

US EPA ARCHIVE DOCUMENT

Signed 11/6/92

OKLAHOMA ATTORNEY GENERAL'S STATEMENT FOR FINAL
AUTHORIZATION FOR NON-HSWA CLUSTER VI
CHANGES TO THE FEDERAL RCRA PROGRAM¹

I hereby certify, pursuant to my authority as Attorney General and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. §§ 6901 et seq.), and 40 CFR 271 that in my opinion the laws of the State of Oklahoma provide adequate authority to carry out the revised program set forth in the revised "Program Description" submitted by the Oklahoma State Department of Health. The specific authorities provided are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which are in effect now as specified below. These authorities and this certification supplement the previously certified authorities described in my and my predecessors' certifications of January 20, 1984, January 14, 1988 as amended July 20, 1989, December 22, 1988 as amended June 7, 1989, November 20, 1989, and November 16, 1990. Similarly, this Attorney General's Statement supplements the Attorney General's Statements executed on those dates.

Statutory authority is provided by the Oklahoma Controlled Industrial Waste Disposal Act, as amended, 63 O.S. 1991, §§ 1-2001 et seq. Pursuant to this Act, the Oklahoma State Department of Health has issued Rules and Regulations for Hazardous Waste Management, ODH Bulletin 0525, as last amended on April 30, 1992, effective June 22, 1992. The regulations in Bulletin 0525 supersede previous regulations issued in previous Bulletins.

Rules 310:270-3-1 and 310:270-3-2 incorporate by reference the U.S. Environmental Protection Agency's Hazardous Waste Management Regulations, 40 CFR Parts 260 - 266, 268, and 270, as amended through July 1, 1991, except for 40 CFR 260.20 through 260.22. Further, Rule 310:270-3-2 incorporates those provisions of Part 124 which are required by 40 CFR 271.14. These incorporations by reference were duly adopted under the laws of Oklahoma in 63 O.S. 1991, §§ 1-2001 et seq., which authorize the Oklahoma State Department of Health to issue Rules and Regulations for Hazardous Waste Management. (Incorporation by reference is specifically authorized by 63 O.S. § 1-2005.) This incorporation does not operate to incorporate prospectively future changes to the incorporated sections of the Code of Federal Regulations, and no other Oklahoma law or regulation reduces the scope of coverage or otherwise affects the authority provided by these incorporated-by-reference provisions. Further, Oklahoma interprets these incorporated provisions to provide identical authority to the

¹For convenience, the organization of this Statement corresponds to EPA's State Authorization Manual (SAM). Because only certain sections and paragraphs of the SAM model are applicable to this Revision Authorization Application, the alpha-numeric section and paragraph designation system in this Statement is not sequential.

federal provisions. Thus, Rule 310:270-3-2 provides equivalent and no less stringent authority than the federal Subtitle C program in effect as of July 1, 1990.

I. IDENTIFICATION AND LISTING

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

(15) Amendments to the F019 hazardous waste listing to exclude wastewater treatment sludges from zirconium phosphating in aluminum can washing, when such phosphating is an exclusion conversion coating process, 40 CFR 261.31 as amended February 14, 1990 [55 FR 5340], Revision Checklist 72.

Federal Authority: RCRA § 3001(b).

Citation of Laws and Regulations²

~~63 O.S. 1991, § 1-2005(A).~~
Rules 310:270-3-1 and 310:270-3-2.

Remarks of the Attorney General

Rules 310:270-3-1 and 310:270-3-2 adopt the Federal requirements by reference. Statutory authority to identify specific hazardous wastes is clear under the cited statute, as has been recognized in previous Attorney General's Statements.

J. State statutes and regulations:

- (1) provide final criteria to define Bevill-excluded mineral processing wastes, finalize the Bevill status of nine mineral processing waste streams, and list those mineral processing wastes subject to conditional retention as indicated in Revision Checklist 65.

Federal Authority: RCRA § 3001(b); 40 CFR 261.3 and 261.4 as amended September 1, 1989 (54 FR 36592).

Citation of Laws and Regulations

(Same as subsection A, above.)

Remarks of the Attorney General

(Same as subsection A, above.)

²In this and all succeeding Citation of Laws and Regulations sections, the date of enactment and adoption is omitted since these were covered in the introduction to this Statement. As that introduction evidences, all statutes and regulations cited as state authorities are currently in effect.

- (2) remove five conditionally retained mineral processing wastes from the exemption from hazardous waste regulation under the Bevill exclusion, and amend the definitions of "beneficiation" and "designated facility" as indicated in Revision Checklist 71.

Federal Authority: RCRA § 3001(b)(3)(A)(ii); 40 CFR 260.10 and 261.4(b)(7) as amended January 23, 1990 (55 FR 2322) and June 13, 1991 (56 FR 27300).

Citation of Laws and Regulations

(Same as subsection A, above.)

Remarks of the Attorney General

(Same as subsection A, above.)

K. State statutes and regulations incorporate 47 new testing methods as approved methods for use in meeting the regulatory requirements under Subtitle C of RCRA as indicated in Revision Checklists 67 and 73.

Federal Authority: RCRA §§ 3001, 3004, 3005, and 3006; 40 CFR 260.11 and Part 261 Appendix III as amended September 29, 1989 (54 FR 40260) and March 9, 1990 (55 FR 8948).

Citation of Laws and Regulations

(Same as subsection A, above.)

Remarks of the Attorney General

Rules 310:270-3-1 and 310:270-3-2 adopt the Federal requirements by reference. Because these test methods are related to identification of hazardous wastes and hazardous waste constituents, 63 O.S. 1991, § 1-2005(A) provides statutory authority.

M. State statutes and regulations contain the language to reflect EPA's intent and consistent interpretation of the criteria for listing wastes as hazardous under RCRA as indicated in Revision Checklist 76.

Federal Authority: RCRA § 3001(a); 40 CFR 261.11(a)(3) as amended May 4, 1990 (55 FR 18726).

Citation of Laws and Regulations

(Same as subsection A, above.)

Remarks of the Attorney General

Rules 310:270-3-1 and 310:270-3-2 adopt the Federal requirements by reference. Title 63 O.S. 1991, § 1-2005(A) provides explicit authority for the establishment of criteria for the listing of hazardous waste.

VII. NATIONAL UNIFORM MANIFEST SYSTEM AND RECORDKEEPING

E. State statutes and regulations require that generators who ship hazardous waste to a designated facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility, as indicated in Revision Checklist 71.

Federal Authority: RCRA §§ 2002, 3002, and 3003; 40 CFR 262.23(e) as amended on January 23, 1990 (55 FR 2322).

Citation of Laws and Regulations

63 O.S. 1991, §§ 1-2004(5); 1-2005; 1-2010.
Rules 310:270-3-1 and 310:270-3-2.

Remarks of the Attorney General

Rules 310:270-3-1 and 310:270-3-2 adopt the Federal requirements by reference. Broad statutory authority for manifesting requirements is provided by the referenced statutes.

XV. STANDARDS FOR FACILITIES

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

Federal Authority: RCRA §§ 3004 and 3005; 40 CFR Parts 260, 264, 265, and 270 as amended May 2, 1986 (51 FR 16422), March 19, 1987 (52 FR 8704), and December 10, 1987 (52 FR 46946).

Citation of Laws and Regulations

63 O.S. 1991, §§ 1-2004(1); 1-2005(A); 1-2008; 1-2009.
Rules 310:270-3-1 and 310:270-3-2.

Remarks of the Attorney General

Rules 310:270-3-1 and 310:270-3-2 adopt the Federal requirements by reference. Statutory authority is clear from the referenced statutes.

J.K. State statutes and regulations allow owners and operators of landfills, surface impoundments, or land treatment units, under

limited circumstances, to remain open after the final receipt of hazardous wastes in order to receive non-hazardous wastes in that unit as indicated in Revision Checklist 64.

Federal Authority: RCRA § 1006, 2002(a), 3004, 3005 and 3006; 40 CFR 264.13, 264.112, 264.113, 264.142, 265.13, 264.112, 265.113, 265.142 and Appendix 1 to 270.42 as amended August 14, 1989 (54 FR 33376).

Citation of Laws and Regulations

63 O.S. 1991, §§ 1-2004(2); 1-2005(A); 1-2009.
Rules 310:270-3-1 and 310:270-3-2. ✓

Remarks of the Attorney General

Rules 310:270-3-1 and 310:270-3-2 adopt the Federal requirements by reference. Statutory authority is provided by the cited statutes.

XVI. REQUIREMENTS FOR PERMITS

V. State statutes and regulations incorporate updates to 40 CFR Part 124 as indicated in Revision Checklist 70.

Federal Authority: RCRA §§ 6901 and 6902; 40 CFR 124.3, 124.5, 124.6, 124.10 and 124.12 as amended April 1, 1983 (48 FR 14146), June 30, 1983 (48 FR 30113), July 26, 1988 (48 FR 28118), September 26, 1988 (53 FR 37396) and January 4, 1989 (54 FR 246).

Citation of Laws and Regulations

63 O.S. 1991, §§ 1-2004(1); 1-2005; 1-2006; 1-2008; 1-2009.1.
Rules 310:270-3-1 and 310:270-3-2.

Remarks of the Attorney General

Rules 310:270-3-1 and 310:270-3-2 adopt the Federal requirements by reference. Pervasive authority over permitting requirements is clear from the cited statutes.

Dated this 6 day of Nov, 1992.



Brita Cantrell
Assistant Attorney General