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OKLAHOMA STATUTES

1991

COMPRISING ALL LAWS OF A GENERAL AND PERMANENT
NATURE INCLUDING LAWS AND AMENDMENTS PASSED
BY THE FIRST EXTRAORDINARY AND FIRST REGULAR
SESSIONS OF THE FORTY-THIRD LEGISLATURE, 1991

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Titles 57 to 68

**Prisons and Reformatories—Revenue
and Taxation**

Oklahoma Statutes Annotated Classification

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investigated, the records shall not be released or otherwise disclosed to any other person or agency. These records shall be destroyed after one (1) year from the end of employment of the person to whom such records relate.

I. Any person releasing or disclosing any information received pursuant to this section without the authorization prescribed by this section shall be guilty of a misdemeanor.

J. As part of the inspections required by the Nursing Home Care Act,⁹ the Residential Care Act,¹⁰ and the Adult Day Care Act,¹¹ the State Department of Health shall review the employment files of any facility or home required to obtain criminal records to ensure such facilities or homes are in compliance with the provisions of this section. Laws 1990, c. 149, § 1, eff. Oct. 1, 1990; Laws 1991, c. 315, § 1, eff. Jan. 1, 1992.

¹ Section 567.1 et seq. of title 59.

² Section 887.1 et seq. of title 59.

³ Section 1250 et seq. of title 59.

⁴ Section 1601 et seq. of title 59.

⁵ Section 1721 et seq. of title 59.

⁶ Section 888.1 et seq. of title 59.

⁷ Section 60 et seq. of title 22.

⁸ Section 2-101 et seq. of this title.

⁹ Section 1-1901 et seq. of this title.

¹⁰ Section 1-819 et seq. of this title.

¹¹ Section 1-870 et seq. of this title.

§ 1-1950.2. Nontechnical medical care providers—Employment by department

Nothing contained in this act¹ shall be construed as creating an employer-employee relationship between the Department of Human Services and anyone contracting with the Department of Human Services as a nontechnical medical care provider. Laws 1991, c. 315, § 2, eff. Jan. 1, 1992.

¹ Section 1-1950.1 of this title.

§ 1-1950.3. Nurses aides—Employment of persons not licensed

A. No employer or contractor who is subject to the provisions of Section 1-1950.1 of this title or Section 2 of this act¹ shall use, on a full-time, temporary, per diem, or other basis, any individual who is not a licensed health professional as a nurses aide for more than four (4) months, unless such individual has satisfied all requirements for certification and placement on the nurse aide registry maintained by the Oklahoma State Department of Health.

B. With respect to individuals used as nurses aides who have not completed requirements for certification and placement on the nurse aide registry, the employer shall provide for a competency evaluation program approved by the Oklahoma State Department of Health and such training and preparation as may be necessary for the individual to complete such a program.

C. Any person convicted of violating any provision of this section or of Section 1-1950.1 shall be guilty of a misdemeanor, punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00) or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment. Laws 1991, c. 315, § 3, eff. Jan. 1, 1992.

¹ Section 1-1950.2 of this title.

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 § 2751 by Laws 1981, c. 322, § 18, eff. July 1, 1981.

§ 1-2001.1. Controlled industrial waste—Regulation and control by this act

Controlled industrial waste shall be treated and regulated pursuant to the provisions of the "Oklahoma Controlled Industrial Waste Disposal Act"¹ and shall not be subject to the provisions of the "Oklahoma Solid Waste Management Act".² Laws 1990, c. 196, § 8, emerg. eff. May 10, 1990.

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

² Section 2251 et seq. of this title.

§ 1-2002. Definitions

As used in this act,¹ 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 or recycled 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, sludges, tank bottoms containing heavy metallic ions, toxic organic chemicals, 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;

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5. "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;

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

7. "Treatment facility" means any location where treating or recycling of controlled industrial waste occurs;

8. "Recycling" means the reuse, processing, treating, neutralizing or rerefining of controlled industrial waste into a product which is being reused or which has been sold for beneficial use. Controlled industrial waste which is intended for fuel is not deemed to be recycled until it is actually burned;

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

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

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

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

13. "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;

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

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

16. "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 1-2008.1 of this title.

Laws 1976, c. 251, § 2; Laws 1978, c. 260, § 1, emerg. eff. May 10, 1978. Renumbered from § 2752 and amended by Laws 1981, c. 322, §§ 1, 18, eff. July 1, 1981. Laws 1987, c. 51, § 1, emerg. eff. April 29, 1987; Laws 1988, c. 54, § 1, eff. Nov. 1, 1988; Laws 1990, c. 296, § 1, operative July 1, 1990; Laws 1991, c. 173, § 1.

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

§ 1-2003. Division for regulation and management of controlled industrial waste

A division responsible for the regulation and management of controlled industrial waste shall be maintained within the State Department 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. The director and all employees of the division shall be subject to the Merit System of Personnel Administration.

Laws 1976, c. 251, § 3; Laws 1978, c. 260, § 2, emerg. eff. May 10, 1978. Renumbered from § 2753 and amended by Laws 1981, c. 322, §§ 2, 18, eff. July 1, 1981. Laws 1991, c. 173, § 2.

§ 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.¹ 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.

¹ Section 500.1 et seq. of title 74.

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§ 1-2004. Duties of Department of Health

The Department shall have the following powers and duties:

1. Issue permits for the construction, operation and post-closure 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 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 off-site 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;
7. Require reports from all persons generating controlled industrial waste, indicating the amount generated, the treatment and disposal 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 or quarterly basis, as designated by the Department;
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 wastes 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 landfill or class of surface impoundments or landfills from which the Department determines controlled industrial waste may migrate into groundwater, impose such requirements, including double liners and leachate detection and collection systems, 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 devel-

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opment 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;

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.

Laws 1976, c. 251, § 4; Laws 1978, c. 260, § 3, emerg. eff. May 10, 1978. Renumbered from § 2754 and amended by Laws 1981, c. 322, §§ 4, 18, eff. July 1, 1981. Laws 1986, c. 180, § 1, emerg. eff. May 15, 1986; Laws 1990, c. 296, § 2, operative July 1, 1990; Laws 1991, c. 173, § 3.

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

§ 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), (9).

§ 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 or used oil as may be necessary to protect human health and the environment includ-

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ing, 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 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.

Laws 1986, c. 180, § 2, emerg. eff. May 15, 1986; Laws 1988, c. 42, § 1, emerg. eff. March 21, 1988; Laws 1990, c. 196, § 3, emerg. eff. May 10, 1990.

¹ 42 U.S.C.A. § 6925.

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

§ 1-2005. Rules, regulations and minimum standards

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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. The controlled industrial waste component of mixed controlled industrial waste and radioactive waste shall be regulated as controlled industrial waste. The radioactive waste component shall be regulated as radioactive waste. Both the controlled industrial waste requirements and the radioactive waste requirements shall apply if physical separation of the two components is not accomplished;

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 shall be construed as prohibiting the disposition of salt water in a disposal well that is owned by a person other than the licensee.

Provided further, on or before December 31, 1982, existing carriers holding such operating authority shall furnish written proof of access to an approved disposal well within reasonable hauling distance. 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 Two Thousand Five Hundred Dollars (\$2,500.00). A second proven violation in any calendar year shall result in a carrier being placed on probation and fined up to Five Thousand Dollars (\$5,000.00) by the Commission. A third proven violation in any calendar year shall result in a fine of up to Ten Thousand Dollars (\$10,000.00), and at the discretion of the Commission, suspension of the carrier's operating authority for a period of up to thirty (30) days. The driver of a truck, who is not the owner of the vehicle used in violation of this section or any of the rules and regulations of the Corporation Commission, shall be adjudicated a co-defendant and subject to a fine equal to ten percent (10%) of the fine assessed to the owner of such vehicle, up to Five Hundred Dollars (\$500.00);

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

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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.¹ 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.²

Laws 1976, c. 251, § 6; Laws 1978, c. 260, § 5, emerg. eff. May 10, 1978. Renumbered from § 2756 and amended by Laws 1981, c. 322, §§ 6, 18, eff. July 1, 1981. Laws 1982, c. 248, § 1; Laws 1990, c. 196, § 4, emerg. eff. May 10, 1990.

¹ 42 U.S.C.A. § 6901 et seq.

² Sections 250 et seq., 301 et seq. of title 75.

§ 1-2005.1. Permit issuance—Notice

Upon issuance of any such permit the Division shall file a recordable notice of the permit in the land records of the county in which the site is located. The notice shall contain the legal description of the site as well as the terms under which the permit is issued.

Laws 1976, c. 251, § 5; Laws 1978, c. 260, § 4, emerg. eff. May 10, 1978. Renumbered from § 2755 by Laws 1982, c. 202, § 9.

§ 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

⁴ Okla. Stats. '91—22

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.¹

Laws 1985, c. 113, § 1, emerg. eff. May 30, 1985; 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.

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

§ 1-2005.3A. Annual fee—Exemptions

A. Every controlled industrial waste treatment facility, storage facility, underground injection facility, disposal facility, or off-site facility that recycles controlled industrial waste subject to the provisions of the Oklahoma Controlled Industrial Waste Disposal Act¹ shall pay an annual fee on the amount of controlled industrial waste managed to the Department of Health for deposit in the Public Health Special Fund.

1. Such fees shall be, subject to the qualifications provided in subparagraph 2 of this subsection:

- a. Six Dollars and fifty cents (\$6.50) per ton for the on-site or off-site storage, treatment or land disposal of controlled industrial waste.
- b. Four Dollars (\$4.00) per ton for the off-site recycling of controlled industrial waste.
- c. Three cents (\$0.03) per gallon for the on-site or off-site underground injection of controlled industrial waste.

2. There shall be a minimum fee per facility as follows:

- a. Any person owning, or operating, an off-site controlled industrial waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year.
- b. Any person owning, or operating, an on-site controlled industrial waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Twenty Thousand Dollars (\$20,000.00) each state fiscal year.
- c. Any person owning, or operating, an off-site facility for the recycling of controlled industrial waste shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year.

3. The minimum fees provided for in paragraph 2 of this subsection shall not apply to treatment facilities accepting controlled industrial waste exclusively for the purpose of conducting treatment research and design tests.

4. Facilities are hereby authorized to charge the person contracting for the services of the facility their proportional share of the fees required by the provisions of this section.

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5. The facility shall become liable for payment of the fee on each ton or gallon of controlled industrial waste at the time it is received. The fee shall be payable by the facility to the Department of Health only as provided for in subsection C of this section.

6. The fee imposed by the provisions of this section shall be payable only once without regard to any subsequent handling and shall be based on the purpose for which the waste has been generated by or brought to the facility. In no event shall a facility be required to pay a fee on each step or process involved in the storage, treatment, or disposal of the waste at the facility or a related facility under common control.

B. The following facilities shall not be required to pay the fee required by the provisions of this section:

1. Those facilities engaged only in the on-site recycling of controlled industrial waste; and

2. Those facilities which have not generated or received new controlled industrial waste within the preceding state fiscal year.

C. Payment of the fees required by this section shall be due quarterly for controlled industrial waste received by the facility during the prior quarter. Such quarterly payments shall be due on the first day of the month of the following quarter during the state fiscal year in which the controlled industrial waste is received. All payments shall be made within thirty (30) days from the date it becomes due.

D. The fees provided for in this section shall be paid in lieu of the monitoring fees imposed in paragraph 2 of subsection A of Section 1-2005.2 of this title. All facilities subject to the provisions of this section shall not be required to pay or collect any additional fees for waste disposal unless specifically provided for in the Oklahoma Controlled Industrial Waste Disposal Act.

E. All fees and other monies received by the Department pursuant to the provisions of this section shall be expended solely for the purposes specified in this section.

1. Ten percent (10%) of the fees collected pursuant to the provisions of this section shall be deposited to the credit of the Special Economic Development Trust Funds established pursuant to Section 6 of this act.² The funds for the Trusts accruing pursuant to the provisions of this section shall be distributed to each Trust established in proportion to the fees generated by the controlled industrial waste facilities within the Trust area.

2. The State Commissioner of Health shall expend monies received pursuant to the provisions of this section for one or more of the following purposes:

- a. The administration of the provisions of the Oklahoma Controlled Industrial Waste Disposal Act,
- b. The development of an inventory of controlled industrial wastes currently produced in Oklahoma and management needs for the identified wastes,
- c. The implementation of information exchange, technical assistance, public information, and educational programs,
- d. The development and encouragement of waste reduction plans for Oklahoma waste generators, or
- e. Increased inspection of controlled industrial waste facilities which may include full time inspectors at off-site controlled industrial waste facilities.

F. To the extent that fees received pursuant to this section shall exceed the purposes specified in subsection E of this section, the Commissioner may only expend such funds for one or more of the following purposes:

1. Contributions required from the state pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act³ for remediation or related action upon a site within the state;

2. Response (including containment and removal) to the emergency situations involving spillage, leakage, emissions or other discharge of controlled industrial waste or controlled industrial waste constituents to the environment where a responsible party cannot be timely identified or found or compelled to take appropriate emergency action to adequately protect human health and the environment;

3. State-funded remediation of sites contaminated by controlled industrial waste or controlled industrial waste constituents so as to present a threat to human health or the environment, to the extent that a responsible party cannot be timely identified or found or compelled to take such action, or is unable to take such action;

4. Costs incurred in pursuing an enforcement action to compel a responsible party to undertake appropriate response or remedial actions, or to recover from a responsible party monies expended by the state, as described in paragraphs 1 through 3 of this subsection; or

5. Financial assistance to municipalities or counties for the purposes and under the conditions specified in Section 1-2019 of this title.

Laws 1990, c. 196, § 9, operative July 2, 1990; Laws 1991, c. 173, § 4.

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

² Section 1-2005.3C of this title.

³ 42 U.S.C.A. § 9601 et seq.

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§ 1-2005.3B. Fee for disposal of liquid waste other than controlled industrial waste in underground injection well

Any person subject to regulation under this title disposing of liquid waste other than controlled industrial waste in an underground injection well shall pay a fee of one-tenth of one cent (\$.001) per gallon for such disposal, not to exceed Fifty Thousand Dollars (\$50,000.00) per year. Said fee shall be paid to the Department on a quarterly basis within one month following the close of each quarter for the waste disposed in that preceding quarter. Said fees shall be deposited into the Public Health Special Fund.

Laws 1991, c. 173, § 5.

§ 1-2005.3C. Special Economic Development Trust Funds

A. The county commissioners of the counties which are within a ten-mile radius of a controlled industrial waste facility which is subject to the provisions of Section 1-2005.3A of Title 63 of the Oklahoma Statutes may establish a Special Economic Development Trust Fund for that area.

B. The trust fund shall be used to market advantages of industrial development and to promote industrial development within the trust area. Such uses shall allow the authority to acquire assets, develop property, and to contract with local municipalities or economic development trusts or authorities to promote economic development in the area.

C. The trust fund shall consist of:

1. All monies received pursuant to Section 1-2005.3A of Title 63 of the Oklahoma Statutes;

2. All income from the investment of monies held in the trust fund;

3. Interest resulting from the deposit of such monies; and

4. Any other sums designated for deposit to the fund from any source, public or private.

D. Any trust established pursuant to the provisions of this section shall be governed by the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes.

E. 1. Such Trust shall be governed by a Board of Trustees of not less than six (6) nor more than ten (10) members. Each county within the Trust area shall be represented equally on the Board of Trustees.

2. Each Trustee shall be appointed by a majority vote of the county commissioners of the county that the Trustee represents. A Trustee may be removed prior to the expiration of the term of office by a majority vote of the county commissioners of the county that the Trustee represents. In the event there are two or more Trustees from each county, the initial appointments shall be made so that the

terms are staggered. After the initial appointment, each Trustee shall serve a term of two (2) years and may be reappointed.

3. The Trustees shall receive no compensation for service on the Board of Trustees, but may be reimbursed for actual and necessary expenses incurred in the performance of their duties as a Trustee in accordance with the State Travel Reimbursement Act.¹

4. Any action of the Board of Trustees must be approved by a two-thirds (2/3) vote of the total authorized membership of the Board.

5. The Trustees shall have authority to exercise such powers as are necessary to perform the duties and functions imposed by the provisions of this section.

F. The Board of Trustees shall meet not less than twice each calendar year. At the first meeting in a new calendar year the members shall elect a chairman, a vice chairman, a secretary, and a treasurer.

Laws 1991, c. 173, § 6; Laws 1991, c. 336, § 1, eff. July 1, 1991.

¹ Section 500.1 et seq. of title 74.

§ 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

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

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

§ 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.

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 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.¹

Laws 1976, c. 251, § 7; Laws 1978, c. 260, § 6, emerg. eff. May 10, 1978; Laws 1979, c. 137, § 1. Renumbered from § 2757 and amended by Laws 1981, c. 322, §§ 7, 18, eff. July 1, 1981.

¹ Section 301 et seq. of Title 75.

§ 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.¹

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

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

§ 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. Renumbered from § 2758 and amended by Laws 1981, c. 322, §§ 8, 18, eff. July 1, 1981.

§ 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

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required by this or any other section of this act, an equivalent amount of cash, securities or alternate financial assurance of a type and in an amount acceptable to the Department, may be substituted; provided, that such deposit shall be maintained for a period of five (5) years after the date of last operation of the facility.

C. Prior to the issuance of any permit, the applicant shall post a bond or acceptable alternate financial assurance guaranteeing proper closure and guaranteeing the performance of the maintenance and monitoring functions set out in Section 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. If the applicant is not financially able to operate and maintain a controlled industrial waste facility, as required by this act,¹ 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 Code² 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 Act³ 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 1980⁴ 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. Laws 1976, c. 251, § 9; Laws 1978, c. 260, § 8, emerg. eff. May 10, 1978. Renumbered from § 2759 and amended by Laws 1981, c. 322, §§ 9, 18, eff. July 1, 1981. Laws 1986, c. 140, § 1, emerg. eff. April 21, 1986; Laws 1990, c. 196, § 5, emerg. eff. May 10, 1990.

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.

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

A. Two or more persons generating controlled industrial waste 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,¹ a multi-user on-site treatment facility shall meet the following criteria:

1. The facility may 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;

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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. A multi-user on-site treatment facility located within an industrial park which treats, stores or disposes of wastes that are produced only by the industries located within that industrial park may be owned or operated by persons other than the generators of the waste.

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

E. 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.

Laws 1988, c. 54, § 2, eff. Nov. 1, 1988; Laws 1991, c. 173, § 7.

¹ 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 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

Laws 1976, c. 251, § 10; Laws 1978, c. 260, § 9, emerg. eff. May 10, 1978. Renumbered from § 2760 and amended by Laws 1981, c. 322, §§ 11, 18, eff. July 1, 1981. Laws 1985, c. 113, § 2, emerg. eff. May 30, 1985.

¹ 42 U.S.C.A. § 6901 et seq.

§ 1-2009.1. Storage, treatment or disposal of controlled industrial waste without permit—Operation of facilities not required to be permitted

A. Except as otherwise provided by subsection B of this section or any rules of the State Board of Health with respect to short-term storage, no person shall store, treat or dispose of controlled industrial waste 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.

B. 1. 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.

2. The State Board of Health may by rule provide for continued operation on an interim basis pending permit determination of a facility in existence on the effective date of any statutory or regulatory amendments that would subject the facility to a permit requirement pursuant to the Oklahoma Controlled Industrial Waste Disposal Act.¹

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

C. Facilities engaged in recycling which are not required to be permitted pursuant to the provisions of Section 1-2014.2 of this title shall operate in an environmentally acceptable manner and in accordance with the rules and regulations regarding the manifest, transportation and treatment, storage and disposal standards, and generators in the event a controlled industrial waste is generated therefrom. Laws 1981, c. 322, § 10, eff. July 1, 1981; Laws 1990, c. 196, § 6, emerg. eff. May 10, 1990; Laws 1990, c. 296, § 3, operative July 1, 1990; Laws 1991, c. 173, § 8.

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

Health and Environment ⇐25.5(5).

§ 1-2010. Controlled industrial waste manifest—Disposal plan number assigned by Department—Transportation, etc. of waste without manifest in possession

Persons generating controlled industrial waste shall provide the operator of any mode of any offsite transportation carrying controlled industrial waste 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. The manifest shall also set forth the type, amount, approximate content, origin and destination of the waste. The operator shall have the manifest in his possession while carrying or handling the controlled industrial waste and shall release the manifest to such person as is duly authorized to receive said waste at the time of delivery. Provided that no person 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 without having the manifest in his possession.

Laws 1976, c. 251, § 11; Laws 1978, c. 260, § 10, emerg. eff. May 10, 1978. Renumbered from § 2761 and amended by Laws 1981, c. 322, §§ 12, 18, eff. July 1, 1981. Laws 1990, c. 296, § 4, operative July 1, 1990.

§ 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 Twenty-five Thousand Dollars (\$25,000.00), 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. Renumbered from § 2762 and amended by Laws 1981, c. 322, §§ 13, 18, eff. July 1, 1981. Laws 1991, c. 173, § 9.

§ 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 1-2005 of this title:

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.¹ 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 Twenty-five Thousand Dollars (\$25,000.00) 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. Renumbered from § 2763 and amended by Laws 1981, c. 322, §§ 14, 18, eff. July 1, 1981. Laws 1991, c. 173, § 10.

¹ Sections 250 et seq. and 301 et seq. of title 75.

§ 1-2012.1. Orders

In addition to any other remedies provided in the Oklahoma Controlled Industrial Waste Disposal Act,¹ the Department may issue a written order to any person whom the Department has reason to believe has violated or is presently in violation of the Oklahoma Controlled Industrial Waste Disposal Act, Section 1-2001 et seq. of this title, or any rule or rules promulgated by the Board pursuant to this act.

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

- a. Any order issued pursuant to this section shall state with specificity the nature of the violation or violations.

- b. Any penalty assessed in the order shall not exceed Twenty-five Thousand Dollars (\$25,000.00) per day of noncompliance for each violation of the act, the rules or the order. In assessing such penalties, the Department shall consider the seriousness of the violation or violations and any good faith efforts to comply with applicable requirements.

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

- a. Orders and hearings are subject to the Administrative Procedures Act.²

- b. A final order following 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.
- c. The Department may adopt procedural rules as necessary and appropriate to implement the provisions of this section.

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.

Laws 1985, c. 113, § 3, emerg. eff. May 30, 1985; Laws 1986, c. 180, § 5, emerg. eff. May 15, 1986; Laws 1990, c. 196, § 7, emerg. eff. May 10, 1990; Laws 1991, c. 173, § 11.

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

² Sections 250 et seq. and 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

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.

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 determines necessary to protect human health and the environment.

C. The Department is authorized to require each owner or operator applying for a permit for a 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. 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.

§ 1-2012.4. Appeal of issuance of permit—Stay of time restraints

The filing of a proceeding appealing the issuance of a permit issued prior to or after the effective date of this act¹ authorizing the construction or operation of a controlled industrial waste facility shall stay any time restraints specified in the permit relating to the term or expiration of the permit. Laws 1990, c. 296, § 5, operative July 1, 1990.

¹ O.S.L. 1990, c. 296, operative July 1, 1990.

§ 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 § 2763.1 by Laws 1981, c. 322, § 18, eff. July 1, 1981.

§ 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.

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§ 1-2014. Certain disposals prohibited

*Text 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 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. Renumbered from § 2765 by Laws 1981, c. 322, § 18, eff. July 1, 1981.

For texts as amended by Laws 1981, c. 322, § 16, and by Laws 1991, c. 336, § 2, see §§ 1-2014, post

§ 1-2014. Prohibited disposal

*Text 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 erosion. 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. Renumbered from § 2765 and amended by Laws 1981, c. 322, §§ 16, 18, eff. July 1, 1981.

¹ Section 2757 of this title.

For text as amended by Laws 1981, c. 277, § 5, see § 1-2014, ante, and as amended by Laws 1991, c. 336, § 2, see § 1-2014, post

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

*Text as amended by Laws 1991, c. 336,
§ 2*

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 or storage shall not be sited in or over a principal groundwater resource or recharge area as determined in writing by the Oklahoma Geological Survey, except pursuant to a plan approved by the Department. The plan shall contain such design criteria and groundwater monitoring provisions as deemed necessary by the Department to protect the quality of said principal groundwater resource or recharge area. The plan shall also provide for the establishment and maintenance of a bond or other financial assurance in a form and amount acceptable to the Department, specifically for the purpose of assuring both immediate response and containment and comprehensive remediation as directed by the Department in the event of a release to soil or water of any controlled industrial waste or controlled industrial waste constituent.

C. 1. Except as provided in paragraph 3 of this subsection, a controlled industrial waste facility for off-site treatment or storage or for on-site or off-site disposal shall not be sited in or over a principal groundwater resource or recharge area as determined in writing by the Oklahoma Geological Survey.

2. A 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.

3. The Department may grant a variance to an off-site controlled industrial waste treatment or storage facility to allow the siting of such facility over a principal groundwater resource or recharge area as determined in paragraph 1 of this subsection, upon the following conditions:

- a. the request for variance, and a detailed rationale, shall be included in the permit application,
- b. the Department shall receive and consider comments on the appropriateness of the proposed variance at any meeting or hearing conducted pursuant to the provisions of Section 1-2006 of this title,
- c. the applicant shall bear the burden of establishing clearly and convincingly to the Department that the design, construction and operation of the proposed facility will be such that the risk of a release of controlled industrial waste or controlled industrial waste constituents directly or indirectly to groundwater is minimal, and
- d. the permit application shall provide for the establishment and maintenance of a bond or other financial assurance as described and for the purposes specified in subsection B of this section.

D. The provisions of this section shall apply to:

1. Applications for future proposed sites;
2. Pending applications for 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 paragraphs 1 and 2 of subsection C of this section shall not apply to applications to increase existing storage, treatment or disposal capacity or to modify existing disposal sites for treatment or disposal. Such modification of existing disposal sites shall include upgrading said facilities to use the best available waste destruction

technology such as incineration, detoxification, recycling or neutralization technology.

Laws 1976, c. 251, § 16; Laws 1978, c. 260, § 15, emerg. eff. May 10, 1978. Renumbered from § 2765 by Laws 1981, c. 322, § 18, eff. July 1, 1981. Laws 1987, c. 51, § 2, emerg. eff. April 29, 1987; Laws 1988, c. 42, § 2, emerg. eff. Mar. 21, 1988; Laws 1991, c. 336, § 2, eff. July 1, 1991.

For texts as amended by Laws 1981, c. 277, § 5, and by Laws 1981, c. 322, § 16, see §§ 1-2014, ante

§ 1-2014.1. Authority to issue waste water discharge permits

The State Department of Health is exclusively authorized to issue waste water discharge permits to controlled industrial waste facilities for discharge into surface waters of this state. The Department shall coordinate as necessary with appropriate federal agencies in issuing such permits.

Laws 1990, c. 196, § 10, emerg. eff. May 10, 1990.

§ 1-2014.2. Facilities that recycle controlled industrial wastes—Exemption from construction permit requirements

Facilities that recycle controlled industrial wastes are exempt from construction permit requirements specified by the provisions of the Oklahoma Controlled Industrial Waste Disposal Act¹ for those units exclusively used in the recycling process. Off-site controlled industrial waste recycling facilities are subject to the requirements specified by the Oklahoma Controlled Industrial Waste Disposal Act¹ for an operations permit, and shall also meet design standards as promulgated by the State Board of Health. Such recycling facilities which are in existence on the effective date of this act² may but shall not be required to file an operations permit application pursuant to the provisions of the Oklahoma Controlled Industrial Waste Disposal Act. A permit modification is not required for a permitted recycling facility to use new, improved, or better methods of recycling if the Department has approved the plans as being environmentally acceptable.

Laws 1990, c. 296, § 6, operative July 1, 1990; Laws 1991, c. 173, § 12.

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

² O.S.L.1990, c. 296, operative July 1, 1990.

Section was editorially renumbered from § 1-2014.1 of this title to avoid duplication in numbering.

§ 1-2014.3. New controlled industrial waste facilities within eight miles of corporate limits—Exemptions

A. Except as provided in subsections B and C of this section, no construction or operation permit shall be issued for a new controlled industrial waste facility for the off-site disposal of controlled industrial waste or the off-site treatment of controlled industrial waste by incinerator to be located within

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eight (8) miles of the corporate limits of any incorporated city or town. For the purposes of this section the corporate limits of an incorporated city or town shall be the corporate limits in effect on January 1 of the year the application is filed, and a new controlled industrial waste facility means a controlled industrial waste facility that was not in operation and actively treating controlled industrial waste by incineration or disposing of controlled industrial waste during the year preceding the effective date of this act.¹ Addition of new treatment, storage or disposal units to an existing controlled industrial waste facility does not constitute a new facility.

B. This section shall not apply to any facility accepting controlled industrial waste exclusively for the purpose of conducting treatment research and design tests.

C. This section shall not apply to a proposed site on property owned or operated by a person who also owns or operates a controlled industrial waste facility on contiguous property on which a controlled industrial waste facility was operating pursuant to a valid permit on the effective date of this act. Laws 1991, c. 173, § 13.

¹ O.S.L.1991, c. 173, eff. Aug. 30, 1991.

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".

Laws 1982, c. 202, § 1.

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 facilities and to respond and assist municipalities and counties in responding to any emergency situation involving controlled industrial waste.

Laws 1982, c. 202, § 2.

§ 1-2017. Definitions

As used in this act:

1. "Controlled industrial waste" is defined as waste materials and by-products, 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. "Controlled industrial waste management facility" means, as defined in the Controlled Industrial Waste Disposal Act,¹ storage, treatment and disposal facilities and sites for controlled industrial waste;

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

4. "Discharge" means any releasing, spilling, leaking, leaching, seeping, pouring, draining, emptying, dumping, expelling or any other emitting of controlled industrial waste into the environment beyond the confines of a licensed disposal site; and

5. "Incident" means any occurrence or series of occurrences which result in the discharge of controlled industrial waste which create an injury to any person or property.

Laws 1982, c. 202, § 3.

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

§ 1-2018. Creation of fund—Status—Expenditures—Purpose—Control and management—Use—Emergencies

There is hereby created in the State Treasury a special fund for the State Department of Health to be designated as the "Controlled Industrial Waste Fund". This fund shall consist of monies transferred to it from funds appropriated to the Department for this purpose. The fund shall be a continuing fund not subject to fiscal year limitations. Expenditures from the Controlled Industrial Waste Fund shall be made upon warrants issued by the State Treasurer against claims submitted to the Director of State Finance for approval and payment. The fund shall be for the purpose of protecting public health and safety as prescribed in the Controlled Industrial Waste Disposal Act¹ and for providing basic emergency response training and protective equipment. The Department is authorized, upon the request of a municipality or county, to assist such municipality or county in the development of 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.

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.

Laws 1982, c. 202, § 5; 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.

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.

Laws 1982, c. 202, § 7.

ARTICLE 21. CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT

§ 1-2101. Short title

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

Laws 1983, c. 27, § 1.

Complementary Legislation:

Ark.—A.C.A. §§ 8-8-201 to 8-8-206.

Kan.—K.S.A. 65-34a01 et seq.

La.—LSA—R.S. 30:2131 to 30:2134.

Neb.—R.R.S. 1943, Vol. 2A App. BB.

U.S.—42 U.S.C.A. § 2021d.

§ 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 treatment, biomedical research, other industrial or commercial activity, other research or mining in a party state, produces or processes waste. "Generator" does not include any person who receives waste generated outside the region for subsequent shipment to a regional facility;

F. "Host state" means any party state in which a regional facility is situated or is being developed;

G. "Low-level radioactive waste" or "waste" means, as defined in the Low-Level Radioactive

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