

US EPA ARCHIVE DOCUMENT

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PUBLIC HEALTH AND SAFETY

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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 Act<sup>1</sup> shall apply to all administrative rules and procedures of the Department under this act.

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

<sup>1</sup> 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

\* For overstricken sections, see 1988 Supplement.

~~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;

8. "Treatment facility" means any location where treating of controlled industrial waste occurs, but does not include a facility engaged only in recycling;

9. "Recycling" means the reuse, processing, treating, neutralizing or rerefining of materials and byproducts which, if discarded, would be controlled industrial waste into a product of beneficial use;

10. "Recyclable materials" means those materials and byproducts which if discarded would be controlled industrial waste;

11. "Storage facility" means any location where the temporary holding of controlled industrial waste or recyclable material occurs, including any tank, pit, lagoon, pond, or other specific place or area;

12. "Controlled industrial waste facility" as used herein shall mean and include storage and treatment facilities and disposal sites;

13. "Board" means the State Board of Health; and

14. "Council" means the Controlled Industrial Waste Management Council.

~~Laws 1976, c. 251, § 2; Laws 1978, c. 260, § 1, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 1, eff. July 1, 1981.~~  
Renumbered from 63 O.S.1971 § 2752.

**§ 1-2003. Controlled Industrial Waste Management Division**

There is hereby created a Controlled Industrial Waste Management Division within the State De-

partment of Health. The Division shall consist of a Director, who shall be hired by the Commissioner of Health, and additional employees to be hired by the Commissioner as he deems are necessary and duly qualified to carry out the provisions of this act. As a prerequisite for employment as a Director, the Director shall have expertise and at least two (2) years' experience in waste management, and shall have a degree in chemistry or engineering. The Director shall be subject to the Merit System of Personnel Administration, and all employees hired by the Commissioner shall be subject to the Merit System.

Laws 1976, c. 251, § 3; Laws 1978, c. 260, § 2, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 2, eff. July 1, 1981.  
Renumbered from 63 O.S.1971 § 2753.

**§ 1-2003.1. Controlled Industrial Waste Management Council**

There is hereby created a Controlled Industrial Waste Management Council to represent the interests of the people of Oklahoma. The Council shall consist of nine (9) members to be appointed by the Governor and confirmed by the Senate. All members shall be knowledgeable of controlled industrial waste and of the environment; two members shall be from Oklahoma industries, two from established environmental organizations, and one each from the fields of agriculture, engineering, geology and controlled industrial waste management, respectively, and one member of the general public. The initial appointments shall be for progressive terms of one (1) through nine (9) years so that only one term expires each calendar year; subsequent appointments shall be for nine-year terms. Members shall continue to serve until their successors are appointed. The Governor shall fill any vacancy for the remainder of such term in the same manner as regular appointments. Five members shall constitute a quorum.

Said Council shall elect a chairman and a vice-chairman from among its members and establish its methods of procedure. The Council shall meet at least twice annually. Special meetings may be called by the chairman or by the concurrence of any three members. Members of the Council shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act.<sup>1</sup> The Council shall receive appropriations only for such reimbursement. The Council is authorized to utilize the conference rooms of the State Department of Health and obtain administrative assistance from the Director.

Laws 1981, c. 322, § 3, eff. July 1, 1981.  
<sup>1</sup> Section 500.1 et seq. of title 74.

~~**§ 1-2004. Duties of Department of Health**~~

The Department shall have the following duties:

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

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

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

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

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

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

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

8. Require monthly reports from all operators of controlled industrial waste facilities who 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

~~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 further, on or before December 31, 1982, existing carriers holding such operating authority shall furnish proof of ownership or certify access to an approved disposal well. Failure to comply may, at the discretion of the Commission, result in suspension of carrier's operating authority.

The proven violation of Oklahoma Corporation Commission salt water and deleterious substance disposal rules and regulations by a carrier in any calendar year shall, in the first instance, result in a carrier being warned by the Commission and fined up to One Thousand Dollars (\$1,000.00). A second proven violation in any calendar year shall result in a carrier being placed on probation and fined up to Two Thousand Five Hundred Dollars (\$2,500.00) by the Commission. A third proven violation in any calendar year shall result in a fine of up to Five Thousand Dollars (\$5,000.00) and at the discretion of the Commission, suspension of the carrier's operating authority for a period of up to thirty (30) days;

3. The State Department of Agriculture is hereby vested with the exclusive jurisdiction, power and authority to make and enforce such rules, regulations and orders concerning those materials excluded by the U.S. Environmental Protection Agency pursuant to the small farmer exclusion, as it exists or may be amended; and

4. Rules and regulations pertaining to standards for the transportation of controlled industrial waste and recyclable materials shall not be more stringent than those of the U.S. Department of Transportation.

B. Before recommending such rules, regulations and standards, as set out in subsection A of this section, the Department shall consult with interested state and local governmental bodies and with federal regulatory agencies. At least one public hearing shall be held on the proposed rules, regulations and standards.

C. The present rules and regulations of the State Department of Health and the Oklahoma Water Resources Board shall remain effective until the adoption of new rules and regulations by the State Board of Health. Insofar as permitted by law, the rules and regulations promulgated by the Board shall be in reasonable accord with the hazardous waste regulations of the U.S. Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act<sup>1</sup>. Such rules and regulations may incorporate by reference the hazardous waste regulations of the U.S. Environmental Protection Agency.

D. The provisions of this act shall be cumulative to the minimum requirements established by the Administrative Procedures Act<sup>2</sup>.

~~Laws 1976, c. 251, § 6; Laws 1978, c. 260, § 5, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 6, eff. July 1, 1981.~~

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

<sup>2</sup> Section 301 et seq. of Title 75.

Renumbered from 63 O.S.1971 § 2756.

### § 1-2006. Definitions — Permits — Hearing — Notice—Review

A. For the purposes of this section:

1. "Affected property owners" means all real property owners within one (1) mile of the outer perimeter of the proposed site; and

2. "Qualified interest group" means any organization with twenty-five or more members who must be legal residents of the State of Oklahoma, that expresses an interest in the outcome of the construction permit application.

B. The Department shall issue permits for the construction and for the operation of controlled industrial waste facilities. A construction permit shall be issued only upon proper application, hearing, if requested, and determination by the Department that the proposed site and facility are physically and technically suitable. Upon submission of an application for a construction permit, which shall be a public record, the applicant shall notify affected property owners.

C. In addition to the notice required by subsection B of this section, and prior to issuing any construction or operation permit, the Department shall require the applicant to give notice, by newspapers and radio stations local to the controlled industrial waste facility proposed for a permit, of opportunity to oppose the granting of such permit by requesting an informal public meeting. If within forty-five (45) days of such notice, the Department receives from any person residing or doing business in Oklahoma, written notice of opposition and request for informal public meeting, it shall hold the same and allow opportunity for presentation of written and oral views. Whenever possible, the Department shall hold such informal public meetings at a location convenient to the population center nearest the proposed site, and prior to any related hearing pursuant to subsection B of this section.

D. If any of the affected property owners or qualified interest groups request a public hearing, such hearing shall be held before a construction permit is issued. All affected property owners and qualified interest groups who request a hearing shall be joined at the hearing. At any requested hearing, the Department shall hear testimony and accept evidence pertaining only to the physical and technical suitability of the proposed controlled industrial waste facility.

E. Upon a finding that a proposed controlled industrial waste facility is not physically or technically suitable, the Department shall deny the construction permit.

F. The Department may, upon determining that public health or safety requires emergency action, issue a temporary permit for treatment or storage of controlled industrial waste or recyclable material for a period not to exceed ninety (90) days without the prior notices and opportunity for public meeting and without the hearing required by this section. Any

person aggrieved by such permit may seek judicial review pursuant to the Administrative Procedures Act<sup>1</sup>.

Laws 1976, c. 251, § 7; Laws 1978, c. 260, § 6, emerg. eff. May 10, 1978; Laws 1979, c. 137, § 1; Laws 1981, c. 322, § 7, eff. July 1, 1981.

<sup>1</sup> Section 301 et seq. of Title 75.

Renumbered from 63 O.S.1971 § 2757.

**§ 1-2007. Criteria for controlled industrial waste facility**

The Department shall prepare for adoption by the Board definite criteria, including testing methods and minimum or maximum standards, before construction of a controlled industrial waste facility shall proceed. The design, testing and construction of a controlled industrial 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; Laws 1981, c. 322, § 8, eff. July 1, 1981.

Renumbered from 63 O.S.1971 § 2758.

~~**§ 1-2008. Permits Application Liability insurance—Bond—Financial responsibility—Operation of facility**~~

A. The Department shall issue permits for the operation of controlled industrial waste facilities. No operation permit shall be issued except upon proper application, proof of sufficient liability insurance and financial responsibility, informal public meeting, if requested, and such other requirements as hereinafter provided.

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 and regulations 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 this act, an equivalent amount of cash, or securities 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 guaranteeing the performance of the maintenance and monitoring functions set out in Section 41 of this act<sup>1</sup>.

D. 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 controlled industrial waste facility as required by this act. If the applicant is not financially able to operate and maintain a controlled

industrial waste facility, as required by this act, a permit shall be denied.

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

F. 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.

Laws 1976, c. 251, § 9; Laws 1978, c. 260, § 8, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 9, eff. July 1, 1981.

<sup>1</sup> Section 2760 of this title.

Renumbered from 63 O.S.1971 § 2759.

~~**§ 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 not more than thirty (30) years as determined by the Department at the time of issuance of the permit 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.

Laws 1976, c. 251, § 10; Laws 1978, c. 260, § 9, emerg. eff. May 10, 1978; Laws 1981, c. 322, § 11, eff. July 1, 1981.

Renumbered from 63 O.S.1971 § 2760.

**§ 1-2009.1. Controlled industrial waste facility permit required—Recycling facilities**

No person shall store, treat or dispose of controlled industrial waste or store recyclable materials or commence construction of or own or operate any premises or facility engaged in the operation of storing, treating or disposing of controlled industrial waste or storing recyclable materials, who does not possess a valid and appropriate controlled industrial waste facility permit. Provided that any person who owned or operated a controlled industrial 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. Facilities engaged only in recycling shall conduct operation of the facility in an environmentally acceptable manner and in accordance with the rules and regulations regarding the manifest, transportation and storage requirements, and generators in the event a controlled industrial waste is generated therefrom.

Laws 1981, c. 322, § 10, eff. July 1, 1981.

Health and Environment —25.5(5).

**§ 1-2010. Manifest provided to driver**

Persons generating controlled industrial waste or recyclable materials shall provide the operator of any mode of any offsite transportation carrying controlled industrial waste or recyclable materials a manifest in a form which has been prescribed by the Department, indicating a disposal plan number assigned by the Department which shows that the

Department has approved the plans of the person generating said waste or material as provided in paragraph 8 of Section 4 of this act<sup>1</sup>. 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.

<sup>1</sup> 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:<sup>1</sup>

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 Act<sup>2</sup>. 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.

<sup>1</sup> Section 2756 of this title.  
<sup>2</sup> 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~~

dents. 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 residential care home industries, and representatives of statewide organizations for the elderly. Amended by Laws 1984, c. 128, § 7, eff. Nov. 1, 1984; Laws 1987, c. 98, § 29, emerg. eff. May 20, 1987.

ARTICLE 20. CONTROLLED INDUSTRIAL WASTE MANAGEMENT

§ 1-2002. Definitions

As used in this act,<sup>1</sup> 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 land fills, 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;

8. "Treatment facility" means any location where treating of controlled industrial waste occurs,

but does not include a facility engaged only in recycling;

9. "Recycling" means the reuse, processing, treating, neutralizing or rerefining of materials and byproducts which, if discarded, would be controlled industrial waste into a product of beneficial use;

10. "Recyclable materials" means those materials and byproducts which if discarded would be controlled industrial waste;

11. "Storage facility" means any location where the temporary holding of controlled industrial waste or recyclable material occurs, including any tank, pit, lagoon, pond, or other specific place or area;

12. "Controlled industrial waste facility" as used herein shall mean and include storage and treatment facilities and disposal sites;

13. "Board" means the State Board of Health;

14. "Council" means the Controlled Industrial Waste Management Council;

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

16. "On-site treatment, storage or disposal" means the treatment, storage or disposal at a controlled industrial waste facility of controlled industrial waste generated by the owner of the facility;

17. "Off-site treatment, storage or disposal" means the treatment, storage or disposal at a controlled industrial waste facility of controlled industrial waste not generated by the owner of the facility; and

18. "Multi-user on-site treatment facility" means a treatment facility for controlled industrial waste generated by the co-owners of the facility and which meets the criteria specified by Section 2 of this act.<sup>2</sup> Amended by Laws 1987, c. 51, § 1, emerg. eff. April 29, 1987; Laws 1988, c. 54, § 1, eff. Nov. 1, 1988.

<sup>1</sup> Section 1-2001 et seq. of this title.

<sup>2</sup> Section 1-2008.1 of this title.

Section 3 of Laws 1988, c. 54, provides for an effective date.

§ 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;<sup>1</sup>

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;

8. Require periodic reports or manifest certifications regarding such programs and efforts to reduce the volume or quantity and toxicity of such controlled industrial waste as may be required by or pursuant to authority of the Oklahoma Controlled Industrial Waste Disposal Act;

9. Require reports from all operators of controlled industrial waste facilities who receive controlled industrial waste for treatment or storage or disposal, listing the amount, transporter, and generator of all controlled industrial waste received. Such reports are to be made on at least a monthly basis;

10. Approve or disapprove methods of disposal of controlled industrial waste, and may prohibit certain specific disposal practices including, but not limited to, any type of land disposal of any form of such waste. Land disposal includes, but is not limited to, landfills, surface impoundments, waste piles, deep injection wells, land treatment facilities, salt dome and bed formations and underground mines or caves;

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

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

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

14. Prepare an emergency response plan for spills of controlled industrial waste and for spills of hazardous materials;

15. Make information obtained by the Department regarding controlled industrial waste facilities and sites available to the public in substantially the same manner, and to the same degree, as would be the case if the controlled industrial waste program in this state were being carried out by the U.S. Environmental Protection Agency;

16. With respect to any existing surface impoundment or class of surface impoundments or landfills from which the Department determines controlled industrial waste is likely to migrate into groundwater, impose such requirements, including double liners, as may be necessary to protect human health and the environment;

17. Prohibit or restrict the use of any specific disposal methods or practices for specific controlled industrial waste material, substances or classes, as may be necessary to protect human health and the environment;

18. Identify areas within the state which are unsuitable for specific controlled industrial waste disposal methods, and deny permits for such disposal methods in such areas;

19. Issue a one-year research development and demonstration permit for any treatment facility which proposes an innovative and experimental controlled industrial waste treatment technology or process not yet regulated. Permits may be renewed no more than three times. No renewal may exceed one (1) year;

20. Waive or modify general permit application and issuance requirements for research and development permits, except for financial responsibility and public participation requirements;

21. Terminate experimental activity if necessary to protect human health and the environment;

22. Require oil recycling facilities using controlled industrial waste to have a controlled industrial waste facility permit;

23. Issue permits containing any conditions necessary to protect human health and the environment;

24. Issue permits for the storage of controlled industrial waste in underground tanks;

25. Require groundwater monitoring for any landfill, surface impoundment, land treatment site or pile;

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26. Determine and enforce penalties for violations of the Oklahoma Controlled Industrial Waste Disposal Act;

27. Evaluate the benefit of rules and regulations governing labeling practices for any containers used for the disposal, storage, or transportation of controlled industrial waste which accurately identify such waste, and govern the use of appropriate containers for such waste not otherwise regulated by the federal government. A report containing the evaluation of the benefit for rules and regulations governing such labeling practices shall be submitted by April 30, 1987, to the Speaker of the House of Representatives and the President Pro Tempore of the Senate;

28. Monitor research and development regarding methods of the handling, storage, use, processing, and disposal of controlled industrial waste;

29. Cooperate with existing technical reference centers on controlled industrial waste disposal, recycling practices, and related information for public and private use;

30. Monitor research in the technical and managerial aspects of management and use of controlled industrial waste and recycling and recovery of resources from controlled industrial wastes;

31. Determine existing rates of production of controlled industrial waste;

32. Promote recycling and recovery of resources from controlled industrial wastes;

33. Encourage the reduction or exchange, or both, of controlled industrial waste; and

34. Cooperate with an existing information clearinghouse, to develop records of recyclable waste. 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.

<sup>1</sup> 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 Sections 3005(c) and 3005(e) of the Resource Conservation and Recovery Act<sup>1</sup> 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;<sup>2</sup>

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. Amended by Laws 1988, c. 42, § 1, emerg. eff. March 21, 1988.

<sup>1</sup> 42 U.S.C.A. § 6925.

<sup>2</sup> 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

§ 1-2005.2. Permit fees

A. The State Board of Health may establish a system of fees to be charged for applications to issue and renew permits for controlled industrial waste facilities and for such environmental health services as are involved in the regulation of controlled industrial waste. Such fees shall be subject to the following limitations.

1. Except as provided in subsection C of this section, no schedule of fees shall be established or amended by the Board except during such times as the Legislature is in session. The Board shall follow the procedures required by Sections 301 through 325 of Title 75 of the Oklahoma Statutes for adoption of rules and regulations in establishing or amending any such schedule of fees; and

2. The Board shall charge fees only within the following ranges:

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

For transporter trailer registration: \$20.00 per trailer per year

For permit application: \$5,000.00 to \$50,000.00

For application resubmittal: \$100.00 to \$1,000.00

For monitoring: \$100.00 to \$10,000.00 per year

B. The Board shall base its schedule of permit fees upon the reasonable costs of review and inspection services for each permit, and its schedule of monitoring fees upon the reasonable costs of travel and inspection, based upon the various categories of facilities as the Board shall determine. The Board shall, by rule and regulation, establish a system whereby an applicant for a permit for a facility in place on January 1, 1986, may pay a prorated application fee over the life of the permit, if the Department determines such fees would create financial hardship on the applicant so that continued operation by the applicant would be jeopardized.

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

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

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

<sup>1</sup>Section 1-2001 et seq. of this title.

§ 1-2005.3. Construction permit application—  
Review of county road classification plans—Re-

quirements 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

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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.<sup>1</sup>

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

<sup>1</sup> 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 waste in a landfill or in a surface impoundment is prohibited.

C. The provisions of this section shall not prohibit:

1. The practice of soil farming of controlled industrial waste authorized by the provisions of Section 1-2014 of Title 63 of the Oklahoma Statutes;

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 controlled industrial waste;

provided all liquids and associated solids are removed for proper treatment or disposal in accordance with the rules and regulations promulgated by

the Board pursuant to the Oklahoma Controlled Industrial Waste Disposal Act.<sup>1</sup>

Added by Laws 1986, c. 180, § 4, emerg. eff. May 15, 1986.

<sup>1</sup> Section 1-2001 et seq. of this title.

**§ 1-2008. Permits—Application—Liability insurance—Bond—Financial responsibility—Operation of facility—Insolvency—Liability of guarantors**

A. The Department shall issue permits for the operation of controlled industrial waste facilities. No operation permit shall be issued except upon proper application, proof of sufficient liability insurance and financial responsibility, informal public meeting, if requested, and such other requirements as hereinafter provided.

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 and regulations 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 this act, an equivalent amount of cash, or securities 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 guaranteeing the performance of the maintenance and monitoring functions set out in Section 1-2009 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 controlled industrial waste facility as required by this act.<sup>1</sup> If the applicant is not financially able to operate and maintain a controlled industrial waste facility, as required by this act, a permit shall be denied.

F. The operation of a controlled industrial 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 controlled industrial waste facility is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code<sup>2</sup> or if jurisdiction in any state court or any federal court cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct of which evidence of financial responsibility is required pursuant to the Oklahoma Controlled Industrial Waste Disposal Act<sup>3</sup> 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 to the owner or operator pursuant to the Oklahoma Controlled Industrial Waste Disposal Act. Nothing in this subsection shall be construed to limit any other state or federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980<sup>4</sup> or other applicable law.

3. As used in this section, the term "guarantor" means any person other than the owner or operator, who provides evidence of financial responsibility for an owner or operator pursuant to the Oklahoma Controlled Industrial Waste Disposal Act. Amended by Laws 1986, c. 140, § 1, emerg. eff. April 21, 1986.

<sup>1</sup> Section 1-2001 et seq. of this title.  
<sup>2</sup> 11 U.S.C.A. § 101 et seq.  
<sup>3</sup> Section 1-2001 et seq. of this title.  
<sup>4</sup> 42 U.S.C.A. § 9601.

**§ 1-2008.1. Multi-user on-site treatment facilities—Permits—Suitability factors**

A. Two or more persons generating controlled industrial waste within the same county may enter into a compact to construct and operate a multi-user on-site treatment facility for the exclusive use of the members of such compact. Such facility shall not be used as a controlled industrial waste facility

for off-site treatment storage or disposal of controlled industrial waste.

B. To be eligible for a permit issued pursuant to the provisions of this section and the Oklahoma Controlled Industrial Waste Disposal Act,<sup>1</sup> a multi-user on-site treatment facility shall meet the following criteria:

1. The facility shall be co-owned by the generators of controlled industrial waste who are members of the compact;

2. Each member of the compact shall be identified in the application and permit. In addition, the individual controlled industrial waste generated by each member shall be separately and distinctly characterized in the application and in the permit and shall meet the compatibility requirements established by the Department;

3. The facilities generating controlled industrial waste which is to be treated at the multi-user on-site treatment facility shall be located within the same county as the multi-user on-site treatment facility;

4. The multi-user on-site treatment facility shall be located upon the property of one of the compact members;

5. Financial responsibility requirements shall be the responsibility of the compact members and shall be prorated according to the relative amount of controlled industrial waste of a generator to be treated at the facility; and

6. The Department may require such other criteria and information in order to determine if the multi-user on-site treatment facility is physically and technically suitable for the controlled industrial waste to be treated at the facility.

C. Upon compliance with the provisions of the Oklahoma Controlled Industrial Waste Disposal Act, this section and any rules and regulations promulgated pursuant thereto, the Department shall issue permits for the construction and operation of a multi-user on-site treatment facility.

D. The board of county commissioners of the county in which such multi-user on-site treatment facility is located shall review all transportation routes from the facilities generating controlled industrial waste which are operated by members of the compact to the multi-user on-site treatment facility pursuant to the provisions of Section 1-2005.3 of Title 63 of the Oklahoma Statutes.

Added by Laws 1988, c. 54, § 2, eff. Nov. 1, 1988.

<sup>1</sup> Section 1-2001 et seq. of this title.

**§ 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 migra-

tion 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.<sup>1</sup>

Amended by Laws 1985, c. 113, § 2, emerg. eff. May 30, 1985.

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

<sup>1</sup> Section 1-2001 et seq. of this title.

<sup>2</sup> Sections 250 et seq., 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.<sup>1</sup>

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

<sup>1</sup> 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,<sup>1</sup> 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,<sup>2</sup> where necessary to protect human health and the environment, unless the owner or operator of the facility demonstrates that despite the owner's or operator's best efforts 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.

B. The Department shall review each permit for a controlled industrial 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 controlled industrial waste facilities. Nothing in this subsection shall preclude the Department from reviewing and modifying a permit at any time during its term. Review of any application for a permit renewal shall consider improvements in the state of control and measurement technology as well as changes in applicable regulations. Each permit issued or reissued shall contain such terms and conditions as the Department deter-

mines 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 controlled industrial 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 controlled industrial wastes as a result of releases from a controlled industrial 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. Added by Laws 1986, c. 180, § 6, emerg. eff. May 15, 1986.

1 42 U.S.C.A. § 6901 et seq.

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

**§ 1-2014. Prohibited disposal—Controlled industrial facility for on-site or off-site treatment, storage or disposal**

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 hearing provisions of Section 1-2006 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 controlled industrial waste facility for on-site treatment, storage or disposal shall not be sited in or over a principal groundwater resource or recharge area as defined by the Oklahoma Geological Survey, 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.

C. A controlled industrial waste facility for off-site treatment, storage or disposal shall not be sited in or over a principal groundwater resource or recharge area as defined by the Oklahoma Geological Survey. A controlled industrial waste facility for off-site treatment, storage or disposal shall not be sited in any other area of the state without the prior written approval of a plan by the affected property owners as such term is defined in Section 1-2006 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.

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.

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.

Amended by Laws 1987, c. 51, § 2, emerg. eff. April 29, 1987; Laws 1988, c. 42, § 2, emerg. eff. March 21, 1988.

**CONTROLLED INDUSTRIAL WASTE FUND ACT**

**§ 1-2015. Short title**

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

Added by Laws 1982, c. 202, § 1.

Section 8 of Laws 1982, c. 202 directs codification and section 10 provides for severability.

**Title of Act**

An Act relating to public health and safety; establishing the Controlled Industrial Waste Fund; providing short title; stating purpose; defining terms; requiring expenditure be by certain warrants; providing for uses of fund; directing cooperation with certain agencies; providing for certain assistance to certain political subdivisions; providing for rules and procedures; requiring an annual report; directing codification; directing recodification; and providing severability. Laws 1982, c. 202.

Health and Environment ←25.5(5).

**§ 1-2016. Purpose of act**

The purposes of this act are to:

1. Protect public health and safety, and the natural resources of the State of Oklahoma;
2. Provide for response to environmental emergencies and incidents; and
3. Establish a fund administered by the State Department of Health which will be available to monitor controlled industrial waste management fa-