

US EPA ARCHIVE DOCUMENT

OKLAHOMA ATTORNEY GENERAL'S STATEMENT FOR FINAL AUTHORIZATION
FOR NON-HSWA CHANGES TO THE FEDERAL RCRA PROGRAM
FROM JANUARY, 1983 THROUGH JUNE, 1986

I hereby certify, pursuant to my authority as Attorney General and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. 6901 et seq.), and 40 CFR Part 271 that in my opinion the laws of the State of Oklahoma provide adequate authority to carry out the revised program set forth in the addendum to the "Program Description" submitted by the Oklahoma State Department of Health. The specific authorities provided are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which are in effect now.

Statutory authority is provided by the Oklahoma Controlled Industrial Waste Disposal Act, as amended, 63 O.S. 1981 Sections 1-2001 et seq. The Act was last amended effective April 29, 1987. Pursuant to this Act, the Oklahoma State Department of Health issued Rules and Regulations for Industrial Waste Management, ODH Bulletin 0525, as last amended on October 29, 1987. These amended Rules and Regulations were adopted as emergency rules. They will become permanent rules unless affirmatively disapproved by the 1988 Oklahoma Legislature. Note that the regulations in Bulletin 0525 supercede previous regulations issued in the previous Bulletin 0525. The new regulations incorporate by reference the U.S. Environmental Protection Agency's hazardous waste management regulations, 40 CFR Parts 260-270, as amended through July 1, 1986, except for 40 CFR 260.20 through 260.22.

I. IDENTIFICATION AND LISTING

A. State statutes and regulations incorporate by reference lists of hazardous waste which encompass all wastes controlled under the following Federal regulations as indicated in the designated Revision Checklists:

- (1) Chlorinated aliphatic hydrocarbons, 40 CFR 261.31, as amended February 10, 1984 (49 FR 5308-15), Revision Checklist 4.
- (2) Warfarin and zinc phosphide listing, 40 CFR 261.33(e) and (f), as amended May 10, 1984 (49 FR 19923), Revision Checklist 7.
- (3) Listing of spent pickle liquor from steel finishing operations, 40 CFR 261.32, as amended May 28, 1986 (51 FR 19320), Revision Checklist 26.

(Federal Authority: RCRA Section 3001(b).)

Citation of Laws and Regulations

63 O.S. Supp. 1987 Sections 1-2002 and 1-2005
Rules 200 through 240

Remarks of the Attorney General

Rules 200 and 210 adopt 40 CFR Part 261 by reference. 63 O.S. Supp. 1987 Section 1-2002 defines controlled industrial waste. The definition of controlled industrial waste includes infectious material and tank bottoms containing heavy metallic ions. Domestic sewage is excluded. Further, recyclable materials are materials and byproducts which if discarded would be controlled industrial wastes which are not discarded but are processed into a product of beneficial use.

- B. State regulations presently incorporate by reference 40 CFR 261.3(c)(2)(ii) so as to exclude waste pickle liquor sludge generated by lime stabilization to the extent that such waste is excluded by that Section, as amended June 5, 1984 (49 FR 23287), as indicated in Revision Checklist 8.

(Federal authority: RCRA Section 3001; 40 CFR 261.3(c).)

Citation of Laws and Regulations

63 O.S. Supp. 1987 Sections 1-2002 and 1-2005
Rules 200 through 240

Remarks of the Attorney General

Rules 200 through 240 adopt 40 CFR 261.3(c)(2)(ii) by reference. However, it does not appear that the definition of controlled industrial waste in 63 O.S. Supp. 1987 Section 1-2002 will permit this exclusion to the extent allowed by Section 261.3(c)(2)(ii). This question should be resolved by appropriate State legislation. Because this exclusion is optional, authorization for the State program should not be affected.

- C. State statutes and regulations define hazardous waste such that no household wastes are excluded other than those household wastes excluded in 40 CFR 261.4(b)(1), as amended November 13, 1984 (49 FR 44980), and as indicated in Revision Checklist 9.

(Federal Authority: RCRA Section 3001; 40 CFR 261.4(b)(c).)

Citation of Laws and Regulations

63 O.S. Supp. 1987 Sections 1-2002 and 1-2005
Rules 200 through 240

Remarks of the Attorney General

Rules 200 through 240 adopt the Federal requirements by reference. It appears that the exclusion for "domestic sewage" under 63 O.S. Supp. 1987 Section 1-2002 is narrower than the federal exclusion for household waste. To avoid ambiguity, this question should be resolved by appropriate State legislation. Because the extent of this exclusion is optional, authorization for the State program should not be affected.

- D. State statutes and regulations incorporate the most recent edition and updates to "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846) as indicated in Revision Checklist 11, except for 40 CFR 260.21.

(Federal Authority: RCRA Sections 2002, 3001 and 40 CFR 260.11, 260.21 and 270.6(a) as amended December 4, 1984 (49 FR 47391).)

Citation of Laws and Regulations

63 O.S. Supp. 1987 Section 1-2005 and 63 O.S. 1981 Section 1-2007
Rules 200 through 240

Remarks of the Attorney General

Rules 200 through 240 adopt the Federal requirements by reference except for 40 CFR 260.21.

II. DEFINITION OF SOLID WASTE

- A. State statutes and regulations define hazardous waste and impose management standards so as to control recyclable materials controlled under the amendments to 40 CFR Parts 261, 264, 265 and 266 of January 4, 1985 (50 FR 614-669), April 11, 1985 (50 FR 14216-20), and August 20, 1985 (50 FR 33541-43) as indicated in relevant portions of Revision Checklist 13.

(Federal Authority: RCRA Sections 3001, 3004)

Citation of Laws and Regulations

63 O.S. Supp. 1987 Sections 1-2002 and 1-2005, and 63 O.S. 1981 Section 1-2009.1
Rules 200 through 240

Remarks of the Attorney General

Rules 200 through 240 adopt the Federal requirements by reference.

III. SATELLITE ACCUMULATION

State regulations presently incorporate by reference 40 CFR 262.34(c), which allows generators to accumulate at the site of generation, without a controlled industrial waste permit or interim status, as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste provided that the generator complies with the requirements specified in paragraph 262.34(c) as indicated in Revision Checklist 12.

(Federal Authority: RCRA Sections 2002, 3002, 3004, 3005 and 40 CFR 262.34(c) as amended December 20, 1984 (49 FR 49571).)

Citation of Laws and Regulations

63 O.S. Supp. 1987 Section 1-2005
Rules 200 through 240

Remarks of the Attorney General

Rules 200 through 240 adopt 40 CFR 262.34(c) by reference. However, it appears that the definition of controlled industrial waste in 63 O.S. Supp. 1987 Section 1-2002 will not permit such accumulation to the extent allowed by Section 262.34(c). This question should be resolved by appropriate State legislation. Because this allowance is optional, authorization for the State program should not be affected.

IV. APPLICABILITY OF INTERIM STATUS STANDARDS

State statutes and regulations contain the following requirements regarding interim status standards as indicated in Revision Checklists 3 and 10:

- (1) Interim status standards apply to facilities identified in 40 CFR 265.1(b).

(Federal Authority: RCRA Section 3004; 40 CFR Part 265 as amended November 22, 1983 (48 FR 52718) and November 21, 1984 (49 FR 46095).)

Citation of Laws and Regulations

63 O.S. Supp. 1987 Sections 1-2004.2(7) and 1-2005(C), and 63 O.S. 1981 Section 1-2009.1
Rules 200 through 240

Remarks of the Attorney General

Rules 200 through 240 adopt the Federal requirements by reference.

V. NATIONAL UNIFORM MANIFEST

State statutes and regulations require generators to use the national uniform manifest as indicated in Revision Checklist 5.

(Federal Authority: RCRA Sections 2002, 3002, 3003 and 40 CFR Parts 260 and 262 as amended March 20, 1984 (49 FR 10490).)

Citation of Laws and Regulations

63 O.S. Supp. 1987 Section 1-2004(5) and 63 O.S. 1981 Section 1-2010
Rules 200 through 240, 301, 320, and 420

Remarks of the Attorney General

The State requires all persons transporting controlled industrial waste off-site (generators and recyclers) to use the manifest form provided by the Department and to include the approved disposal plan number in the State Generator's I.D. space. This is more stringent than the Federal requirements.

VI. BIENNIAL REPORT

State statutes and regulations contain the following reporting requirements as indicated in Revision Checklist 1.

- (1) The biennial report contains the information indicated in 40 CFR 262.41(a).
- (2) Facilities must submit groundwater monitoring data annually to the State Director as indicated in 40 CFR 265.94.

(Federal Authority: RCRA Sections 3002, 3004; 40 CFR Parts 262 and 265 as amended January 28, 1983 (48 FR 3981-83).)

Citation of Laws and Regulations

63 O.S. Supp. 1987 Sections 1-2004(7), 1-2004(9), 1-2004(25), 1-2005, and 1-2008(G), and 63 O.S. 1981 Section 1-2009.1
Rules 200 through 240, 320, and 510

Remarks of the Attorney General

The State requires generators and recyclers to submit reports quarterly and include the amount of waste generated and copies of signed manifests. Treatment, storage and disposal facilities are required to submit monthly reports that include identification of the transporter of the waste and copies of the manifest. These requirements are more stringent than the Federal requirements.

Rules 200 through 240 adopt the Federal requirements by reference.

VII. STANDARDS FOR FACILITIES

- A. State statutes and regulations require the permittee to take steps to minimize releases to the environment in accordance with 40 CFR 270.30(d) as amended September 1, 1983, as indicated in Revision Checklist 2.

(Federal Authority: RCRA Section 3005(c).)

Citation of Laws and Regulations

63 O.S. Supp. 1987 Sections 1-2004(23) and 1-2005
Rules 200 through 240

Remarks of the Attorney General

Rules 200 through 240 adopt the Federal requirements by reference.

- B. State statutes and regulations require that closure and post-closure requirements and special requirements for containers apply to interim status landfills as indicated in Revision Checklist 15.

(Federal Authority: RCRA Section 3004; 40 CFR 265.310, .315 as amended April 23, 1985 (50 FR 16044).)

Citation of Laws and Regulations

63 O.S. Supp. 1987 Sections 1-2004, 1-2005 and 1-2009, and 63 O.S. 1981 Section 1-2009.1

Remarks of the Attorney General

Rules 200 through 240 adopt the Federal requirements by reference.

- C. State statutes and regulations require compliance with closure/post-closure and financial responsibility requirements applicable to owners and operators of hazardous waste treatment, storage and disposal facilities, as indicated in Revision Checklist 24.

(Federal Authority: RCRA Sections 3004 and 3005, 40 CFR 260, 264, 265, and 270 as amended May 2, 1986 (51 FR 16422).)

Citation of Laws and Regulations

63 O.S. Supp. 1987 Sections 1-2005 and 1-2009, and 63 O.S. 1981 Section 1-2009.1
Rules 200 through 240

Remarks of the Attorney General

Rules 200 through 240 adopt the Federal requirements by reference.

VIII. REQUIREMENTS FOR PERMITS

- A. Facility owners or operators are given the opportunity to correct deficient Part A applications in accordance with 40 CFR 270.70(b) before failing to qualify for interim status as indicated in Revision Checklist 6.

(Federal Authority: RCRA Section 3005; 40 CFR Part 270 as amended April 24, 1984 (49 FR 17716).)

Citation of Laws and Regulations

63 O.S. Supp. 1987 Section 1-2005 and 63 O.S. 1981 Section 1-2009.1
Rules 200 through 240

Remarks of the Attorney General

Rules 200 through 240 adopt the Federal requirements by reference.

IX. AVAILABILITY OF INFORMATION

State statutes and regulations provide that:

- (1) All records shall be available to the public unless they are exempt from the disclosure requirements of the Federal FOIA, 5 U.S.C. 552.
- (2) All nonexempt records will be available to the public upon request regardless of whether any justification or need for such records has been shown by the requestor.
- (3) The same types of records would be available to the public from the State as would be available from EPA.
- (4) Information is provided to the public and confidential business information is protected in substantial accordance with 40 CFR Part 2.

(Federal Authority: RCRA Section 3006(f); 40 CFR 271.17(c).)

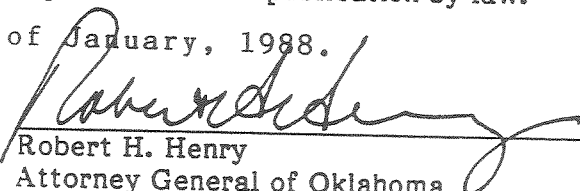
Citation of Laws and Regulations

51 O.S. Supp. 1987 Sections 24A.1-24A.18, and 63 O.S. Supp. 1987 Sections 1-2004(15)
and 1-2005
Rules 700 through 706

Remarks of the Attorney General

Rules 700 through 706 provide that the Department shall make information available to the public to the extent permitted by and in general accordance with 40 CFR Part 2, unless otherwise privileged or protected from publication by law.

Dated this 14th day of January, 1988.


Robert H. Henry
Attorney General of Oklahoma


Sara J. Drake
Assistant Attorney General