

US EPA ARCHIVE DOCUMENT

ADDENDUM TO PROGRAM DESCRIPTION
AS NECESSITATED BY CHANGES
WITHIN THE AUTHORIZED STATE PROGRAM
DUE TO AGENCY REORGANIZATION

JULY 16, 1993

Reorganization

On May 5th, 1993, the Governor of Oklahoma signed the Oklahoma Environmental Quality Act, House Bill No. 1002 ("HB 1002"), with an effective date of July 1, 1993. The stated purpose of HB 1002 is to provide for expeditious resolution of concerns of the public and industry, improve the tracking and resolution of complaints, better utilize state finances for environmental regulatory services, and coordinate environmental activities of environmental agencies. The majority of the environmental duties of state agencies were consolidated into a new agency, the Oklahoma Department of Environmental Quality ("DEQ"), by HB 1002. Section 7 of HB 1002 (See Appendix A) states:

Except as otherwise provided by this section, effective July 1, 1993, jurisdiction and all unexpended funds, property, records, personnel and any outstanding financial obligations or encumbrances of the Oklahoma State Department of Health over...hazardous waste... shall be transferred to the Department of Environmental Quality.

Transference of Rules, Permits, etc.

Section 9 of HB 1002 provided for a temporary transfer of rules which dealt with hazardous waste regulation by the State of Oklahoma from the Oklahoma State Department of Health to the DEQ

(See Appendix B). This provision was amended by Senate Bill No. 361 ("SB 361"), and will be discussed in greater detail below.

Additional provisions of Section 9 state that unexpired permits, licenses, certifications, or registrations shall remain valid for stated terms and conditions, and that other legal rights, obligations and remedies (such as financial assurance mechanisms for closure and post closure care) are transferred to the DEQ. Violations of provisions of laws, rules, permits, and final orders which occurred prior to the transfer of jurisdiction shall be subject to penalties available and existing at the time of violation.

Additional Legislation

SB 361, which was passed after HB 1002 during the 1993 Oklahoma Legislative Session, amended a portion of Section 9 of HB 1002 described above. Specifically, Section 8 of SB 361 provided for an automatic transfer of hazardous waste rules from the Oklahoma State Department of Health to the DEQ (See Appendix C). The transferred rules are to be effective until June 30, 1994, at which time the transferred rules will terminate unless earlier superseded by rules promulgated by the DEQ.

Incorporation by Reference

The Environmental Quality Board adopted by reference and without amendment the Hazardous Waste Management Regulations, Oklahoma Administrative Code ("OAC") 310:270, under the emergency rulemaking procedures of the Administrative Procedures Act, 75 O.S. Supp. 1992 §§ 250 et seq. The Governor signed the emergency rulemaking action with an effective date of July 1, 1993. The new

rule agency and chapter designation numbers for the Hazardous Waste Management Regulations, as proposed in OAC 252:005-1-2 (See Appendix D), will be 252:200 (rather than 310:270). The date when the new rule numbering system will take effect is undetermined, but is expected to be late in calendar year 1993 or in the first half of calendar year 1994.

The Oklahoma Hazardous Waste Management Act

The Oklahoma Hazardous Waste Management Act as amended is found in Article VII (Sections 84 et seq.) of HB 1002 (See Appendix E). Substantively, the new Hazardous Waste Management Act is nearly identical to the Oklahoma Hazardous Waste Disposal Act previously found at 63 O.S. Supp. 1992 §§ 1-2001 et seq. The name change from Oklahoma Hazardous Waste Disposal Act to Oklahoma Hazardous Waste Management Act reflects the attitude of the Legislature and the DEQ that hazardous waste reduction and recycling is preferable, when possible, to disposal of hazardous waste. The Oklahoma State Department of Health has previously received authorization for the base RCRA program and for non-HSWA Clusters I through V. Appendix F cross-references previous sections of Title 63 with their new counterparts found in Title 27A.

Administration of the Hazardous Waste Management Program

Section 87 of HB 1002 describes a state hazardous waste management "program" which shall be responsible for the regulation and management of hazardous waste (See Appendix E). The Executive Director of the DEQ will develop designations of "division" or "service" etc. in the near future to describe the administrative

hierarchy of the various programs being administered by the DEQ. While it is possible that the designation "Hazardous Waste Management Service" will slightly change, and that terminology for some of the management positions will change (e.g. from "Chief" to "Director"), structurally and functionally the authorized hazardous waste program will not change. All but four of the employees supporting the Hazardous Waste Management Service as it existed under the Oklahoma State Department of Health have transferred to identical positions in the DEQ.

The duties of the Environmental Quality Board as described in Section 14 of HB 1002 are similar to the duties formerly delegated to the Oklahoma State Board of Health regarding hazardous waste regulation in Oklahoma (See Appendix G).

The duties of the Hazardous Waste Management Advisory Council as described in Section 15 of HB 1002 (See Appendix H) are similar to those formerly assigned to the Hazardous Waste Management Council previously described at 63 O.S. Supp. 1992 § 1-2003.1.

Summary

As shown above, while the advent of the DEQ in Oklahoma represents a reorganization of overall environmental regulatory authority in the state, it has not significantly altered the structure, function or processes (nor even the physical location) of the authorized state hazardous waste program. Thus, the current authorization status (base program through non-HSWA Cluster V) and the process of approval for pending applications, should not be affected.



to the Office of the Secretary of the Environment, including, but not limited to, the establishment of agency codes, accounts and funds. Employees transferred pursuant to this subsection shall be employees of the Office of the Secretary of the Environment and shall not be attached to any state environmental agency.

~~3. Effective January 1, 1993, all unexpended funds, property, records, remaining personnel and any outstanding financial obligations or encumbrances of the Pollution Control Coordinating Board and the Department of Pollution Control related to jurisdictional areas of the Board and Department other than the acceptance of loans, funds and grants from private and governmental sources are hereby transferred to the Department of Environmental Quality.~~

SECTION 7. A. Except as otherwise provided by this section, effective July 1, 1993, jurisdiction and all unexpended funds, property, records, personnel and any outstanding financial obligations or encumbrances of the Oklahoma State Department of Health over point source and nonpoint source discharges; underground injection for other than brine recovery, saltwater disposal or secondary or tertiary oil recovery; air quality under the Federal Clean Air Act and applicable state law, except for indoor air quality and asbestos as regulated for worker safety by the federal Occupational Safety and Health Act and by Chapter 11 of Title 40 of the Oklahoma Statutes; private and public sewage and waste facilities; hazardous substances except for branding, package and labeling requirements; emergency response except for present authority granted to the Department of Civil Emergency Management or other agencies; solid waste; hazardous waste; operator certification of water and waste/wastewater treatment; environmental laboratory services and certification; Superfund responsibilities of the state under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and amendments thereto, except the planning requirements of Title III of the Superfund Amendment and Reauthorization Act of 1986; public and private water supplies; surface water and groundwater quality and protection; freshwater wellhead protection; radioactive waste and all regulatory activities for the use of atomic energy and sources of radiation except for the use of sources of radiation by diagnostic x-ray facilities; agricultural, commercial and industrial waste; public environmental information dissemination; and any other environmental responsibility shall be transferred to the Department of Environmental Quality.

B. On or before January 1, 1994, responsibility for and supervision of sixty-five local environmental specialists currently within the Department of Health and an apportionment of local administrative support personnel as determined by the Oklahoma Legislature shall be transferred from the Oklahoma State Department of Health to the Department of Environmental Quality.

C. Classified employees being transferred to the Department of Environmental Quality shall not be transferred into positions which are in the unclassified service. Classified employees being transferred to the Department shall be eligible to be hired or promoted into unclassified positions for which they meet the qualifications. Any person, including, but not limited to, classified employees being transferred to the Department, accepting positions at the Department which are unclassified shall be hired or promoted into such positions and shall be in the unclassified service. All classified employees being transferred to the Department shall maintain their status as classified employees unless hired or promoted into an unclassified position.

SECTION 8. A. Effective July 1, 1993, all unexpended funds, property, records and personnel and any outstanding financial obligations or encumbrances of:

1. The Oklahoma State Department of Health relating to wastewater project prioritization for funding from the state revolving fund and other related financial aid programs shall be transferred to the Oklahoma Water Resources Board;

2. The Oklahoma State Department of Health relating to asbestos monitoring of public buildings shall be transferred to the Department of Labor as a function of its occupational safety and health jurisdiction; and

3. The Oklahoma Water Resources Board relating to the containment, land application, disposal or discharge of industrial waste and wastewater, laboratory certification, freshwater wellhead protection, point source and nonpoint source pollution of waters of the state, the certification of water quality and the protection of the quality of surface water and groundwater shall be transferred to the Department of Environmental Quality.

B. Classified employees being transferred to the Department of Environmental Quality shall not be transferred into positions which are in the unclassified service. Classified employees being transferred to the Department shall be eligible to be hired or promoted into unclassified positions for which they meet the qualifications. Any person, including, but not limited to, classified employees being transferred to the Department, accepting positions at the Department which are unclassified shall be hired or promoted into such positions and shall be in the unclassified service. All classified employees being transferred to the Department shall maintain their status as classified employees unless hired or promoted into an unclassified position.

SECTION 9. AMENDATORY Section 12, Chapter 398, O.S.L. 1992 (27A O.S. Supp. 1992, Section 12), is amended to read as follows:

Section 12. ~~Effective July 1, 1993, with regards A. With regard to all programs and functions transferred and assigned among the state environmental agencies pursuant to Section 6 11 of this act, the agency rules, including fee schedules for state and county, relating to such programs and functions transferred shall remain in effect until the promulgation of rules by the receiving agency. By February 1, 1994, each agency receiving programs or functions shall have adopted permanent rules to implement the programs and functions within the jurisdiction of the agency pursuant to Section 6 11 of this act.~~

B. Unexpired or unrevoked licenses, permits, certifications or registrations issued prior to July 1, 1993, shall remain valid for stated terms and conditions until otherwise provided by law. Such licenses, permits or registrations shall be subject to the laws and rules of the state agency to which jurisdiction over such licenses, permits or registrations are transferred pursuant to the Oklahoma Environmental Quality Act.

C. All rights, obligations and remedies arising out of laws, rules, agreements and causes of action are also transferred to such agency.

D. Nothing in the Oklahoma Environmental Quality Act shall operate to bar or negate any existing order, claim or cause of action transferred or available to any state environmental agency or its respective predecessor, nor shall it operate to affect enforcement action undertaken by any program, division or service prior to such transfer to any state environmental agency. Violations of provisions of law now contained in this title, and violations of rules, permits or final orders which occurred prior to the transfer of jurisdiction and authority to any state environmental agency shall be subject to penalties available and existing at the time of violation.



5. Maintain a computerized emergency information system allowing state and local access to information regarding hazardous materials' location, quantity and potential threat.

~~Each state environmental agency shall have the authority to engage in environmental and natural resource education activities within their respective areas of environmental jurisdiction.~~

SECTION 7. AMENDATORY Section 7 of Enrolled House Bill No. 1002 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 7. A. Except as otherwise provided by this section, effective July 1, 1993, jurisdiction and all unexpended funds, property, records, personnel and any outstanding financial obligations or encumbrances of the Oklahoma State Department of Health over point source and nonpoint source discharges; underground injection for other than brine recovery, saltwater disposal or secondary or tertiary oil recovery; air quality under the Federal Clean Air Act and applicable state law, except for indoor air quality and asbestos as regulated for worker safety by the federal Occupational Safety and Health Act and by Chapter 11 of Title 40 of the Oklahoma Statutes; private and public sewage and waste facilities; existing construction grants program; hazardous substances except for branding, package and labeling requirements; emergency response except for present authority granted to the Department of Civil Emergency Management or other agencies; solid waste; hazardous waste; operator certification of water and waste/wastewater treatment; environmental laboratory services and certification; Superfund responsibilities of the state under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and amendments thereto, except the planning requirements of Title III of the Superfund Amendment and Reauthorization Act of 1986; public and private water supplies; surface water and groundwater quality and protection; freshwater wellhead protection; radioactive waste and all regulatory activities for the use of atomic energy and sources of radiation except for the use of sources of radiation by diagnostic x-ray facilities; agricultural, commercial and industrial waste; public environmental information dissemination; and any other environmental responsibility shall be transferred to the Department of Environmental Quality.

B. On or before January 1, 1994, responsibility for and supervision of sixty-five local environmental specialists currently within the Department of Health and an apportionment of local administrative support personnel as determined by the Oklahoma Legislature shall be transferred from the Oklahoma State Department of Health to the Department of Environmental Quality.

C. Classified employees being transferred to the Department of Environmental Quality shall not be transferred into positions which are in the unclassified service. Classified employees being transferred to the Department shall be eligible to be hired or promoted into unclassified positions for which they meet the qualifications. Any person, including, but not limited to, classified employees being transferred to the Department, accepting positions at the Department which are unclassified shall be hired or promoted into such positions and shall be in the unclassified service. All classified employees being transferred to the Department shall maintain their status as classified employees unless hired or promoted into an unclassified position.

SECTION 8. AMENDATORY Section 12, Chapter 398, O.S.L. 1992 (27A O.S. Supp. 1992, Section 12), as amended by Section 9 and as renumbered by Section 359 of Enrolled House Bill No. 1002 of the



1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 1-1-205. A. With regard to all programs and functions transferred and assigned among the state environmental agencies pursuant to Section 1-3-101 of this act title, ~~the~~ all agency rules, including fee schedules for state and county, relating to such programs and functions are hereby transferred to the receiving agency for the purpose of maintaining and operating such programs and functions. Such rules shall remain in effect only until the promulgation of rules June 30, 1994, at which time such transferred rules will terminate unless earlier superseded by rules promulgated by the receiving agency. By February 1, 1994, each agency receiving programs or functions shall have adopted new permanent rules to implement the programs and functions within the jurisdiction of the agency pursuant to Section 1-3-101 of this act title.

B. Unexpired or unrevoked licenses, permits, certifications or registrations issued prior to July 1, 1993, shall remain valid for stated terms and conditions until otherwise provided by law. Such licenses, permits or registrations shall be subject to the laws and rules of the state agency to which jurisdiction over such licenses, permits or registrations are transferred pursuant to the Oklahoma Environmental Quality Act.

C. All rights, obligations and remedies arising out of laws, rules, agreements and causes of action are also transferred to such agency.

D. Nothing in the Oklahoma Environmental Quality Act shall operate to bar or negate any existing order, claim or cause of action transferred or available to any state environmental agency or its respective predecessor, nor shall it operate to affect enforcement action undertaken by any program, division or service prior to such transfer to any state environmental agency. Violations of provisions of law now contained in this title, and violations of rules, permits or final orders which occurred prior to the transfer of jurisdiction and authority to any state environmental agency shall be subject to penalties available and existing at the time of violation.

E. Any application pending on June 30, 1993, before the Oklahoma Water Resources Board or the State Department of Health for a permit or license over which the Department has jurisdiction is hereby transferred to the Department and shall be subject to the Oklahoma Environmental Quality Code.

F. All permit applications filed with the Oklahoma Water Resources Board on or before June 30, 1993, for which no permit has been issued by the Oklahoma Water Resources Board for the land application of industrial waste, sludge or wastewater shall be subject to the requirements of this Code.

SECTION 9. AMENDATORY 82 O.S. 1991, Section 926.9, as amended by Section 25 and renumbered by Section 359 of Enrolled House Bill No. 1002 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 2-3-501. A. Any duly authorized representative of the Department shall have the power to enter at reasonable times upon any private or public property for the purpose of sampling, inspecting and investigating conditions relating to pollution, damage to natural resources or the possible pollution of any air, land or waters of the state or the environment or relating to any other environmental responsibility authorized by law.

Signature
Effective July 1

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 005. RULES INCORPORATED BY THE DEQ

RECEIVED

JUN 29 1993

OFFICE OF THE
GOVERNOR

RULEMAKING ACTION: EMERGENCY adoption.

RULES: 252:005 Rules Incorporated by the DEQ [NEW].

AUTHORITY: 27A O.S.Supp. 1992, § 12, as amended by Laws 1993, c. 145, § 9 (HB 1002) and by Enrolled SB 361, § 8 (1993).

DATES:

Adoption: June 23, 1993.

Effective: Immediately upon approval by the Governor, or July 1, 1993, whichever is later.

Expiration: June 30, 1994, unless superseded by another rule or disapproved by the legislature.

SUPERSEDED EMERGENCY ACTIONS: None.

INCORPORATIONS BY REFERENCE:

Incorporated standards: Identified in 252:005 Appendix A.

Incorporating rules: 252:005-1-2.

Availability: 8:00 am to 4:30 pm, Department of Environmental Quality, 1000 NE Tenth, Oklahoma City, OK 73117-1212.

FINDING OF EMERGENCY: The Environmental Quality Board finds that a compelling extraordinary circumstance necessitates the seeking of emergency certification of the rules adopted today. These actions provide modern tools for the protection of the environment. Under the terms of the Administrative Procedures Act, unless an emergency is declared and certified, these rules could not go into effect until the spring of 1994 and Oklahoma citizens should not have to wait on that procedure.

ANALYSIS: Environmental agency reorganization began in 1992 with the enactment of the Environmental Quality Code, Title 27A of the Oklahoma Statutes; and with the creation of a new environmental agency, the Department of Environmental Quality (DEQ). Legislation in 1993 provided for the transfer to the new DEQ of existing environmental rules from the Health Department, the Water Resources Board and the Department of Pollution Control in order for the existing regulatory programs to continue operating under the new agency pending promulgation of replacement rules.

These emergency rules identify the existing regulations of those agencies that are incorporated by reference as they relate to statutory programs that are transferred by law. The rules are incorporated by reference as they existed on June 30, 1993. These new rules also provide for the terminology of the transferred rules to reflect the new agency.

CONTACT PERSON: Robert D. Kellogg, Attorney (405 271-8060).

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR JULY 1, 1993, WHICHEVER IS LATER:



CHAPTER 005. RULES INCORPORATED BY THE DEQ

252:005-1-1. Purpose

(a) **Introduction.** This Chapter identifies the existing rules of the Oklahoma State Department of Health, the Oklahoma Water Resources Board and the Oklahoma Department of Pollution Control that are being transferred to the Department of Environmental Quality so the existing programs that they describe may continue under the Department of Environmental Quality until new rules are promulgated by the Environmental Quality Board.

(b) **Authority.** The transfer is authorized by 27A O.S.Supp. 1992, § 12, as amended by Laws 1993, c. 145, § 9 (HB 1002) and by Enrolled SB 361, § 8 (1993).

(c) **Fair construction.** This Chapter should be construed to simplify procedures, avoid delays, save expenses and facilitate implementing the Oklahoma Environmental Quality Code.

252:005-1-2. Rules incorporated by reference

(a) **Rules identified.** Rules described and listed in Appendix A of this Chapter shall be transferred to the Department of Environmental Quality for use by the Department of Environmental Quality in maintaining and operating the regulatory programs that are described in such rules until June 30, 1994, or until replacement rules by the Environmental Quality Board take effect.

(b) **Use of terms.** In the rules transferred, words and terms that refer to the Oklahoma State Department of Health, to the Oklahoma Water Resources Board or to the Oklahoma Department of Pollution Control, and to their offices, boards, councils and employees, shall be construed to refer to their respective counterparts within the new Department of Environmental Quality. For example, use of the term "Commissioner of Health" in rules transferred from the Oklahoma State Department of Health shall be construed as meaning the "Executive Director" of the Department of Environmental Quality.

(c) **Address.** Communications with the Department of Environmental Quality shall be made through the Office of the Executive Director, Oklahoma Department of Environmental Quality, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1212; phone (405) 271-8056.



[NEW]

APPENDIX A
IDENTITY OF RULES INCORPORATED BY THE
DEPARTMENT OF ENVIRONMENTAL QUALITY

Numbers at the left margin indicate the proposed chapter number for replacement rules by the Environmental Quality Board.

I. FROM THE OKLAHOMA STATE DEPARTMENT OF HEALTH

002. **Procedures of the State Department of Health, OAC 310:002.**
Authority: 63 O.S. 1991, § 1-106; 27A O.S.Supp. 1992, § 10;
75 O.S. 1991, § 302.
Last promulgated: 07/01/93
003. **Procedures of the Air Quality Council, OAC 310:003.**
Authority: 63 O.S.Supp. 1992, § 1-1808.1; 27A O.S.Supp.
1992, § 10; 75 O.S. 1991, § 302.
Last promulgated: 12/31/91
004. **Fee Schedule for Environmental Health Services, OAC 310:250,
in part.**
Authority: 63 O.S.Supp. 1992, § 1-106.1; 27A O.S.Supp. 1993,
§ 2-3-402 (HB 1002, § 24).
Last promulgated: 12/31/91; emergency amendments 04/22/93.
020. **Emergency Planning & Community-Right-to-Know, OAC 310:247.**
Authority: 63 O.S. 1991, § 689.1; 27A O.S.Supp. 1993,
§ 4-2-102 (HB 1002 § 242)
Last promulgated: 08/13/92
100. **Air Pollution Control Regulations, OAC 310:200.**
Authority: 63 O.S.Supp. 1992, § 1-1806.1; 27A O.S.Supp. 1993,
§ 2-5-106 (HB 1002 § 43)
Last promulgated: 05/01/92; emergency amendments 11/05/92.
200. **Hazardous Waste Management Regulations, OAC 310:270.**
Authority: 63 O.S. 1991, § 1-2005; 27A O.S.Supp. 1993,
§ 2-7-106 & 2-7-107 (HB 1002 § 89 & 90); plus § 2-7-306
(HB 1002 § 123, HW Fund); § 2-11-204 (HB 1002 § 183, HW
Reduction); § 2-11-307 (HB 1002 § 190, Recycling, Reuse &
Ultimate Destruction Incentive Act)
Last promulgated: 05/01/92; emergency amendments 10/05/92.
300. **Laboratory Certification, OAC 310:282.**
Authority: 63 O.S.Supp. 1992, § 1-106.1(H); 27A O.S.Supp.
1993, § 2-4-302 (HB 1002 § 34); plus § 2-4-201 (HB 1002 § 32,
services)
Last promulgated: 06/01/93; emergency amendments 11/05/92.
400. **Radiation Management Regulations, OAC 310:281 in part.**
Authority: 63 O.S. 1991, § 1-1505; 27A O.S.Supp. 1993,
§ 2-9-104 (HB 1002 § 135); plus § 2-8-202 (HB 1002 § 129, low-
level rad. waste).
Last promulgated: 05/29/92; emergency amendments 11/05/92.



500. **Solid Waste Management Regulations, OAC 310:360.**
Authority: 63 O.S. 1991, § 1-2417; 27A O.S.Supp. 1993,
§ 2-10-201 (HB 1002 § 142)
Last promulgated: 05/29/92
600. **Dairy Waste Management Regulations, OAC 310:235.**
Authority: 63 O.S. 1991, § 1-1301.4; 27A O.S.Supp. 1993,
§ 2-6-501 (HB 1002 § 79); and see, 63 O.S.Supp. 1993,
§ 1-1301.4 (HB 1002 § 350)
Last promulgated: 12/31/91
605. **Water Pollution Control Regulations, OAC 310:385.**
Authority: 63 O.S. 1991, § 1-904; 27A O.S.Supp. 1993,
§ 2-6-203 (HB 1002 § 64); and § 2-6-205 (HB 1002 § 66,
stormwater)
Last promulgated: 12/31/91
620. **Public Water Supply Facility Standards, OAC 310:325.**
Authority: 63 O.S. 1991, § 1-904; 27A O.S.Supp. 1993,
§ 2-6-303 (HB 1002 § 70)
Last promulgated: 12/31/91
625. **Public Water Supply Regulations, OAC 310:330.**
Authority: 63 O.S. 1991, § 1-904; 27A O.S.Supp. 1993,
§ 2-6-303 (HB 1002 § 70)
Last promulgated: 05/01/92; emergency amendments 07/01/92.
630. **Reservoir Sanitation Regulations, OAC 310:335.**
Authority: 63 O.S. 1991, § 1-912; 27A O.S.Supp. 1993,
§ 2-6-601 (HB 1002 § 80)
Last promulgated: 12/31/91
635. **Residential Sewage Disposal Regulations, OAC 310:340.**
Authority: 63 O.S. 1991, § 1-904 & 1-910; 27A O.S.Supp. 1993,
§ 2-6-403 (HB 1002 § 78)
Last promulgated: 12/31/91
640. **Septic Tank Cleaner Regulations, OAC 310:350.**
Authority: 63 O.S. 1991, § 1-1009; 27A O.S.Supp. 1993,
§ 2-6-801 (HB 1002 § 82)
Last promulgated: 12/31/91
650. **Non-Hazardous Waste Injection Well Regulations, OAC 310:300.**
Authority: 63 O.S. 1991, § 1-904; 27A O.S.Supp. 1993,
§ 2-6-203 (HB 1002 § 64)
Last promulgated: 12/31/91
655. **Water Pollution Control Facility Standards, OAC 310:380.**
Authority: 63 O.S. 1991, § 1-904; 27A O.S.Supp. 1993,
§ 2-6-402 (HB 1002 § 77)
Last promulgated: 12/31/91

[NEW]

660. Water & Wastewater Permit Exemption Regulations, OAC 310:375.
Authority: 63 O.S. 1991, § 1-904; 27A O.S.Supp. 1993,
§ 2-6-402 (HB 1002 § 77)
Last promulgated: 12/31/91
700. Water and Sewage Works Operator Regulations, OAC 310:370.
Authority: 59 O.S. 1991, § 1104, as amended (HB 1002 § 278).
Last promulgated: 12/31/91

II. FROM THE OKLAHOMA WATER RESOURCES BOARD

004. OWRB FEES, OAC 785:5-1-12, 785:5-1-13 and App. A and B in part.
Authority: 82 O.S. 1991, § 1085.2).
Last promulgated: 12/31/91; emergency amendments 05/11/92.
300. Pollution Remedies (laboratory certification, OAC 785:40, Subchapter 7.
Authority: 27A O.S.Supp. 1993, § 2-4-302 (HB 1002 § 34);
plus § 2-4-201 (HB 1002 § 32, services)
Last promulgated: 07/13/92
525. Pollution Remedies (land application of industrial wastewater) OAC 785:40 Subchapter 3 in part.
Authority: 82 O.S. 1991, § 926.3; 27A O.S.Supp. 1993,
§ 2-6-501 (HB 1002 § 79)
Last promulgated: 05/26/92
605. Pollution Remedies (discharges), OAC 785:40 Subch. 1, 3, 5 & appendices.
Authority: 82 O.S. 1991, § 926.3; 27A O.S.Supp. 1993,
§ 2-6-203 (HB 1002 § 64); and § 2-6-205 (HB 1002 § 66, stormwater)
Last promulgated: 07/13/92
610. Pollution Remedies (industrial surface impoundments), OAC 785:40, Subchapters 1, 3 & 5.
Authority: 27A O.S.Supp. 1993, § 2-6-501 (HB 1002 § 79)
Last promulgated: 05/26/92; emergency amendments 07/13/92.
615. Pollution Remedies (water quality planning, enforcement, 401 certifications and other requirements), OAC 785:40 Subchapters 1 & 5, in part, and 785:30-13-8.
Authority: 82 O.S. 1991, § 926.3; 27A O.S.Supp. 1993,
§ 2-6-103 (HB 1002 § 58)
Last promulgated: 05/26/92

III FROM THE OKLAHOMA DEPARTMENT OF POLLUTION CONTROL

030. Oklahoma Oil and Hazardous Substances Pollution Contingency Plan, OAC 555:10.
Authority: 82 O.S. 1991, § 934; 27A O.S.Supp. 1993,
§ 2-6-102 (HB 1002 § 57)
Last promulgated: 01/14/92.



Agency note (1): Some provisions incorporated by reference from regulations of the State Health Department and of the Oklahoma Water Resources Board are not readily segregable into the areas of jurisdiction of the DEQ. It is intended that the rules for the programs transferred by law shall continue in effect as they exist on June 30, 1993, until such time as the rules are replaced by the Environmental Quality Board.

Agency note (2): The parts of the Radiation Management Regulations, OAC 310:281, that are incorporated by reference are those parts that relate to the radiation protection jurisdiction of the DEQ as described in Laws 1993, c. 145, § 129 through 138. The State Health Department continues to regulate diagnostic x-ray facilities. Laws 1993, c. 145, § 313.

Agency note (3): The parts of the Oklahoma Water Resources Board regulations, OAC 785, that are incorporated by reference are those parts that relate to the jurisdiction of the DEQ, as set out in Laws 1993, c. 145, as amended by SB 361 (1993). The Oklahoma Water Resources Board continues to regulate water quantity, weather modification, dam safety, flood plain management, the State Revolving Fund Program, water well drillers and water quality standards, as described in Subsection C of Section 6 of Enrolled SB 361 (1993).

Agency note (4): The Procedures of the State Department of Health, OAC 310:002, include those amendments with an effective date of July 1, 1993, that were published on May 3, 1993, beginning at 10 Ok Reg 1721.

ATTESTATION

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of new Chapter 005, Rules Incorporated by the DEQ, which was adopted by the Environmental Quality Board June 23, 1993, under emergency rulemaking provisions of the Administrative Procedures Act, 75 O.S., Sections 250 et seq.

I, the undersigned, do hereby attest that such rules were adopted in substantial compliance with the Administrative Procedures Act.

Mark S. Coleman

MARK S. COLEMAN
Executive Director

Date:

June 19, 1993



~~(e)~~ 5. A requirement that no license shall be issued or renewed under the provisions of this section until said applicant complies with the rules and regulations of the State Board of Health regarding the cleaning of septic tanks and cesspools and the disposal of sewage taken therefrom.

B. Nothing in this section shall limit the authority of a city or town to prescribe regulations to collect additional fees related to the cleaning of septic tanks or cesspools and the disposal of sewage therefrom.

PART 9. ENFORCEMENT

SECTION 83. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-6-901 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. In addition to other penalties as may be imposed by law, any person who shall violate any of the provisions of, or who fails to perform any duty imposed by this article, or who violates any rule promulgated thereunder, or the terms of any order, permit, license or certification issued thereunder, shall, upon conviction, be guilty of a misdemeanor and in addition thereto may be enjoined from continuing such violation. In addition to other penalties or liabilities as may be imposed by law, violations may be punishable in civil proceedings by assessment of a civil penalty of not more than Ten Thousand Dollars (\$10,000.00) for each violation or, in criminal proceedings, by a fine of not less than Two Hundred Dollars (\$200.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation or by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment. Each day upon which such violation occurs shall constitute a separate violation.

B. Part 5 of Article III of Chapter 2 of this act shall apply to violations under this article except when inconsistent with the provisions of the Oklahoma Pollutant Discharge Elimination System Act.

C. The provisions of subsection A of this section shall not apply to the Oklahoma Pollutant Discharge Elimination System Act or hazardous waste injection wells.

ARTICLE VII. HAZARDOUS WASTE MANAGEMENT

PART 1. OKLAHOMA HAZARDOUS WASTE MANAGEMENT ACT

SECTION 84. AMENDATORY 63 O.S. 1991, Section 1-2001, as amended by Section 4, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2001), is amended to read as follows:

Section 1-2001. This ~~act~~ article shall be known and may be cited as the "Oklahoma Hazardous Waste ~~Disposal~~ Management Act".

SECTION 85. AMENDATORY 63 O.S. 1991, Section 1-2001.1, as amended by Section 5, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2001.1), is amended to read as follows:

Section 1-2001.1 Hazardous waste shall be ~~treated and regulated pursuant~~ subject to the provisions of the "Oklahoma Hazardous Waste ~~Disposal~~ Management Act" and shall not be subject to the provisions of the "Oklahoma Solid Waste Management Act".

SECTION 86. AMENDATORY 63 O.S. 1991, Section 1-2002, as last amended by Section 6, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2002), is amended to read as follows:

Section 1-2002. As used in this ~~act~~, unless the context otherwise requires the Oklahoma Hazardous Waste Management Act:

1. ~~"Hazardous 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 land fills, waste or sewage treatment facilities.~~

~~Hazardous 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;~~

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 hazardous waste into a product which is being reused or which has been sold for beneficial use. Hazardous 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 hazardous waste occurs, including any tank, pit, lagoon, pond, or other specific place or area;~~

10. ~~"Hazardous 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 Hazardous Waste Management Council;~~

13. ~~"Site" or "proposed site" means the surface area of a disposal site, or other hazardous 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 hazardous 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 hazardous waste facility of hazardous waste not generated by the owner of the facility;~~

16. ~~"Multi-user on-site treatment facility" means a treatment facility for hazardous waste generated by the co-owners of the~~

~~facility and which meets the criteria specified by Section 1-2008.1 of this title; and~~

~~17. "Regeneration" or "regenerated" means the regeneration of spent activated carbon to render it reusable, and any treatment, storage or disposal associated therewith.~~

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

2. "Affiliated person" means:

- a. any officer, director or partner of the applicant,
- b. any person employed by the applicant as a general or key manager who directs the operations of the site or facility which is the subject of the application, and
- c. any person owning or controlling more than five percent (5%) of the applicant's debt or equity;

3. "Council" means the Hazardous Waste Management Advisory Council;

4. "Demonstrated pattern of prohibited conduct" means a series of conduct of the same or like character in violation of state or federal environmental laws which, as a result of the applicant's or affiliated person's reckless disregard thereof, actually endangers, or reasonably has the potential to endanger, human health or the environment;

5. "Disclosure statement" means a written statement by the applicant which contains:

- a. the full name, business address, and social security number of the applicant, and all affiliated persons,
- b. the full name and address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%), or which is a parent company or subsidiary of the applicant, and a description of the on-going organizational relationships as they may impact operations within the state,
- c. a description of the experience and credentials of the applicant, including any past or present permits, licenses, certifications, or operational authorizations relating to environmental facility regulation,
- d. a listing and explanation of any administrative, civil or criminal legal actions against the applicant or any affiliated person which resulted in a final agency order or final judgment by a court of record including, but not limited to, final orders or judgments on appeal in the ten (10) years immediately preceding the filing of the application relating to the generation, transportation, storage, treatment, recycling or disposal of "hazardous waste" as defined by the Oklahoma Hazardous Waste Management Act or by the United States Environmental Protection Agency pursuant to the Federal Resource Conservation and Recovery Act. Such actions shall include, without limitation, any permit denial or any sanction imposed by a state regulatory authority or the United States Environmental Protection Agency, and
- e. a listing of any federal environmental agency and any state environmental agency outside this state that has

or has had regulatory responsibility over the applicant;

6. "Disposal" means the final disposition of hazardous waste;

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

8. "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 Hazardous Waste Management Act;

9. "Hazardous waste" means waste materials and byproducts, either solid or liquid or containerized gas, which are:

- a. to be discarded by the generator or recycled,
- b. toxic to human, animal, aquatic or plant life, and
- c. generated in such quantity that they cannot be safely disposed of in properly operated, state-approved solid waste landfills or waste, sewage or wastewater treatment facilities.

The term "hazardous 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 hazardous waste. The term "hazardous waste" shall not include domestic sewage;

10. "Hazardous waste facility" means and includes storage and treatment facilities and disposal sites;

11. "History of noncompliance" means any past operations by an applicant or affiliated persons which clearly indicate a reckless disregard for environmental regulation or demonstrate a pattern of prohibited conduct which could reasonably be expected to result in endangerment to human health or the environment if a permit were issued, as evidenced by findings, conclusions and rulings of any final agency order or final order or judgment of a court of record;

12. "Multi-user on-site treatment facility" means a treatment facility for hazardous waste generated by the co-owners of the facility and which meets the criteria specified by the Oklahoma Hazardous Waste Management Act;

13. "Off-site treatment, storage, recycling or disposal" means the treatment, storage, recycling or disposal at a hazardous waste facility of hazardous waste not generated by the owner of the facility;

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

15. "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;

16. "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 a construction permit application;

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

18. "Regeneration" or "regenerated" means the regeneration of spent activated carbon to render it reusable, and any treatment, storage or disposal associated therewith;

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

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

21. "Treatment" means the detoxification, neutralization, incineration or biodegradation of hazardous waste in order to remove or reduce its harmful properties or characteristics; and

22. "Treatment facility" means any location where treating or recycling of hazardous waste occurs.

SECTION 87. AMENDATORY 63 O.S. 1991, Section 1-2003, as amended by Section 7, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2003), is amended to read as follows:

Section 1-2003. A division hazardous waste management program responsible for the regulation and management of hazardous waste shall be maintained within the State Department of Health. The division hazardous waste management program shall consist of a director, who shall be hired by the Commissioner of Health Executive Director, and additional employees to be hired by the Commissioner as the Executive Director deems are necessary and duly qualified to carry out the provisions of this act the Oklahoma Hazardous Waste Management Act. As a prerequisite for employment as a the director of the hazardous waste management program, the director applicant shall have expertise and at least two (2) years' experience in waste management. The director and all employees of the division hazardous waste management program shall be subject to the Merit System of Personnel Administration.

SECTION 88. AMENDATORY 63 O.S. 1991, Section 1-2004, as amended by Section 9, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2004), is amended to read as follows:

Section 1-2004. The Department shall have the following powers and duties power and duty to:

1. Issue permits for the construction, operation and post-closure of hazardous waste facilities;
2. Provide the owner or operator of a hazardous 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 hazardous waste facilities and recycling, transporting, and generating facilities to determine the extent of compliance with the Department's rules and regulations and the Oklahoma Hazardous Waste Disposal Management Act and rules promulgated thereunder, and orders, permits and licenses issued pursuant thereto;
4. Develop, maintain, and monitor public records of the source and amount of hazardous 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 hazardous waste off-site for storage, recycling, treatment, or disposal;
6. Require and approve or disapprove disposal plans from all persons generating hazardous waste or shipping hazardous waste within, from, or into Oklahoma indicating the amount of hazardous waste generated, the handling, storage, treatment, and disposal methods, and the hazardous waste facilities used. The disposal plans shall be kept current by the persons generating or shipping hazardous 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 hazardous 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 hazardous waste as may be required by or pursuant to authority of the Oklahoma Hazardous Waste ~~Disposal~~ Management Act;
9. Require reports from all operators of hazardous waste facilities who receive hazardous waste for treatment or storage or disposal, listing the amount, transporter, and generator of all hazardous 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 hazardous 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 hazardous 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 hazardous waste and for spills of hazardous materials;
15. Make information obtained by the Department regarding hazardous 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 hazardous waste program in this state were being carried out by the U.S. Environmental Protection Agency;
16. ~~With~~ Develop rules with respect to any existing surface impoundment or landfill or class of surface impoundments or landfills from which the Department determines hazardous waste may migrate into groundwater, impose such requirements, including but not limited to 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 hazardous 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 hazardous 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 hazardous waste treatment technology or process not yet regulated. Permits may be renewed no more than three times. No renewal may exceed one (1) year;

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

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

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

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

24. Issue permits for the storage of hazardous 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 Hazardous Waste Disposal Management Act and rules promulgated thereunder;

27. Evaluate the benefit of rules and regulations governing labeling practices for any containers used for the disposal, storage, or transportation of hazardous 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 hazardous waste;

29. Cooperate with existing technical reference centers on hazardous 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 hazardous waste and recycling and recovery of resources from hazardous wastes;

31. Determine existing rates of production of hazardous waste;

32. Promote recycling and recovery of resources from hazardous wastes;

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

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

SECTION 89. AMENDATORY 63 O.S. 1991, Section 1-2004.1, as amended by Section 10, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2004.1), is amended to read as follows:

Section 1-2004.1 The Council, with at least five members concurring, shall submit recommended rules and regulations to the Board concerning the listing and characterization of hazardous waste, the construction and operation of hazardous waste facilities, specific disposal practices for specified wastes, the transportation and storage of hazardous 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 hazardous waste management.

SECTION 90. AMENDATORY 63 O.S. 1991, Section 1-2004.2, as amended by Section 11, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2004.2), is amended to read as follows:

Section 1-2004.2 A. In addition to other powers and duties specified by law, the Board shall ~~adopt~~ promulgate rules and regulations to:

1. Prohibit the placement of any liquid which is not a hazardous 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 hazardous 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 hazardous 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 hazardous waste except a waste identified solely on the basis of ignitability;
4. Require such monitoring and control of air emissions at hazardous 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 hazardous waste or used oil as may be necessary to protect human health and the environment including, but not limited to, labeling and recordkeeping requirements;
6. Control the listed or identified hazardous wastes which discharge through a sewer system to a publicly owned treatment works for the protection of human health and the environment;
7. Provide in accordance with Sections 3005(c) and 3005(e) of the Resource Conservation and Recovery Act for the automatic termination of interim status for hazardous 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 hazardous waste facilities evidence of financial responsibility for

corrective action as may be required or ordered under the authority of the Oklahoma Hazardous Waste Disposal Management Act;

9. Require that generators of hazardous 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.

B. The hazardous waste component of mixed waste and radioactive waste shall be regulated as hazardous waste. The radioactive waste component shall be regulated as radioactive waste. Both the hazardous waste requirements and the radioactive waste requirements shall apply if physical separation of the two components is not accomplished. If a conflict exists between the two requirements, the requirement most protective of human health and the environment shall take precedence.

C. Rules pertaining to standards for the transportation of hazardous waste and recyclable materials shall not be more stringent than those of the U.S. Department of Transportation, unless a waiver of preemption is granted pursuant to federal statutes and rules promulgated thereunder.

SECTION 91. AMENDATORY 63 O.S. 1991, Section 1-2009.1, as amended by Section 25, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2009.1), is amended to read as follows:

Section 1-2009.1 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 hazardous waste materials or commence construction of or own or operate any premises or facility engaged in the operation of storing, treating or disposing of hazardous waste or storing recyclable materials, who does not possess a valid and appropriate hazardous waste facility permit.

B. 1. Any person who owned or operated a hazardous 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 Hazardous Waste Disposal Act.

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 the Oklahoma Hazardous Waste Management 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~~ the Oklahoma Hazardous Waste Management Act 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 hazardous waste is generated therefrom.

SECTION 92. AMENDATORY Section 3, Chapter 201, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2004.3) is amended to read as follows:

Section 1-2004.3 A. In order to protect the public health and safety and the environment of this state, the ~~State Department of Health Department~~, pursuant to the ~~Oklahoma Controlled Industrial Hazardous Waste Disposal Management Act~~, shall not issue, renew, or transfer a permit for the construction or operation of a ~~controlled industrial hazardous waste~~ facility for treatment, storage, recycling or disposal to any person who:

1. Is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to the generation, storage, transportation, treatment, recycling or disposal of "~~controlled industrial hazardous waste~~", as such term is defined by the ~~Oklahoma Controlled Industrial Hazardous Waste Disposal Management Act~~, or "~~hazardous waste~~", as such term is defined by the United States Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act;

2. Has evidenced a reckless disregard for the protection of the public and the environment as demonstrated by a history of noncompliance with environmental laws and rules resulting in endangerment of human health or the environment; or

3. Has as an affiliated person any person who is described by paragraph 1 or 2 of this subsection.

~~B. As used in this section:~~

~~1. "Affiliated person" means:~~

- ~~a. any officer, director or partner of the applicant,~~
- ~~b. any person employed by the applicant as a general or key manager who directs the operations of the site or facility which is the subject of the application, and~~
- ~~c. any person owning or controlling more than five percent (5%) of the applicant's debt or equity;~~

~~2. "Disclosure statement" means a written statement by the applicant which contains:~~

- ~~a. the full name, business address, and social security number of the applicant, and all affiliated persons,~~
- ~~b. the full name and address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%), or which is a parent company or subsidiary of the applicant, and a description of the on-going organizational relationships as they may impact operations within the state,~~
- ~~c. a description of the experience and credentials of the applicant, including any past or present permits, licenses, certifications, or operational authorizations relating to environmental facility regulation,~~
- ~~d. a listing and explanation of any administrative, civil or criminal legal actions against the applicant or any affiliated person which resulted in a final agency order or final judgment by a court of record including, but not limited to, final orders or judgments on appeal in the ten (10) years immediately preceding the filing of the application relating to the generation, transportation, storage, treatment, recycling or disposal of "controlled industrial waste" as defined by the Oklahoma Controlled Industrial Waste Disposal Act or "hazardous waste" as defined by the United States Environmental Protection Agency pursuant to the Federal~~

~~Resource Conservation and Recovery Act. Such actions shall include, without limitation, any permit denial or any sanction imposed by a state regulatory authority or the United States Environmental Protection Agency, and~~

~~e- a listing of any federal environmental agency and any state environmental agency outside this state that has or has had regulatory responsibility over the applicant;~~

~~3. "History of noncompliance" means any past operations by an applicant or affiliated persons which clearly indicate a reckless disregard for environmental regulation or demonstrate a pattern of prohibited conduct which could reasonably be expected to result in endangerment to human health or the environment if a permit were issued, as evidenced by findings, conclusions and rulings of any final agency order or final order or judgment of a court of record;~~

~~4. "Department" means the Oklahoma State Department of Health; and~~

~~5. "Demonstrated pattern of prohibited conduct" means a series of conduct of the same or like character in violation of state or federal environmental laws which as a result of the applicants or affiliated persons reckless disregard thereof actually endangers, or reasonably has the potential to endanger, human health or the environment.~~

~~C. B. 1. Except as provided in paragraph 2 of this subsection, all applicants for the issuance, renewal or transfer of any controlled industrial hazardous waste permit, license, certification or operational authority issued by the Department shall file a disclosure statement with their applications.~~

~~2. If the applicant is a publicly held company required to file periodic reports under the Securities and Exchange Act of 1934, or a wholly owned subsidiary of a publicly held company, the applicant shall not be required to submit a disclosure statement, but shall submit the most recent annual and quarterly reports required by the Securities and Exchange Commission, which provide information regarding legal proceedings in which the applicant has been involved. The applicant shall submit such other relevant information as the ~~Commissioner~~ Department may require that relates to the competency, reliability, or responsibility of the applicant and affiliated persons.~~

~~D. C. The Department is authorized to revoke, or to refuse to issue, to renew, or to transfer a permit for the construction or operation of a controlled industrial hazardous waste facility for treatment, storage, recycling or disposal to any person who:~~

~~1. Is not, due solely to the actions or inactions of the applicant or affiliated person, in substantial compliance with any final agency order or final order or judgment of a court of record secured by the Department issued pursuant to the provisions of the Oklahoma Controlled Industrial Hazardous Waste Disposal Management Act;~~

~~2. Is not, due solely to the actions or inactions of the applicant or affiliated person, in substantial compliance with any final agency order or final order or judgment of a court of record secured by any state or federal agency, as determined by that agency, relating to the generation, storage, transportation, treatment, recycling or disposal of any "controlled industrial hazardous waste", as such term is defined by the Oklahoma Controlled Industrial Hazardous Waste Disposal Management Act, or "hazardous waste", as such term is defined by the United States Environmental Protection~~

Agency pursuant to the federal Resource Conservation and Recovery Act;

3. Has evidenced a history of a reckless disregard for the protection of the public health and safety or the environment through a history of noncompliance with state or federal environmental laws, including without limitation the rules and regulations of the ~~Oklahoma State Department of Health~~ or the United States Environmental Protection Agency regarding the generation, storage, transportation, treatment, recycling or disposal of any "~~controlled industrial hazardous waste~~", as such term is defined by the Oklahoma ~~Controlled Industrial Hazardous Waste Disposal Management Act~~, or "~~hazardous waste~~", as such term is defined by the United States Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act; or

4. Has as an affiliated person any person who is described by paragraphs 1, 2 or 3 of this subsection.

~~E- D.~~ 1. An application for a permit for the construction or operation of a ~~controlled industrial hazardous waste~~ facility for treatment, storage, recycling or disposal or a renewal thereof shall be signed under oath by the applicant.

2. The Department may refuse to renew, or may suspend or revoke, a permit issued pursuant to the Oklahoma ~~Controlled Industrial Hazardous Waste Disposal Management Act~~ for the construction or operation of a ~~controlled industrial hazardous waste~~ facility for treatment, storage, recycling or disposal to any person who has failed to disclose or states falsely any information required pursuant to the provisions of this section. Any person who willfully fails to disclose or states falsely any such information, upon conviction, shall be guilty of a felony and may be punished by imprisonment for not more than five (5) years or fined not more than One Hundred Thousand Dollars (\$100,000.00) or both such fine and imprisonment.

~~E- E.~~ Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of such final order or judgment shall not be considered a final order or judgment for the purposes of this section.

~~G- F.~~ The ~~State Board of Health~~ shall promulgate rules pursuant to the ~~Administrative Procedures Act~~ as may be necessary and appropriate to implement the provisions of this section.

~~H- G.~~ The provisions of this section shall apply to:

1. Any pending or future application for a construction permit for land disposal or treatment of ~~controlled industrial hazardous waste~~, except treatment at a facility accepting ~~controlled industrial hazardous waste~~ exclusively for the purpose of conducting research and design tests; and

2. Any application for a construction or operations permit for ~~controlled industrial hazardous waste~~ treatment, storage, recycling or disposal which is initially submitted to the Department after July 31, 1992, or which has not been determined by the Department to be technically complete by December 31, 1993, regardless of the initial submittal date.

SECTION 93. AMENDATORY 63 O.S. 1991, Section 1-2006.1, as amended by Section 20, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2006.1), is amended to read as follows:

Section 1-2006.1 A. The Department shall not issue a construction permit for the treatment, disposal or temporary storage

of any liquid hazardous 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 hazardous 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 hazardous waste authorized by the provisions of ~~Section 1-2014 of Title 63 of the Oklahoma Statutes~~ the Oklahoma Hazardous Waste Management Act;

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 hazardous 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 Hazardous Waste Disposal Management Act.

SECTION 94. AMENDATORY 63 O.S. 1991, Section 1-2014, as amended by Section 32, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2014), is amended to read as follows:

Section 1-2014. A. The practice of plowing hazardous 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 administrative permit hearing provisions of Section ~~1-2006~~ 96 of this title act 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 hazardous 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 hazardous waste or hazardous waste constituent.

C. 1. Except as provided in paragraph 3 of this subsection, a hazardous 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 hazardous 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 hazardous 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 a 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 hazardous 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 formal public meeting or administrative permit hearing conducted pursuant to the provisions of Section 1-2006 96 of this ~~title~~ act,
- 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 hazardous waste or hazardous 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.

SECTION 95. AMENDATORY 63 O.S. 1991, Section 1-2007, as amended by Section 21, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2007), is amended to read as follows:

~~Section 1-2007. The Department shall prepare for adoption by the Board definite criteria, including testing methods and minimum or maximum standards, before construction of a hazardous waste facility~~

~~shall proceed.~~ The design, testing and construction of a hazardous waste facility shall be conducted under the supervision of a professional engineer, registered in Oklahoma, with training and experience in suitable disciplines.

SECTION 96. AMENDATORY 63 O.S. 1991, Section 1-2006, as amended by Section 19, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2006), is amended to read as follows:

Section 1-2006. 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 hazardous waste facilities. A construction permit shall be issued only upon proper application, ~~hearing, if requested,~~ and determination by the Department that the proposed site and facility are physically and technically suitable. Upon submission of an application for a construction permit, which shall be a public record, the applicant shall notify affected property owners.

C. B. In addition to the notice required by subsection B A 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 hazardous waste facility proposed for a permit, of the opportunity to ~~oppose comment on the granting of such permit by requesting an informal a formal public meeting.~~ If within forty-five (45) days of ~~after~~ such notice, the Department receives from any person residing or doing business in Oklahoma, written notice of opposition and request for ~~informal such 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 meeting~~ at a location convenient to the population center nearest the proposed site, and prior to any related ~~administrative permit hearing conducted pursuant to subsection B C~~ of this section.

D. C. If any of the affected property owners or qualified interest groups request a ~~public an administrative permit hearing,~~ such hearing shall be held before a construction permit is issued. All affected property owners and qualified interest groups who request a ~~an administrative permit hearing shall be joined at as parties to the hearing pursuant to rules promulgated by the Board.~~ At any ~~requested such administrative permit hearing,~~ the Department shall hear testimony and accept evidence pertaining only to the physical and technical suitability of the proposed hazardous waste facility.

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

F. E. The Department may, upon determining that public health or safety requires emergency action, issue a temporary permit for treatment or storage of hazardous waste or recyclable material for a period not to exceed ninety (90) days without the prior notices and opportunity ~~for to request a public meeting and without or the administrative permit hearing required by this section.~~ Any person aggrieved by such permit may seek judicial review ~~pursuant to the Administrative Procedures Act.~~

SECTION 97. AMENDATORY 63 O.S. 1991, Section 1-2014.3, as amended by Section 35, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2014.3), is amended to read as follows:

Section 1-2014.3 A. Except as provided in subsections B and C of this section, no construction or operation permit shall be issued ~~for a new hazardous waste facility for the off-site disposal of hazardous waste or for the off-site treatment of hazardous waste by incinerator at a new hazardous waste facility proposed to be located within eight (8) miles of the corporate limits of any an 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 hazardous waste facility means a hazardous waste facility that was not in operation and actively treating hazardous waste by incineration or disposing of hazardous waste during the year preceding ~~the effective date of this act August 30, 1991.~~ Addition of new treatment, storage or disposal units to an existing hazardous waste facility does not constitute a new facility.

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

C. This section shall not apply to a proposed site located on property owned or operated by a person who also owns or operates a hazardous waste facility on contiguous property on which a hazardous waste facility was operating pursuant to a valid permit on ~~the effective date of this act August 30, 1991.~~

SECTION 98. AMENDATORY 63 O.S. 1991, Section 1-2005.3, as amended by Section 14, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2005.3), is amended to read as follows:

Section 1-2005.3 A. Regarding a construction permit application for a hazardous 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 hazardous 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~~ its county would occur, ~~said~~ such board shall determine reasonable measures necessary to upgrade the roads and bridges and allow the applicant for a hazardous waste facility to upgrade or pay for the upgrading of ~~said such~~ roads and bridges if the applicant receives a construction permit.

B. The Department shall not issue a construction permit for any new hazardous 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 such forty-five-day response period 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~~ in 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~~ This section shall also apply to any construction permit application submitted to the Department prior to the effective date of this act on or after May 30, 1985, and to any construction permit application submitted before May 30, 1985, for which a permit has not been issued.

SECTION 99. AMENDATORY 63 O.S. 1991, Section 1-2008, as amended by Section 22, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2008), is amended to read as follows:

Section 1-2008. A. The Department shall issue permits for the operation of hazardous waste facilities. No operation permit shall be issued except upon proper application, proof of sufficient liability insurance and financial responsibility, ~~informal~~ formal public meeting, if requested, and such other requirements as hereinafter provided by the Oklahoma Hazardous Waste Management Act.

B. Liability insurance shall be provided by the applicant and shall apply to sudden and nonsudden bodily injury or property damage on, below or above the surface, as required by the rules and regulations of the Board. Additional insurance shall be required as deemed necessary by the Department to protect the property rights of owners or leaseholders of underground resources such as oil, gas, water or other mineral substances. Such insurance shall be maintained for the period of operation of the facility and shall provide coverage for damages resulting from operation of the facility during operation and after closing. In lieu of liability insurance required by this or any other section of ~~this act~~ the Oklahoma Hazardous Waste Management 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~~ 107 of this title act.

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 hazardous waste facility as required by ~~this act~~ the Hazardous Waste Management Act. If the applicant is not financially able to operate and maintain a hazardous waste facility, as required by ~~this act~~ the Hazardous Waste Management Act, a permit shall be denied.

F. The operation of a hazardous 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 hazardous waste facility is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code 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~~ for which evidence of financial responsibility is required pursuant to the Oklahoma Hazardous Waste Disposal Management Act 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~~ for the owner or operator pursuant to the Oklahoma Hazardous Waste Disposal Management Act. Nothing in this subsection shall be construed to limit any other state or federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 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 Hazardous Waste Disposal Act.~~

SECTION 100. AMENDATORY 63 O.S. 1991, Section 1-2008.1, as amended by Section 23, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2008.1), is amended to read as follows:

Section 1-2008.1 A. Two or more persons generating hazardous 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 hazardous waste facility for off-site treatment, storage or disposal of hazardous waste.

B. To be eligible for a permit issued pursuant to the provisions of this section and the Oklahoma Hazardous Waste Disposal Management Act, a multi-user on-site treatment facility shall meet the following criteria:

1. The facility may be co-owned by the generators of hazardous 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 hazardous 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 hazardous waste which is to be treated at the multi-user on-site treatment facility shall be located within the same county as the multi-user on-site treatment facility;
4. The multi-user on-site treatment facility shall be located upon the property of one of the compact members;
5. Financial responsibility requirements shall be the responsibility of the compact members and shall be prorated according to the relative amount of hazardous 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 hazardous 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 Hazardous Waste Disposal Management Act, this section and any rules promulgated pursuant thereto thereunder, 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 a multi-user on-site treatment facility is proposed to be located shall review all transportation routes from between such proposed location and the facilities generating hazardous 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 this title. The provisions of Section 98 of this act relating to county roads and bridges shall apply to construction and operation permit applications for multi-user on-site treatment facilities.

SECTION 101. AMENDATORY 63 O.S. 1991, Section 1-2014.2, as amended by Section 34, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2014.2), is amended to read as follows:

Section 1-2014.2 Facilities that recycle hazardous wastes are waste shall be exempt from construction permit requirements specified by the provisions of the Oklahoma Hazardous Waste Disposal Management Act for with regard to those units exclusively used in the recycling process. Off-site hazardous waste recycling facilities are subject to the requirements specified by the Oklahoma Hazardous Waste Disposal Management Act for an operations permit, and shall also meet design standards as promulgated by the State Board of Health. Such recycling facilities which ~~are~~ were in existence on ~~the effective date of this act~~ July 1, 1990, may but shall not be required to file an operations permit application pursuant to the provisions of the Oklahoma Hazardous Waste Disposal Management 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.

SECTION 102. AMENDATORY 63 O.S. 1991, Section 1-2005.2, as amended by Section 13, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2005.2), is amended to read as follows:

~~Section 1-2005.2 A. The State Board of Health may shall establish a system schedule of fees, pursuant to Section 24 of this act and the Administrative Procedures Act, to be charged for applications to issue and renew permits for hazardous waste facilities and for such environmental health services as are involved in the regulation of hazardous waste. Such fees shall be subject to the following limitations only be used for the implementation of the provisions of the Oklahoma Hazardous Waste Management Act pursuant to Section 24 of this act.~~

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

~~2- B. 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 Hazardous Waste Disposal Act.~~

SECTION 103. AMENDATORY 63 O.S. 1991, Section 1-2005.3B, as last amended by Section 7 of Enrolled Senate Bill No. 1 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 1-2005.3B Any person subject to regulation under this title chapter disposing of liquid waste other than hazardous waste in an underground injection well shall pay a fee of five-hundredths of one cent (\$0.0005) per gallon for such disposal, provided that the total fee shall be not less than Fifteen Thousand Dollars (\$15,000.00) nor more than Fifty Thousand Dollars (\$50,000.00) per year. Said fee shall be paid to the Department on a quarterly basis within one (1) 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.~~

SECTION 104. AMENDATORY 63 O.S. 1991, Section 1-2005.3A, as last amended by Section 15, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2005.3A), is amended to read as follows:

Section 1-2005.3A A. Every hazardous waste treatment facility, storage facility, underground injection facility, disposal facility, or off-site facility that recycles hazardous waste subject to the provisions of the Oklahoma Hazardous Waste Disposal Management Act shall pay an annual fee on the amount of hazardous waste managed by such facility to the State Department of Health for deposit in the ~~Public Health Special Fund.~~

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

- a. For hazardous waste generated within the State of Oklahoma, Nine Dollars (\$9.00) per ton for on-site or off-site storage, treatment or land disposal.
- b. For hazardous waste generated within the State of Oklahoma, or elsewhere in the case of regeneration, Four Dollars (\$4.00) per ton for off-site recycling.
- c. For hazardous waste generated within the State of Oklahoma, three cents (\$0.03) per gallon for on-site or off-site underground injection.
- d. (1) Effective May 1, 1993, the fee applicable to waste generated outside the State of Oklahoma except as provided in subparagraph b of this paragraph shall be based on the primary purpose for which the waste is imported into the State of Oklahoma, and shall be a reciprocal fee at the rate of and in accordance with the method of imposition of the tax or fee imposed on the storage, treatment, disposal or recycling of such waste in the state, country or territory where the waste was generated, as determined by the State Department of Health. In no case, however, shall the fee levied on hazardous waste generated outside the State of Oklahoma be less than the rate charged at the time of its storage, treatment, disposal or recycling for hazardous waste generated and stored, treated, disposed or recycled in the State of Oklahoma.
- (2) Any person storing, treating, disposing, or recycling such hazardous waste in the State of Oklahoma shall file with the State Department of Health an affidavit showing the applicable tax or fee for any hazardous waste received from another state, country or territory had it been stored, treated, or disposed of in a like manner in that state, country or territory. In preparing the required affidavit, the recipient of the waste is legally entitled to rely upon all information

contained in the manifest document accompanying the shipment of waste.

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

- a. Except as provided in subparagraph d of this paragraph, any person owning or operating an off-site hazardous 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 hazardous 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; provided, the annual fee for the on-site disposal of hazardous waste by underground injection shall not exceed Fifty Thousand Dollars (\$50,000.00).
- c. Any person owning or operating an off-site facility for the recycling of hazardous waste shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year.
- d. Any person owning or operating an off-site facility which accepts hazardous waste exclusively for the purpose of conducting research and design tests shall pay a total fee of not less than Ten Thousand Dollars (\$10,000.00) each state fiscal year.

3. Off-site facilities may charge persons contracting for the services of the facility their proportional share of the fees required by the provisions of this section.

4. The facility shall become liable for payment of the fee on each ton or gallon of hazardous 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.

5. The fee imposed by the provisions of this section shall be payable only once without regard to any subsequent handling of the hazardous waste. The fee shall be based on the purpose for which the waste was 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.

6. In computing the amount of the fee specified in subparagraph b of paragraph 1 of subsection A of this section for the off-site recycling or regeneration of hazardous waste, the assessment for regeneration shall be made on a dry weight basis.

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

1. Facilities engaged only in the on-site recycling of hazardous waste; and
2. Facilities which have not generated or received new hazardous waste within the preceding state fiscal year.

C. Payment of the fees required by this section shall be due quarterly for hazardous 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 hazardous waste is received. All payments shall be made within thirty (30) days from the date it becomes due.

D. The fees required by this section shall be paid in lieu of the monitoring fees imposed in ~~paragraph 2 of subsection A B of Section 1-2005-2 102 of this title act.~~ 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 required by the Oklahoma Hazardous Waste Disposal Management 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 from an off-site hazardous waste facility pursuant to the provisions of this section shall be deposited to the credit of the Special Economic Development Trust Funds ~~established pursuant to Section 1-2005-3C of this title.~~ 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 off-site hazardous waste facilities within the Trust area.

2. The ~~State Commissioner of Health Department~~ 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 Hazardous Waste Disposal Management Act,
- b. The development of an inventory of hazardous 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 hazardous waste facilities which may include full time inspectors at off-site hazardous 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 Department~~ shall 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 Act for remediation or related action upon a site within the state;
2. Response, including but not limited to containment and removal, to emergency situations involving spillage, leakage, emissions or other discharge of hazardous waste or hazardous 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 hazardous waste or hazardous 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~~ 122 of this title act.

SECTION 105. AMENDATORY Section 7, Chapter 201, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2002.a), is amended to read as follows:

Section 1-2002.a ~~The Oklahoma State Department of Health shall not assess an annual fee for the on-site disposal of controlled industrial hazardous waste by underground injection which exceeds Fifty Thousand Dollars (\$50,000.00).~~

SECTION 106. AMENDATORY 63 O.S. 1991, Section 1-2005.1, is amended to read as follows:

Section 1-2005.1 Upon issuance of any ~~such~~ permit issued pursuant to the requirements of the Hazardous Waste Management Act, the Division Department 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 was issued.

SECTION 107. AMENDATORY 63 O.S. 1991, Section 1-2009, as amended by Section 24, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2009), is amended to read as follows:

Section 1-2009. After a hazardous waste facility has been closed, its owner or operator shall properly maintain and monitor the hazardous 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 hazardous waste material will occur from the hazardous 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 federal Resource Conservation and Recovery Act.

SECTION 108. AMENDATORY 63 O.S. 1991, Section 1-2010, as amended by Section 26, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2010), is amended to read as follows:

Section 1-2010. A. Persons generating hazardous waste shall provide a manifest to the operator of any mode of any offsite transportation carrying hazardous waste a manifest. Such manifest shall be in a form which has been prescribed by the Department, indicating and shall indicate a disposal plan number assigned by the Department which shows that the Department has approved the plans of the person generating said such waste. The manifest shall also set forth the type, amount, approximate content, origin and destination of the waste. The Such operator shall have the manifest in his possession while carrying transporting or handling the hazardous 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 Upon delivery of the hazardous waste to a facility duly authorized to accept such waste, the operator shall submit such manifest to the receiving person for processing pursuant to rules promulgated by the Board.

B. 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 the hazardous waste. Provided, further, that no

C. No person shall transport, receive, treat or dispose of hazardous waste without having the manifest in his possession.

SECTION 109. AMENDATORY 63 O.S. 1991, Section 1-2012.1, as amended by Section 28, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2012.1), is amended to read as follows:

Section 1-2012.1 In addition to any other remedies provided in the Oklahoma Hazardous Waste Disposal Management Act, 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 Hazardous Waste Disposal Management Act, ~~Section 1-2001 et seq. of this title or any rule or rules promulgated by the Board pursuant to this act thereunder.~~

1. Such order may require compliance with ~~this act the Oklahoma Hazardous Waste Management Act~~ or such rule or rules immediately or within a specified time period or both. Such order may also assess an administrative ~~fine penalty~~ for any past or current violation of ~~this act the Oklahoma Hazardous Waste Management 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 Oklahoma Hazardous Waste Management Act~~, the rules or the order. In assessing such penalties, the ~~Department Executive Director~~ 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 ~~enforcement hearing~~. Upon such request the Department shall promptly ~~conduct provide~~ for the hearing. The Department shall dismiss such proceedings where past and current compliance with the ~~act Oklahoma Hazardous Waste Management Act~~, the rules and the order is demonstrated.

- a. Orders and hearings are subject to the Administrative Procedures Act.
- b. A final order following ~~a~~ an enforcement hearing may assess an administrative ~~fine penalty~~ 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 hazardous 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.

SECTION 110. AMENDATORY 63 O.S. 1991, Section 1-2012.3, as amended by Section 30, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2012.3), is amended to read as follows:

Section 1-2012.3 A. In accordance with standards ~~now or~~ hereafter established by the Administrator of the Environmental Protection Agency pursuant to the federal Resource Conservation and Recovery Act, the Department may require corrective action beyond a hazardous waste facility boundary as a condition of the issuance of a permit pursuant to the Oklahoma Hazardous Waste Disposal Management Act, 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~~ such owner or operator is unable to obtain the necessary permission to undertake such action. The Department may also require, as a condition of a permit issued pursuant to the Oklahoma Hazardous Waste Disposal Management Act, corrective action for all releases of hazardous 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~~ permit 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 hazardous 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 hazardous waste facilities. Nothing in this subsection shall preclude the Department from reviewing and modifying a permit at any time during its term. Review of The Department, in reviewing any application for a permit renewal, shall consider improvements in the state of control and measurement technology as well as and changes in applicable regulations. Each ~~permit issued or reissued~~ permit 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 hazardous 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 hazardous wastes as a result of releases from a hazardous 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.

SECTION 111. AMENDATORY 63 O.S. 1991, Section 1-2012.2, as amended by Section 29, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2012.2), is amended to read as follows:

Section 1-2012.2 Administrative fines collected penalties collected by the Department pursuant to this act the Oklahoma Hazardous Waste Management Act shall be paid into the Hazardous Waste Fund, created in Section 1-2018 of this title, and shall be used as specified in the Hazardous Waste Fund Act.

SECTION 112. AMENDATORY 63 O.S. 1991, Section 1-2012, as amended by Section 27, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2012), is amended to read as follows:

Section 1-2012. In addition to any other remedies provided in this act the Oklahoma Hazardous Waste Management Act, the Department shall, pursuant to rules and regulations adopted under Section 1-2005 of this title may:

1. Temporarily suspend the permit of any operator of a hazardous waste facility until such facility conforms to the provisions of this act the Oklahoma Hazardous Waste Management Act and the rules, regulations and standards promulgated by the Department thereunder;
2. Revoke the operating permit or license of any person who flagrantly and/or consistently violates the provisions of this act

the Oklahoma Hazardous Waste Management Act or the rules and regulations promulgated thereto thereunder, or which who 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 shall conform to provisions of the Administrative Procedures Act. Such person shall not be eligible for reissuance of a license when finally adjudicated as guilty of flagrant and consistent violations of ~~this act~~ the Oklahoma Hazardous Waste Management Act or rule promulgated thereunder;

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~~ the Oklahoma Hazardous Waste Management Act or the rules, regulations or standards adopted hereunder and promulgated thereunder or 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~~ the Oklahoma Hazardous Waste Management Act or the rules and regulations of the State Board of Health promulgated thereunder 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.

SECTION 113. AMENDATORY 63 O.S. 1991, Section 1-2011, is amended to read as follows:

Section 1-2011. ~~Any Except as otherwise provided by the Oklahoma Hazardous Waste Management Act or other law, any person who violates any of the provisions of this act the Oklahoma Hazardous Waste Management Act or the rules, regulations or standards promulgated by the Department thereunder shall be deemed 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.~~

SECTION 114. AMENDATORY 63 O.S. 1991, Section 1-2013, is amended to read as follows:

Section 1-2013. Upon request of the ~~Commissioner of Health Department,~~ the district attorney of the county in which any violation of ~~this act~~ the Oklahoma Hazardous Waste Management Act or rules promulgated thereunder occurs shall initiate and prosecute any civil or criminal proceeding provided by ~~this act~~ the Oklahoma Hazardous Waste Management Act.

SECTION 115. AMENDATORY 63 O.S. 1991, Section 1-2012.4, as amended by Section 31, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2012.4), is amended to read as follows:

Section 1-2012.4 The filing of a proceeding appealing the issuance of a permit ~~issued prior to or after the effective date of this act~~ authorizing the construction or operation of a hazardous waste facility shall stay any time restraints specified in the permit relating to the term or expiration of the permit.

SECTION 116. AMENDATORY 63 O.S. 1991, Section 1-2013.1, is amended to read as follows:

Section 1-2013.1 The Department shall not oppose intervention by any person when permissive intervention may be authorized by statute, ~~or rule or regulation.~~

PART 2. SPECIAL ECONOMIC DEVELOPMENT TRUST FUND

SECTION 117. AMENDATORY 63 O.S. 1991, Section 1-2005.3C, as last amended by Section 8 of Enrolled Senate Bill No. 1 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 1-2005.3C A. The county commissioners of the counties which are within a ten-mile radius of an off-site hazardous waste facility ~~which is subject to the provisions of Section 1-2005.3A of this title~~ may establish a Special Economic Development Trust Fund for those counties.

B. The trust fund shall be used to market advantages of industrial development and to promote industrial development ~~within~~ in the counties located 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 counties located within the trust area.

C. The trust fund shall consist of:

1. All monies received pursuant to Section ~~1-2005.3A~~ 104 of this title act;
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~~ trustees in accordance with the State Travel Reimbursement Act, ~~Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.~~

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.

PART 3. HAZARDOUS WASTE FUND ACT

SECTION 118. AMENDATORY 63 O.S. 1991, Section 1-2015, as amended by Section 36, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2015), is amended to read as follows:

Section 1-2015. This act part shall be known and may be cited as the "Hazardous Waste Fund Act".

SECTION 119. AMENDATORY 63 O.S. 1991, Section 1-2016, as amended by Section 37, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2016), is amended to read as follows:

Section 1-2016. The purposes of ~~this act~~ the Hazardous Waste Fund 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 hazardous waste management facilities and to respond and assist municipalities and counties in responding to any emergency situation involving hazardous waste.

SECTION 120. AMENDATORY 63 O.S. 1991, Section 1-2017, as amended by Section 38, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2017), is amended to read as follows:

Section 1-2017. As used in ~~this act~~ the Hazardous Waste Fund Act and in addition to the definitions used in the Oklahoma Hazardous Waste Management Act:

1. ~~"Hazardous 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. Hazardous 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 hazardous waste, and excludes domestic sewage;~~

2. ~~"Hazardous waste management facility" means, as defined in the Hazardous Waste Disposal Act, storage, treatment and disposal facilities and sites for hazardous 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 hazardous waste into the environment beyond the confines of a licensed disposal site; and~~

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

SECTION 121. AMENDATORY 63 O.S. 1991, Section 1-2018, as amended by Section 39, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2018), is amended to read as follows:

Section 1-2018. A. There is hereby created in the State Treasury a special fund for the ~~State Department of Health~~ to be

designated as the "Hazardous Waste Fund". This fund shall consist of monies transferred to it from funds appropriated to the Department for this purpose and from other sources as provided by law. The fund shall be a continuing fund not subject to fiscal year limitations. Expenditures from the Hazardous 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 Hazardous Waste Disposal Management Act and for providing basic emergency response training and protective equipment and for response or remediation activities authorized in subsection F of Section 104 of this act. 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 provisions of the Hazardous Waste Fund 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 Emergency Management are authorized and directed to assist and cooperate with the Department in the performance of its duties under ~~this act~~ the Hazardous Waste Fund Act.

B. Hazardous waste fees paid into the Department of Environmental Quality Revolving Fund pursuant to the Hazardous Waste Management Act may be transferred to the Hazardous Waste Fund.

SECTION 122. AMENDATORY 63 O.S. 1991, Section 1-2019, as amended by Section 40, Chapter 403, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2019), is amended to read as follows:

Section 1-2019. 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 hazardous waste. Such financial assistance shall be available only to those applicants which have a significant potential for initiating emergency response to an incident involving hazardous waste. The Department shall give priority to municipalities or counties of the state in which off-site facilities are located.

SECTION 123. AMENDATORY 63 O.S. 1991, Section 1-2020, is amended to read as follows:

Section 1-2020. The State Board of Health shall write promulgate rules and develop procedures to implement and administer ~~this act and the fund~~ the Hazardous Waste Fund Act.

SECTION 124. AMENDATORY 63 O.S. 1991, Section 1-2021, is amended to read as follows:

Section 1-2021. The Department of Health shall annually submit a written report on the use and disposition of the fund to the Oklahoma State Legislature.

ARTICLE VIII. LOW-LEVEL RADIOACTIVE WASTE

PART 1. CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE

SECTION 125. AMENDATORY 63 O.S. 1991, Section 1-2101, is amended to read as follows:

Section 1-2101. This ~~act~~ article shall be known and may be cited as the "Central Interstate Low-Level Radioactive Waste Compact".

SECTION 126. AMENDATORY. 63 O.S. 1991, Section 1-2102, as amended by Section 1, Chapter 380, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-2102), is amended to read as follows:

Section 1-2102. The Central Interstate Low-Level Radioactive Waste Compact is hereby enacted into law and entered into by ~~this state~~ the State of Oklahoma 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, 42 U.S.C., Sections 2121b to 2121d, 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. It is the policy of the party states that activities conducted by the Commission are the formation of public policies and are therefore public business.

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 Compact Commission;

B. "Decommissioning" means the measure taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at the facility;

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

D. "Extended care" means the continued observation of a facility after closure for the purpose of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and includes undertaking any action or cleanup necessary to protect public health and the environment;

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

F. "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;

**CROSS REFERENCE TABLE
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- d. Oklahoma Conservation Commission,
- e. Department of Wildlife Conservation,
- f. Department of Mines,
- g. Department of Public Safety,
- h. Department of Labor,
- i. Department of Environmental Quality, and
- j. Department of Civil Emergency Management; and

14. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof.

ARTICLE II. ENVIRONMENTAL QUALITY BOARD AND COUNCILS

PART 1. ENVIRONMENTAL QUALITY BOARD

SECTION 14. AMENDATORY Section 7, Chapter 398, O.S.L. 1992 (27A O.S. Supp. 1992, Section 7), is amended to read as follows:

Section 7. A. ~~Effective January 1, 1993, there~~ There is hereby created the Environmental Quality Board to represent the interests of the State of Oklahoma which shall consist of thirteen (13) members appointed by the Governor with the advice and consent of the Senate. ~~The Governor shall appoint the first Board by March 1, 1993.~~

B. To be eligible for appointment to the Board a person shall:

- 1. Be a citizen of the United States;
- 2. Be a resident of this state;
- 3. Be a qualified elector of this state; and
- 4. Not have been convicted of a felony pursuant to the laws of this state, the laws of any other state or the laws of the United States.

C. The Board shall be composed of:

- 1. One member who shall be a certified or registered environmental professional. Such member shall be an environmental professional experienced in matters of pollution control, who shall not be an employee of any unit of government;
- 2. One member who shall be selected from industry in general. Such member shall be employed as a manufacturing executive carrying on a manufacturing business within the state;
- 3. One member who shall be selected from the controlled industrial hazardous waste industry within the state;
- 4. One member who shall be selected from the solid waste industry within this state;
- 5. One member who shall be well versed in recreational, irrigational, municipal or residential water usage;

6. One member who shall be selected from the petroleum industries being regulated by the Department of Environmental Quality;

7. One member who shall be selected from the agriculture industries regulated by the Department of Environmental Quality;

8. One member who shall be selected from the conservation districts of the state;

9. Three members who shall be citizen members of any statewide nonprofit environmental organization;

10. One member who shall be a member of the local governing body of a city or town; and

11. One member who shall be from a rural water district organized pursuant to the laws of this state.

D. ~~The initial terms of office of length of initial appointments shall be as follows:~~

1. ~~Two members~~ members' terms shall expire on January 31, 1995;
2. ~~Two members~~ members' terms shall expire on January 31, 1996;
3. ~~Three members~~ members' terms shall expire on January 31, 1997;
4. ~~Three members~~ members' terms shall expire on January 31, 1998; and
5. ~~Three members~~ members' terms shall expire on January 31, 1999.

Thereafter, the term of office of a member of the Board shall be for five (5) years and until a successor is appointed and qualified.

E. 1. An appointment shall be made by the Governor within ninety (90) days after ~~the expiration of the term of any member a vacancy has occurred~~ due to resignation, death, or any cause resulting in an unexpired term. In the event of a vacancy on the Board due to resignation, death, or for any cause resulting in an unexpired term, if not filled within ninety (90) days following such vacancy, the Board may appoint a provisional member to serve in the interim until the Governor acts.

2. A member may be reappointed to succeed himself for one additional term.

3. In all future appointments to the Environmental Quality Board, the Governor shall recognize the geographic diversity of the state and endeavor to appoint members representing each quadrant of the state.

F. 1. The Board shall hold meetings as necessary at a place and time to be fixed by the Board. The Board shall select, at its first meeting ~~following the passage of the Oklahoma Environmental Quality Act, one of its members to serve as chairman chair and another of its members to serve as vice-chairman vice-chair.~~ At the first meeting in each calendar year thereafter, ~~the chairman chair and vice-chairman vice-chair~~ for the ensuing year shall be elected. Special meetings may be called by the ~~chairman chair~~ or by five members of the Board by delivery of written notice to each member of the Board. A majority of the Board present at the meeting shall constitute a quorum of the Board.

2. Members of the Board shall receive necessary travel expenses according to the provisions of the State Travel Reimbursement Act.

G. The Board shall:

1. Appoint and fix the compensation of the Executive Director of the Department of Environmental Quality;

2. Be the rulemaking body for the Department of Environmental Quality. ~~Such rules shall be adopted with the advice of the advisory councils created in Section 10 of this act. By February 1, 1994, the Board shall have promulgated permanent rules to implement the programs and functions within the jurisdiction of the Department of Environmental Quality pursuant to the Oklahoma Environmental Quality Act; and~~

3. ~~Sit as a board of appeals for pollution complaints within the jurisdictional areas of the Department of Environmental Quality.~~

~~An appeal to the Board is not necessary for a final determination of a particular issue but such issue may be appealed to the district court by a party. Review and approve the budget request of the Department to the Governor;~~

4. Assist the Department in conducting periodic reviews and planning activities related to the goals, objectives, priorities and policies of the Department; and

5. Provide a public forum for receiving comments and disseminating information to the public and the regulated community regarding goals, objectives, priorities, and policies of the Department at least quarterly. The Board shall have the authority to adopt nonbinding resolutions requesting action by the Department in response to comments received or upon the Board's own initiative.

H. As the rulemaking body for the Department of Environmental Quality, the Board is specifically charged with the duty of promulgating rules which will implement the duties and responsibilities of the Department pursuant to this Code. Except as provided in this subsection, rules within the jurisdiction of a Council provided for by this act shall be promulgated with the advice of such Council. Proposed permanent rules within the jurisdiction of a Council shall not be considered by the Board for promulgation until receipt of the appropriate Council's recommendation on such promulgation; however, the Board may promulgate emergency rules without the advice of the appropriate Council when the time constraints of the emergency, as determined by the Board, do not permit the timely development of recommendations by the Council. All actions of the Councils with regard to rulemaking shall be deemed actions of the Board for the purposes of complying with the Administrative Procedures Act.

PART 2. COUNCILS

SECTION 15. AMENDATORY Section 10, Chapter 398, O.S.L. 1992 (27A O.S. Supp. 1992, Section 10), is amended to read as follows:

Section 10. A. ~~Effective January 1, 1993, there is~~ There are hereby created:

1. The Water Quality Management Advisory Council;
2. The ~~Controlled Industrial (Hazardous)~~ Waste Management Advisory Council; and
3. The Solid Waste Management Advisory Council;

2. Members of the Board shall receive necessary travel expenses according to the provisions of the State Travel Reimbursement Act.

G. The Board shall:

1. Appoint and fix the compensation of the Executive Director of the Department of Environmental Quality;

2. Be the rulemaking body for the Department of Environmental Quality. ~~Such rules shall be adopted with the advice of the advisory councils created in Section 10 of this act. By February 1, 1994, the Board shall have promulgated permanent rules to implement the programs and functions within the jurisdiction of the Department of Environmental Quality pursuant to the Oklahoma Environmental Quality Act; and~~

3. ~~Sit as a board of appeals for pollution complaints within the jurisdictional areas of the Department of Environmental Quality.~~

~~An appeal to the Board is not necessary for a final determination of a particular issue but such issue may be appealed to the district court by a party Review and approve the budget request of the Department to the Governor;~~

4. Assist the Department in conducting periodic reviews and planning activities related to the goals, objectives, priorities and policies of the Department; and

5. Provide a public forum for receiving comments and disseminating information to the public and the regulated community regarding goals, objectives, priorities, and policies of the Department at least quarterly. The Board shall have the authority to adopt nonbinding resolutions requesting action by the Department in response to comments received or upon the Board's own initiative.

H. As the rulemaking body for the Department of Environmental Quality, the Board is specifically charged with the duty of promulgating rules which will implement the duties and responsibilities of the Department pursuant to this Code. Except as provided in this subsection, rules within the jurisdiction of a Council provided for by this act shall be promulgated with the advice of such Council. Proposed permanent rules within the jurisdiction of a Council shall not be considered by the Board for promulgation until receipt of the appropriate Council's recommendation on such promulgation; however, the Board may promulgate emergency rules without the advice of the appropriate Council when the time constraints of the emergency, as determined by the Board, do not permit the timely development of recommendations by the Council. All actions of the Councils with regard to rulemaking shall be deemed actions of the Board for the purposes of complying with the Administrative Procedures Act.

PART 2. COUNCILS

SECTION 15. AMENDATORY Section 10, Chapter 398, O.S.L. 1992 (27A O.S. Supp. 1992, Section 10), is amended to read as follows:

Section 10. A. ~~Effective January 1, 1993, there is~~ There are hereby created:

1. The Water Quality Management Advisory Council;
2. The ~~Controlled Industrial (Hazardous)~~ Waste Management Advisory Council; and
3. The Solid Waste Management Advisory Council;

4. The Radiation Management Advisory Council; and

5. The Laboratory Services Advisory Council.

B. 1. Each Council created pursuant to subsection A of this section shall consist of nine (9) members. Three members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives and three members shall be appointed by the President Pro Tempore of the Senate. The initial appointments for each gubernatorial and legislative member shall be for progressive terms of one (1) through three (3) years so that only one term expires each calendar year; subsequent appointments shall be for three-year terms. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Five members shall constitute a quorum.

2. Each Council shall elect a ~~chairman chair~~ and a ~~vice-chairman vice-chair~~ from among its members ~~and establish its methods of procedure.~~ Each Council shall meet as required for rule development, review and recommendation and for such other purposes specified by law. Special meetings may be called by the chairman chair or by the concurrence of any three (3) members.

~~3. Members of the Councils shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act. The Councils are authorized to utilize the conference rooms of the Department of Environmental Quality and obtain administrative assistance from the Department, as required.~~

C. 1. All members of the Water Quality Management Advisory Council shall be knowledgeable of water quality and of the environment. The Council shall be composed as follows:

a. the Governor shall appoint three members as follows:

- (1) one member representing the field of engineering,
- (2) one member representing a statewide nonprofit environmental organization, and
- (3) one member representing the general public,

b. the President Pro Tempore of the Senate shall appoint three members as follows:

- (1) one member representing an industry located in this state,
- (2) one member representing an oil field-related industry, and
- (3) one member representing the field of geology, and

c. the Speaker of the House of Representatives shall appoint three members as follows:

- (1) one member representing a political subdivision of the state who shall be a member of the local governmental body of a city or town,
- (2) one member representing a rural water district organized pursuant to the laws of this state, and
- (3) one member representing the field of agriculture.

2. The jurisdictional areas of the Water Quality Management Advisory Council shall include Article VI of this chapter, water

quality and protection and related activities and such other areas as designated by the Board.

D. 1. All members of the ~~Controlled Industrial (Hazardous) Waste Management Advisory Council~~ shall be knowledgeable of ~~controlled industrial (hazardous) waste~~ and of the environment. The Council shall be composed as follows:

- a. the Governor shall appoint three members as follows:
 - (1) one member representing an industry located in this state,
 - (2) one member representing a statewide nonprofit environmental organization, and
 - (3) one member representing a political subdivision of the state who shall be a member of the local governing body of a city or town,
- b. the President Pro Tempore of the Senate shall appoint three members as follows:
 - (1) one member representing a political subdivision of the state who shall be a member of the local governmental body of a city or town,
 - (2) one member representing the general public, and
 - (3) one member representing industry generating ~~controlled industrial (hazardous) waste~~, and
- c. the Speaker of the House of Representatives shall appoint three members as follows:
 - (1) one member representing the field of engineering,
 - (2) one member representing the ~~controlled industrial (hazardous) waste~~ industry, and
 - (3) one member representing the field of geology.

3- 2. The jurisdictional areas of the Hazardous Waste Management Advisory Council shall include Article VII of this chapter, the Oklahoma Hazardous Waste Reduction Program, and such other areas as designated by the Board.

E. 1. All members of the Solid Waste Management Advisory Council shall be knowledgeable of solid waste and of the environment. The Council shall be composed as follows:

- a. the Governor shall appoint three members as follows:
 - (1) one member representing a statewide nonprofit environmental organization,
 - (2) one member shall be a county commissioner, and
 - (3) one member representing the general public,
- b. the President Pro Tempore of the Senate shall appoint three members as follows:
 - (1) one member representing an industry located in this state generating solid waste,