicago v. Environmental Defense Fund*, U.S. Ill. 1994, 114 S.Ct. 1588, 511 U.S. 328, 128 L.Ed.2d 302.

~~§ 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,¹ to be charged for applications to issue and renew permits for hazardous waste facilities and for the regulation of hazardous waste. Such fees shall only be used for the implementation of the provisions of the Oklahoma Hazardous Waste Management Act² pursuant to Section 2-3-402 of this title.~~

HAZARDOUS WASTE MANAGEMENT**27A § 2-7-124****Historical and Statutory Notes**

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

Library References

Environmental Law ¶432, 439, 453, 456.
Westlaw Topic No. 149E.

C.J.S. Health and Environment §§ 130, 136, 150, 170.

Notes of Decisions**Construction and application 1****1. Construction and application**

Soil farming of industrial waste not designated as controlled industrial waste 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).

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

§ 2-7-124. Monitoring of closed facility

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

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

¹ 42 U.S.C.A. § 6901 et seq.

Law Review and Journal Commentaries

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

Library References

Environmental Law ¶430.
Westlaw Topic No. 149E.
C.J.S. Health and Environment § 170.

27A § 2-7-125**ENVIRONMENTAL QUALITY CODE****§ 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.

Library References

Environmental Law ¶431.
Westlaw Topic No. 149E.
C.J.S. Health and Environment § 170.

§ 2-7-126. Orders

In addition to any other remedies provided in the Oklahoma Hazardous Waste Management Act,¹ 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.
- b. Any penalty assessed in the order shall not exceed Twenty-five Thousand Dollars (\$25,000.00) per day of noncompliance for each violation of the Oklahoma Hazardous Waste

HAZARDOUS WASTE MANAGEMENT**27A § 2-7-127**

Management Act, the rules or the order. In assessing such penalties, the Executive Director shall consider the seriousness of the violation or violations and any good faith efforts to comply with applicable requirements.

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

- a. Orders and hearings are subject to the Administrative Procedures Act.²
- b. A final order following an enforcement hearing may assess an administrative penalty of an amount based upon consideration of the evidence but not exceeding the amount stated in the written order.
- c. The Department may adopt procedural rules as necessary and appropriate to implement the provisions of this section.

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

Laws 1985, c. 113, § 3, emerg. eff. May 30, 1985; Laws 1986, c. 180, § 5, emerg. eff. May 15, 1986; Laws 1990, c. 196, § 7, emerg. eff. May 10, 1990; Laws 1991, c. 173, § 11; Laws 1992, c. 403, § 28, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2012.1 and amended by Laws 1993, c. 145, §§ 109, 359, eff. July 1, 1993; Laws 1998, c. 186, § 2, eff. Nov. 1, 1998.

¹ Title 27A, § 2-7-101 et seq.

² Title 75, § 250 et seq.

Library References

Environmental Law 455, 456, 457.
Westlaw Topic No. 149E.

C.J.S. Health and Environment §§ 130, 140,
150, 156, 170.

**§ 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

27A § 2-7-127

ENVIRONMENTAL QUALITY CODE

Resource Conservation and Recovery Act,¹ the Department may require corrective action beyond a hazardous waste facility boundary as a condition of the issuance of a permit pursuant to the Oklahoma Hazardous Waste Management Act,² where necessary to protect human health and the environment, unless the owner or operator of the facility demonstrates that despite the owner's or operator's best efforts such owner or operator is unable to obtain the necessary permission to undertake such action. The Department may also require, as a condition of a permit issued pursuant to the Oklahoma Hazardous Waste Management Act, corrective action for all releases of hazardous waste from any solid waste management unit at a facility seeking a permit, regardless of the time the waste was placed in such unit. If such corrective action cannot be completed prior to issuance of the permit, such permit shall contain schedules of compliance for the corrective action required and assurances of financial responsibility for completing such corrective action.

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

C. The Department is authorized to require each owner or operator applying for a permit for a hazardous waste landfill or surface impoundment to submit with the permit application information reasonably ascertainable by the owner or operator concerning the potential exposure to the public of hazardous wastes as a result of releases from a hazardous waste unit. The Department shall be authorized to make exposure and health assessment information available to the public and to other state and federal agencies.

Laws 1986, c. 180, § 6, emerg. eff. May 15, 1986; Laws 1992, c. 403, § 30, eff. Sept. 1, 1992. Renumbered from Title 63, § 1-2012.3 and amended by Laws 1993, c. 145, §§ 110, 359, eff. July 1, 1993.

¹ 42 U.S.C.A. § 6901 et seq.

² Title 27A, § 2-7-101 et seq.

SOLID WASTE MANAGEMENT

27A § 2-10-301

~~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.~~

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

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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

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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;~~

~~"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

(a) **Incorporation date.** Except as provided in subsection (b), when reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified) the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through July 1, 2010.

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

[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; Amended at 27 Ok Reg 1170, eff 7-1-10; Amended at 28 Ok Reg 644, eff 7-1-11]

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 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]

~~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 register¹~~ ~~[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: ¹ This section was revoked in 2001 pursuant to Laws 2000, c. 130, § 3. This legislation, which became effective on 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 required¹~~
~~[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: ¹ This section was revoked in 2001 pursuant to Laws 2000, c. 130, § 3. This legislation, which became effective on 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]

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 Deposits" 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~~