

US EPA ARCHIVE DOCUMENT

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APPENDIX A

OKLAHOMA CONTROLLED INDUSTRIAL WASTE DISPOSAL ACT
(As amended through 1987)

Title 63 O.S. Sec. 1-2001 et seq.

Note: The 1986 Supplement immediately follows the original act (as amended through 1981); the 1987 Session Laws (1987 amendments) immediately follow the 1986 supplement.

shall immediately act to rectify the problem and shall make a report of the incident and its correction to the Department.

Laws 1980, c. 241, § 39, eff. Oct. 1, 1980.

§ 1-1940. Violations declared public nuisance—Injunction—Request for investigation—Complaints

A. The operation or maintenance of a facility in violation of this act, or of the rules and regulations promulgated by the Department, is declared a public nuisance inimical to the public welfare. The Director in the name of the people of the state, through the Attorney General, or the district attorney of the county in which the facility is located, may, in addition to other remedies herein provided, bring action for an injunction to restrain such violation or to enjoin the future operation or maintenance of any such facility.

B. 1. Any person with personal knowledge or substantial specific information who believes that this act, a rule promulgated under this act, or a federal certification rule applying to a facility may have been violated may request an investigation. The request may be submitted to the Department in writing, by telephone, or personally. An oral complaint shall be reduced to writing by the Department. Provided that any person who willfully or recklessly makes a false request or a report without a reasonable basis in fact for such a request under the provisions of this act shall be liable in a civil suit for any actual damages suffered by a facility so requested to be investigated for any punitive damages set by the court or jury which may be allowed in the discretion of the court or jury when deemed proper by the court or jury.

2. The substance of the complaint shall be provided to the licensee, owner or administrator no earlier than at the commencement of the on-site inspection of the facility which takes place pursuant to the complaint.

3. The Department shall promulgate rules and regulations to protect the identity of the complainant, provided that said person is a present resident or resident's designated guardian or a present employee.

4. Upon receipt of a complaint, the Department shall determine whether this act, a rule promulgated under this act, or a federal certification rule for facilities has been or is being violated. A determination about a complaint which alleges a violation shall be made in writing, within thirty (30) days after the complaint's receipt. The determination shall state the reasons therefor.

5. In all cases, the Department shall inform the complainant of its findings within ten (10) days of its determination unless otherwise indicated by the complainant, and the complainant may direct the Department to send a copy of such findings to one other person. The notice of such findings shall include a copy of the written determination, the

correction order, if any, the warning notice, if any, and the state licensure of federal certification for, or both, on which the violation is listed.

6. A written determination, correction order or warning notice concerning a complaint shall be available for public inspection.

7. The Department shall issue a written determination signed by the Commissioner which shall serve as a final appealable order subject to trial de novo in the appropriate district court.

8. The Department shall establish any additional rules and regulations necessary for the investigation and hearing of complaints as provided herein, and is authorized to employ hearing officers, and hire attorneys to represent the Department and Commissioner to ensure that this and other laws pertaining to the Department are being properly executed. Laws 1980, c. 241, § 40, eff. Oct. 1, 1980.

§ 1-1941. Copies of complaints, inspection or survey results to Ombudsman Program of Special Unit on Aging

All state agencies receiving complaints on, or conducting surveys or inspections of, nursing home facilities shall forward complete copies of complaints or of inspection or survey results to the Ombudsman Program of the Special Unit on Aging. Laws 1980, c. 241, § 41, eff. Oct. 1, 1980.

§ 1-1942. Rules and regulations

The Department shall have the power to adopt rules and regulations in furtherance of the purpose of this act.

Laws 1980, c. 241, § 42, eff. Oct. 1, 1980.

§ 1-1943. Application of Administrative Procedures Act

The provisions of the Oklahoma Administrative Procedures Act¹ shall apply to all administrative rules and procedures of the Department under this act.

Laws 1980, c. 241, § 43, eff. Oct. 1, 1980.

¹ Section 301 et seq. of title 75.

ARTICLE 20. CONTROLLED INDUSTRIAL WASTE MANAGEMENT

§ 1-2001. Short title

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

Laws 1976, c. 251, § 1.

Renumbered from 63 O.S.1971 § 2751.

~~§ 1-2002. Definitions~~

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

1. "Controlled industrial waste" is defined as waste materials and byproducts, either solid or liquid, which are to be discarded by the generator, and which are toxic to human, animal, aquatic or plant

See 1987 Amendments

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

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

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

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

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

7. Require quarterly reports from all persons generating controlled industrial waste, or recyclable materials, indicating the amount generated, the treatment and disposal methods, and the treatment, disposal and recycling sites used;

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

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

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

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

12. Cooperate and share information with the ~~U.S. Environmental Protection Agency, and~~

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

Laws 1976, c. 251, § 4; Laws 1978, c. 260, § 3, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 4, eff. July 1, 1981. Renumbered from 63 O.S.1971 § 2754.

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

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

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

Health and Environment — 25.5(5).

~~**§ 1-2005. Rules, regulations and minimum standards**~~

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

1. Radioactive waste shall continue to be regulated by the Occupational and Radiological Health Service of the Environmental Health Services Branch of the State Department of Health;

2. The Corporation Commission of Oklahoma is hereby vested with exclusive jurisdiction, power and authority, and it shall be its duty to make and enforce such rules, regulations and orders governing and regulating the handling, hauling, storage and disposition of salt water, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing and processing of oil and gas, including reclaiming of oil from tank bottoms located on leases and tank farms located outside the boundaries of a refinery.

The Corporation Commission shall promulgate such rules and regulations as are reasonable and necessary for the purpose of preventing the pollution of the surface and subsurface waters in the state. The Oklahoma Corporation Commission shall, in no instance, issue a grant of operating authority to transport salt water or deleterious substances to any applicant for such authority who cannot furnish proof of ownership of a disposal well approved by ~~the Corporation Commission adequate to meet the~~

See 1982-1986 amendments.

Department has approved the plans of the person generating said waste or material as provided in paragraph 8 of Section 4 of this act¹. The manifest shall also set forth the type, amount, approximate content, origin and destination of the waste or material. The operator shall have the manifest in his possession while carrying or handling the controlled industrial waste or recyclable material and shall release the manifest to such person as is duly authorized to receive said waste or material at the time of delivery. Provided that no person other than a recycler shall accept the manifest unless such manifest has a properly assigned disposal plan number indicating that the Department has approved the plans of the person generating controlled industrial waste. Provided, further, that no person shall transport, receive, treat or dispose of controlled industrial waste or recyclable material without having the manifest in his possession.

Laws 1976, c. 251, § 11; Laws 1976, c. 260, § 10, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 12, eff. July 1, 1981.

¹ Section 2754 of this title.
Renumbered from 63 O.S.1971 § 2761.

§ 1-2011. Violations—Criminal penalties

Any person who violates any of the provisions of this act or the rules, regulations or standards promulgated by the Department shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment in the county jail for not more than six (6) months, or a fine of not less than Two Hundred Dollars (\$200.00) nor more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment. Each day or part of a day during which such violation is continued or repeated shall constitute a new and separate offense.

Laws 1976, c. 251, § 12; Laws 1978, c. 260, § 11, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 13, eff. July 1, 1981.
Renumbered from 63 O.S.1971 § 2762.

§ 1-2012. Violations—Civil penalties

In addition to any other remedies provided in this act, the Department shall, pursuant to rules and regulations adopted under Section 6 of this act:¹

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

2. Revoke the operating permit or license of any person who flagrantly and/or consistently violates the provisions of this act or the rules and regulations promulgated thereto, or which operates in such a manner as to cause or to continue in existence an environmentally unsafe condition. Such revocation may only take place following proper hearing, and will conform to provisions of the Administrative Procedures Act². Such person shall not be eligible for reissuance of a license when finally adjudicated as guilty of flagrant and consistent violations of this act;

3. Cause proceedings to be instituted in the district court having jurisdiction in the area where the alleged violation occurs seeking an injunction to

restrain a violation of this act or the rules, regulations or standards adopted hereunder and to restrain the maintenance of a public nuisance; and

4. Cause proceedings to be instituted in the district court having jurisdiction in the area where the alleged violation of this act or the rules and regulations of the State Board of Health occurs seeking a civil penalty of not more than Ten Thousand Dollars (\$10,000.00) per day or part of a day such violation occurs.

Laws 1976, c. 251, § 13; Laws 1978, c. 260, § 12, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 14, eff. July 1, 1981.

¹ Section 2756 of this title.
² Section 301 et seq. of Title 75.
Renumbered from 63 O.S.1971 § 2763.

§ 1-2013. Initiation and prosecution of actions

Upon request of the Commissioner of Health, the district attorney of the county in which any violation of this act occurs shall initiate and prosecute any civil or criminal proceeding provided by this act.

Laws 1978, c. 260, § 13, emerg. eff. May 10, 1978.
Renumbered from 63 O.S.1971 § 2763.1.

§ 1-2013.1. Intervention

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

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

§ 1-2014. Certain disposals prohibited

Section 1-2014 as amended by Laws 1981, c. 277, § 5, effective June 26, 1981

A. The practice of plowing controlled industrial waste into the soil surface for the purpose of disposal is hereby prohibited except pursuant to a plan approved by the Department for biodegradable or inert material. In addition, the site used for such disposal shall not be subject to flooding or extensive erosion. The provisions of Section 2757 of this title shall not apply to soil farming operations conducted on the producer's plant site.

B. No underground injection well or surface disposal site shall be allowed or permitted under this act if the site of such well is located over a major fresh groundwater basin, except pursuant to a plan approved by the Department. The plan shall contain such design criteria and groundwater monitoring provisions as deemed necessary by the Department to protect the quality of the basin water.

Laws 1976, c. 251, § 16; Laws 1978, c. 260, § 15, emerg. eff. May 10, 1978; Laws 1981, c. 277, § 5, emerg. eff. June 26, 1981.

For § 1-2014 as amended by Laws 1981, c. 322, § 16, see post

~~**§ 1-2014. Prohibited disposal**~~

~~*Section 1-2014 as amended by Laws 1981, c. 322, § 16, effective July 1, 1981*~~

~~A. The practice of plowing controlled industrial waste into the soil surface for the purpose of disposal is hereby prohibited except pursuant to a plan approved by the Department for biodegradable or inert material. In addition, the site used for such disposal shall not be subject to flooding or extensive~~

See 1987 amendments.

~~erection. The hearing provisions of Section 7 of this act¹ shall not apply to soil farming operations conducted on the generator's plant site or nearby property under the control of the generator.~~

B. No underground injection well or surface disposal site shall be allowed or permitted under this act if the site of such well is located over a major fresh groundwater basin, except pursuant to a plan approved by the Department. The plan shall contain such design criteria and groundwater monitoring provisions as deemed necessary by the Department to protect the quality of the basin water. Laws 1976, c. 251, § 16; Laws 1978, c. 260, § 15, emerg. eff. May 10, 1978; Laws 1981, c. 277, § 5, emerg. eff. June 26, 1981; Laws 1981, c. 322, § 16, eff. July 1, 1981.

¹ Section 2757 of this title.

Renumbered from 63 O.S.1971 § 2765.

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

BOARDS OF HEALTH

§§ 1 to 46.6. Repealed by Laws 1941, p. 462, § 1; Laws 1941, pp. 464, 466, §§ 4, 13; Laws 1945, p. 226, § 6; Laws 1955, p. 351, § 11; Laws 1963, c. 325, art. 17, § 1705.

Section 1 from:

Laws 1907-08, p. 706.
C.L.1909, § 340.
R.L.1910, § 6786.
C.S.1921, § 8666.

Sections 1.1 to 1.5 from:

Laws 1945, pp. 224 to 226, §§ 1 to 5.
Laws 1949, p. 421, § 1.

Section 2 from:

Laws 1915, c. 155, § 5.
C.S.1921, § 8668.
St.1931, § 4444.

Section 3 from:

Laws 1907-08, p. 706.
C.L.1909, § 341.
R.L.1910, § 6787.
C.S.1921, § 8667.
St.1931, § 4445.

Section 3.1 from:

Laws 1955, p. 354, § 12.

Section 4 from:

Laws 1907-08, p. 707.
C.L.1909, § 342.
R.L.1910, § 6788.
C.S.1921, § 8669.
St.1931, § 4446.

Section 5 from:

Laws 1907-08, p. 707.
C.L.1909, § 343.
R.L.1910, § 6789.
Laws 1915, c. 155, § 1.
C.S.1921, § 8670.

Section 6 from:

Laws 1929, c. 266, p. 391, § 4A.

Section 7 from:

Laws 1907-08, p. 707.
C.L.1909, § 344.
R.L.1910, § 6790.
Laws 1915, c. 155, § 2.
C.S.1921, § 8671.
St.1931, § 4447.

Section 8 from:

Laws 1907-08, p. 708.
C.L.1909, § 345.
R.L.1910, § 6791.

Laws 1915, c. 154, § 1.

C.S.1921, § 8672.

St.1931, § 4448.

Sections 9 to 15 from:

Laws 1907-08, pp. 708 to 712.
C.L.1909, §§ 346 to 351.
R.L.1910, §§ 6792 to 6798.
C.S.1921, §§ 8673 to 8679.
St.1931, §§ 4449 to 4455.

Section 16 from:

Laws 1910, p. 141.
Laws 1910-11, c. 81, p. 184, § 1.
R.L.1910, § 6799.
C.S.1921, § 8680.
St.1931, § 7770.

Sections 17 to 27 from:

Laws 1907-08, pp. 713 to 715.
C.L.1909, §§ 352 to 362.
R.L.1910, §§ 6800 to 6810.
C.S.1921, §§ 8681 to 8691.
St.1931, §§ 4456 to 4466.

Section 28 from:

Laws 1907-08, p. 715.
C.L.1909, § 363.
R.L.1910, § 6811.
C.S.1921, § 8692.
St.1931, § 4467.

Laws 1943, p. 148, § 1.

Section 29 from:

Laws 1907-08, p. 716.
C.L.1909, § 364.
R.L.1910, § 6812.
C.S.1921, § 8693.
St.1931, § 4468.

Section 30 from:

R.L.1910, § 6813.
C.S.1921, § 8694.
St.1931, § 4469.

Sections 31 to 34 from:

Laws 1907-08, pp. 716 to 718.
C.L.1909, §§ 365, 367, 369, 371.
R.L.1910, §§ 6814, 6816, 6818, 6819.
C.S.1921, §§ 8695, 8697, 8699, 8700.
St.1931, §§ 4470, 4472, 4474, 4475.

Section 35 from:

Laws 1923, c. 168, p. 271, § 2.
St.1931, § 4531.

Sections 36, 37 from:

Laws 1945, p. 226, §§ 1, 2.

Sections 37.1 to 37.7 from:

Laws 1953, pp. 294 to 296, §§ 1 to 7.

Sections 37.8 to 37.16 from:

Laws 1955, pp. 349 to 351, §§ 1 to 9.

Sections 38.1 to 38.4 from:

Laws 1959, pp. 33, 34, §§ 1 to 4.

Sections 39.1 to 39.4 from:

Laws 1959, p. 499, §§ 1 to 3, 5.

Section 41 from:

Laws 1947, p. 396, § 1.

Sections 46.1 to 46.6 from:

Laws 1949, pp. 435, 436, §§ 1 to 7.

See disposition table preceding § 1-101 of this title.

CHAPTER 2.—UNIFORM CONTROLLED DANGEROUS SUBSTANCES ACT

ARTICLE I. DEFINITIONS; DIRECTOR OF THE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL; ADVISORY BOARD

Sec.

- 2-101. Definitions.
- 2-101.1. Drug paraphernalia—Factors used in determining.
- 2-102. Bureau of the Narcotics and Dangerous Drugs Control.
- 2-102a. Transfer of personnel and materials.
- 2-103. Director—Appointment and powers—Agents.
- 2-104. Advisory Board.

- ¹ Section 3901 et seq. of title 74.
² Section 1-1901 et seq. of this title.
³ Section 1-819 et seq. of this title.
⁴ Section 500.1 et seq. of title 74.

Section 2 of Laws 1986, c. 16 provides for an effective date.

§ 1-1925.1. Long-term care facilities—Visiting or residential animals

The State Board of Health shall establish rules and regulations allowing the use of visiting or residential animals in selected long-term health care facilities in this state. Long-term health care facilities which want animals shall be required to apply to the State Department of Health for approval for residential animals. Such rules and regulations shall be established giving consideration to disease prevention, sanitation, prevention of injury to patients and animals, and other concerns deemed appropriate by the Board.

Added by Laws 1984, c. 52, § 1, eff. Nov. 1, 1984.

Section 2 of Laws 1984, c. 52 provides for an effective date.

Title of Act:

An Act relating to public health and safety; directing The State Board of Health to establish rules and regulations for the use of visiting or residential animals in selected long-term health care facilities; requiring certain health considerations; providing for codification; and providing an effective date. Laws 1984, c. 52.

§ 1-1928. Rules and regulations for transfer of residents by facility or home

The Department shall develop reasonable rules and regulations that establish appropriate criteria for the transfer of residents initiated by a facility or a home, including notice and hearings if the resident is aggrieved by the decision. The primary purpose and emphasis of the departmental rules and regulations shall be the preservation of the health, welfare, and safety of the residents.

The process of developing these rules and regulations shall include the consideration of advice and comments from the Long-Term Care Facility Advisory Board, representatives of nursing homes, room and board homes, and representatives of statewide organizations for the elderly.

Amended by Laws 1984, c. 128, § 6, eff. Nov. 1, 1984.

§ 1-1929. Rules and regulations for transfer of resident by Department

The Department shall develop reasonable rules and regulations that establish appropriate criteria for the transfer of residents initiated by the Department in emergency situations, including notice and hearings if the resident is aggrieved by the decision. The primary purpose and emphasis of the departmental rules and regulations shall be the preservation of the health, welfare, and safety of the residents. In addition, the Department of Human Services shall cooperate with the Health Department and the Department of Mental Health to provide assistance in relocation of residents, to provide case-work services, and in other ways to minimize the impact of the transfer on the residents.

In the development of these rules and regulations, the Department shall consider advice and comments from the Long-Term Care Facility Advisory Board, representatives of the nursing home room and board home industries, and representatives of statewide organizations for the elderly. Amended by Laws 1984, c. 128, § 7, eff. Nov. 1, 1984.

ARTICLE 20. CONTROLLED INDUSTRIAL WASTE MANAGEMENT

§ 1-2004. Duties of Department of Health

The Department shall have the following powers and duties:

1. Issue permits for the construction and operation of controlled industrial waste facilities;
2. Provide the owner or operator of a controlled industrial waste facility a list of all materials which the Department deems acceptable for treatment, recycling, storage, and disposal at the facility;
3. Make periodic inspections of controlled industrial waste facilities and recycling, transporting, and generating facilities to determine the extent of compliance with the Department's rules and regulations and the Oklahoma Controlled Industrial Waste Disposal Act;¹
4. Develop, maintain, and monitor public records of the source and amount of controlled industrial waste and recyclable materials generated in Oklahoma and the methods used to dispose of, recycle, or treat said waste or material;
5. Require and prescribe manifest forms to all persons generating and transporting controlled industrial waste or recyclable materials offsite for storage, recycling, treatment, or disposal;
6. Require and approve or disapprove disposal plans from all persons generating controlled industrial waste or shipping controlled industrial waste within, from, or into Oklahoma indicating the amount of controlled industrial waste generated, the handling, storage, treatment, and disposal methods, and the controlled industrial waste facilities used. The disposal plans shall be kept current by the persons generating or shipping controlled industrial waste and the Department shall be advised within five (5) working days of any changes in the disposal plans. The disposal plans shall be required for controlled industrial wastes which are to be treated or disposed. Persons storing or shipping recyclable materials in an environmentally acceptable manner for the purpose of recycling shall be required to file disposal plans only for those wastes which are to be disposed;
7. Require reports from all persons generating controlled industrial waste, or recyclable materials, indicating the amount generated, the treatment and disposable methods, and the treatment, disposal, and recycling sites used. Such reports are to be made on at least a quarterly basis;

Every generator of controlled industrial waste shall supply the Department with information for the clearinghouse. Each generator shall not be required to supply any more information than is required by the manifests. The Department shall make this information available to persons who desire to recycle the wastes. The information shall be made available in such a way that the trade secrets of the producer are protected.

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

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

§ 1-2004.2. Rules and regulations

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

1. Prohibit the placement of any liquid which is not a controlled industrial waste in a landfill for which a permit is required or which is operating under interim status authorized pursuant to Section 1-2009.1 of Title 63 of the Oklahoma Statutes;
2. Prohibit or restrict the storage of controlled industrial waste for which land disposal is prohibited, except to the extent that such storage is solely for the purpose of accumulation of such quantities of controlled industrial wastes as are necessary to facilitate proper recovery, treatment, or disposal;
3. Prohibit or restrict the use of waste or used oil or other material used for dust suppression or road treatment, which is contaminated or mixed with dioxin or any other waste identified or listed by rules and regulations of the Board as a controlled industrial waste except a waste identified solely on the basis of ignitability;
4. Require such monitoring and control of air emissions at controlled industrial waste treatment, storage, and disposal facilities, including but not limited to open tanks, surface impoundments, and landfills, as may be necessary to protect human health and the environment;
5. Regulate the production, burning, distribution, and marketing of fuel containing controlled industrial waste as may be necessary to protect human health and the environment including, but not limited to, labeling and recordkeeping requirements;
6. Control the listed or identified controlled industrial wastes which discharge through a sewer system to a publicly owned treatment works for the protection of human health and the environment;
7. Provide in accordance with Section 3005(e) of the Resource Conservation and Recovery Act¹ for the automatic termination of interim status for controlled industrial waste units failing to comply with applicable requirements for the submission of part B permit applications and certification of groundwater monitoring and financial responsibility compliance;

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

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

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

Added by Laws 1986, c. 180, § 2, emerg. eff. May 15, 1986.

¹ 42 U.S.C.A. § 6925.

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

§ 1-2005. Rules, regulations and minimum standards

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

1. Radioactive waste shall continue to be regulated by the Occupational and Radiological Health Service of the Environmental Health Services Branch of the State Department of Health;
2. The Corporation Commission of Oklahoma is hereby vested with exclusive jurisdiction, power and authority, and it shall be its duty to make and enforce such rules, regulations and orders governing and regulating the handling, hauling, storage and disposition of salt water, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing and processing of oil and gas, including reclaiming of oil from tank bottoms located on leases and tank farms located outside the boundaries of a refinery.

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

hardship on the applicant so that continued operation by the applicant would be jeopardized.

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

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

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

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

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

A. Regarding a construction permit application for a controlled industrial waste facility, the board of county commissioners of the county in which the waste facility is located and the board of county commissioners of any county contiguous to the waste facility whose roads and bridges are to be used to provide access to the proposed waste facility shall review the county road classification plans as described in Section 654 of Title 69 of the Oklahoma Statutes and substantiate whether the county roads and bridges to be used to and from such controlled industrial waste facility in their respective counties may be used without any substantial detriment to said roads and bridges as provided in Section 14-113 of Title 47 of the Oklahoma Statutes. If any of said board of county commissioners finds that substantial detriment to the roads and bridges in their respective counties would occur, said board shall determine reasonable measures necessary to upgrade the roads and bridges and allow the applicant for a controlled industrial waste facility to upgrade or pay for the upgrading of said roads and bridges if the applicant receives a construction permit.

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

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

2. The applicant has agreed to upgrade or pay for the upgrading of the roads and bridges to the reasonable measures determined by the appropriate

board of county commissioners or to the design standards established by the Oklahoma Department of Transportation for industrial access roads.

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

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

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

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

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

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

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

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

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

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

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

B. Except as otherwise specifically provided by law, the disposal of any liquid controlled industrial

an owner or operator pursuant to the Oklahoma Controlled Industrial Waste Disposal Act. Amended by Laws 1986, c. 140, § 1, emerg. eff. April 21, 1986.

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

² 11 U.S.C.A. § 101 et seq.

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

⁴ 42 U.S.C.A. § 9601.

§ 1-2009. Monitoring of closed facility

After a controlled industrial waste facility has been closed, its owner or operator shall properly maintain and monitor the controlled industrial waste facility for a period of time required by rules and regulations of the State Board of Health and shall make such repairs or improvements as deemed necessary by the Department to ensure that no migration of controlled industrial waste material will occur from the controlled industrial waste facility. The rules and regulations of the Board which specify the period of time for maintenance and monitoring of closed facilities shall be in compliance with the hazardous waste rules and regulations of the U.S. Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act.¹ Amended by Laws 1985, c. 113, § 2, emerg. eff. May 30, 1985.

¹ 42 U.S.C.A. § 6901 et seq.

§ 1-2012.1. Orders

In addition to any other remedies provided in the Oklahoma Controlled Industrial Waste Disposal Act,¹ the Department, pursuant to rules and regulations, may issue a written order to any person whom the Department has reason to believe is presently in violation of any rule or rules adopted by the Board pursuant to the Oklahoma Controlled Industrial Waste Disposal Act and to whom the Department has served, no less than fifteen (15) days previously, a written notice of violation of such rule or rules.

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

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

2. Any order issued pursuant to this section shall become a final order unless, no later than thirty (30) days after the order is served, the person or persons named therein request an administrative hearing. Upon such request the Department shall promptly conduct the hearing. The Department

shall dismiss such proceedings where compliance with the order is demonstrated.

- a. Orders and hearings are subject to the Oklahoma Administrative Procedures Act.²
- b. A final order following a hearing may assess an administrative fine of an amount based upon consideration of the evidence but not exceeding the amount stated in the written order.

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

Added by Laws 1985, c. 113, § 3, emerg. eff. May 30, 1985. Amended by Laws 1986, c. 180, § 5, emerg. eff. May 15, 1986.

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

² Section 301 et seq. of title 75.

§ 1-2012.2. Administrative fines—Disposition and use

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

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

¹ Section 1-2018 of this title.

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

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

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

Added by Laws 1982, c. 202, § 4.

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

§ 1-2019. Assistance to political subdivisions

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

Added by Laws 1982, c. 202, § 5. Amended by Laws 1986, c. 229, § 2, emerg. eff. June 10, 1986.

§ 1-2020. Rules and regulations

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

Added by Laws 1982, c. 202, § 6.

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

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

Added by Laws 1982, c. 202, § 7.

ARTICLE 21. CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT [NEW]

§ 1-2101. Short title

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

Added by Laws 1983, c. 27, § 1.

Title of Act:

An Act relating to public health and safety; providing short title; adopting the Central Interstate Low-Level Radioactive Waste Compact; stating management policy and purpose; defining terms; stating procedures and responsibilities; establishing the Central Interstate Low-Level Radioactive Waste Commission and providing for commission's membership, powers and duties; providing for selection of regional disposal site(s); allowing for other laws and

regulations; designating eligible parties and procedures for withdrawal, revocation, entry into force and termination of compact; providing for enforcement; providing severability and liberal interpretation; authorizing governor to execute compact; appointing the commissioner of health as the commission members; providing for promulgation of rules and regulations; designating the corporation commission as the rate review agency; providing for certain studies; and providing for codification. Laws 1983, c. 27.

Complementary legislation:

Ark.—Ark.Stats. §§ 82-4401 to 82-4405.

Kan.—K.S.A. 65-34a01 et seq.

La.—LSA—R.S. 30:1117 to 30:1120.

Neb.—Laws 1983, LB 200.

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

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

ARTICLE I. POLICY AND PURPOSE

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

ARTICLE II. DEFINITIONS

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

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

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

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

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

E. "Generator" means any person who, in the course of or as an incident to manufacturing, power generation, processing, medical diagnosis and treat-

1987 SESSION LAWS (1987 amendments)

Ch. 51

LAWS FORTY-FIRST LEGISLATURE

INDUSTRIAL WASTE CONTROL—OFF-SITE AND ON-SITE TREATMENT—STORAGE OR DISPOSAL

CHAPTER 51

H.B.No. 1353

AN ACT RELATING TO PUBLIC HEALTH AND SAFETY;
AMENDING 63 O.S., 1981, SECTIONS 1-2002 AND 1-2014,
WHICH RELATE TO THE OKLAHOMA CONTROLLED INDUSTRIAL
WASTE DISPOSAL ACT; MODIFYING DEFINITIONS;
MODIFYING CERTAIN PROHIBITED DISPOSAL ACTIVITIES;
MAKING CERTAIN DISPOSAL PRACTICES ILLEGAL;
PROVIDING FOR APPROVAL OF CERTAIN PLANS;
SPECIFYING CONTENT OF PLAN; PROVIDING EXCEPTIONS;
PROVIDING PROCEDURES; PROVIDING FOR APPROVAL OF
PERMIT; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 1981, Section 1-2002, is amended to read as follows:

Section 1-2002. As used in this act, unless the context otherwise requires:

1. "Controlled industrial waste" is defined as waste materials and byproducts, either solid or liquid, which are to be discarded by the generator, and which are toxic to human, animal, aquatic or plant life and which are generated in such quantity that they cannot be safely disposed of in properly operated, state-approved sanitary landfills, waste or sewage treatment facilities. Controlled industrial waste may include but is not limited to explosives, flammable liquids, spent acids, caustic solutions, poisons, containerized gases, sludge, tank bottoms containing heavy metallic ions, toxic organic chemicals, infectious materials, and materials such as paper, metal, cloth or wood which are contaminated with controlled industrial waste, and excludes domestic sewage;

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

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

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

5. "Division" means the Controlled Industrial Waste Management Division;

6. "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;

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

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B. No- industrial site shall be well-is-tees groundwater Oklahoma Geology Department groundwater Department t groundwater

C. A CO treatment, a principal ge Oklahoma Geology for off-site

Addition

other area of the State without the prior written approval of a plan by the affected property owners as such term is defined in Section 1-106 of this title. Such plan shall provide for the minimization of hazards to the health and property of such affected property owners from emergency situations or from sudden or nonsudden releases of controlled industrial waste or constituents thereof.

If, after the applicant has made a reasonable effort to negotiate said plan with the affected property owners and has acquired the written approval of a majority of the affected property owners, the applicant may certify to the State Department of Health that such reasonable effort had been made and that a minority of the affected property owners would not consent. The State Department of Health may then issue said permit if it meets all other requirements.

D. The provisions of this section shall apply to:

1. Applications for future proposed sites;

2. Pending applications for construction permits; and

3. Applications for construction permits to modify existing storage or treatment facilities which have either a permit or interim status.

E. The provisions of subsections C and D shall not apply to applications to increase existing storage 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.

Approved April 29, 1987. Emergency.

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**PROFESSIONS AND OCCUPATIONS—BAIL BONDSMEN—
FORFEITURE PROCEDURES**

CHAPTER 52

H.B.No. 1003

AN ACT RELATING TO PROFESSIONS AND OCCUPATIONS; AMENDING 59 O.S. 1981, SECTION 1332, AS LAST AMENDED BY SECTION 24, CHAPTER 225, O.S.L. 1984 (59 O.S. SUPP. 1986, SECTION 1332), WHICH RELATES TO BAIL BOND FORFEITURE PROCEDURES; MODIFYING TIME OF EXONERATION FROM LIABILITY OF INSURERS AND BONDSMEN UNDER CERTAIN CIRCUMSTANCES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1981, Section 1332, as last amended by Section 24, Chapter 225, O.S.L. 1984 (59 O.S. Supp. 1986, Section 1332), is amended to read as follows:

Additions in text are indicated by underlines; deletions by strikeouts