

US EPA ARCHIVE DOCUMENT

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY  
REVISION ATTORNEY'S STATEMENT FOR FINAL  
AUTHORIZATION FOR RCRA PROGRAM  
RCRA CLUSTER V

I hereby certify, pursuant to my authority as independent legal counsel for the Oklahoma Department of Environmental Quality ("DEQ") and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 USC 6901 et seq.), and 40 CFR 271 that in my opinion the laws of the State of Oklahoma provide adequate authority to carry out the revised program set forth in the revised "Program Description" submitted by the DEQ. The specific authorities provided are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which are in effect now as specified below. These authorities and this certification supplement the previously certified authorities described in previous Attorneys General's certifications of January 20, 1984; January 14, 1988 as amended July 20, 1989; December 22, 1988 as amended June 7, 1989; November 20, 1989; November 16, 1990; and October 15, 1992, as amended September 24, 1993; as well as the Attorney's Statements of June 24, 1994 and December 8, 1994, and March 4, 1996. Similarly, this Attorney's Statement supplements the Attorney General's Statements and Attorney's Statements executed on those dates.

The following sections are arranged in order by consecutive checklist numbers. This format conforms with the Program Description and is utilized for ease of recognition of completeness of checklist inclusion. Original Model Revision Attorney General's Statement section numbering is also included for ease of cross reference.

1. Checklist number 135:

I. IDENTIFICATION AND LISTING

EE. State statutes and regulations exempt, from the definition of hazardous waste, recovered oil meeting the 40 CFR 261.4(a)(12) criteria as indicated in Revision Checklist 135.

Federal Authority: RCRA §§ 2002 and 3001; 40 CFR 261.3(c)(2)(ii)(B), 261.4(a)(12), 261.6(a)(3)(v) through (vii) as amended July 28, 1994 (59 FR 38536).

Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

2. Checklist number 136:

**XV. STANDARDS FOR FACILITIES**

V. State statutes and regulations remove from the 266.20(b) exemption anti-skid/deicing uses of slags from high temperature metals recovery (HTMR) processing of hazardous wastes K061, K062, and F006 as indicated in Revision Checklist 136.

Federal Authority: RCRA §3004; 40 CFR Parts 266.20(c) and 268.41(a) as amended August 24, 1994 (59 FR 43496).

Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

27A O.S. Supp. 1996 § 2-7-105(17) Amended by Laws 1994, effective July 1, 1994

27A O.S. Supp. 1996 § 2-7-107(A) (3) Amended by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

3. Checklist number 137:

**II. DEFINITION OF SOLID WASTE**

C. State statutes and regulations allow secondary materials that are recycled back into the secondary production process from which they were generated to be excluded from the

definition of solid waste as per 261.2(e)(1)(ii) as indicated in Revision Checklist 137.

Federal Authority: RCRA §§3001 and 3004; 40 CFR 260.30, 260.30(b), 260.31(a)&(b), 260.32, 260.33, 260.33(a)&(b), and 261.2(e)(1)(iii) as amended September 19, 1994 (59 FR 47982).

#### Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

#### Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

#### XXI. LAND DISPOSAL RESTRICTIONS

Q. State statutes and regulations contain treatment standards for certain newly identified organic toxicity wastes and for newly listed coke product and chlorotoluene production wastes as well as dilution prohibitions for high total organic content (TOC) ignitable and toxicity characteristic pesticides as indicated in Revision Checklist 137.

R. State statutes and regulations contain modifications to the land disposal restrictions which simplify and provide consistency including the Universal Treatment Standards, treatment standards from three tables consolidated into one table, reduced information on notification forms, and simplified regulations for lab pack treatment as indicated in Revision Checklist 137.

S. State statutes and regulations require compliance with the requirements that are used in a manner constituting disposal, as indicated in Revision Checklist 137.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 266.23(a), as amended September 19, 1994 (59 FR 47982); 40 CFR 268 as amended September 19, 1994 (59 FR 47982) and January 3, 1995 (60 FR 242).

#### Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

27A O.S. Supp. 1996 § 2-7-107(A)(10) Amended by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

4. Checklist number 139:

I. IDENTIFICATION AND LISTING

CC. State statutes and regulations incorporate by reference "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, the Third Edition (November 1986), as amended by Updates I, II and IIA, as indicated in Revision Checklists 128, 132, and 139.

Federal Authority: RCRA §§2002(a), 3001(b), and 3001(e)(1); 40 CFR 260.11(a) as amended January 4, 1994 (59 FR 458), June 2, 1994 (59 FR 28484), and January 13, 1995 (60 FR 3089) and April 4, 1995 (60 FR 17001).

Citation of Laws and Rules

27A O.S. Supp. 1996 §§ 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

5. Checklist number 140:

I. IDENTIFICATION AND LISTING

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

(29) Listing of five wastes generated during the production of carbamate chemicals, plus the listing of 58 commercial chemical products, 40 CFR 261.32, 261.33(e), 261.33(f), Part 261, Appendix VII and Part 261, Appendix VIII, as amended February 9, 1995 [60 FR 7824], April 17, 1995 [60 FR 19165], and May 12, 1995 [60 FR 25619], Revision Checklist 140.

Federal Authority: RCRA §3001(b).

Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

FF. State statutes and regulations exclude from being hazardous certain wastewaters from the production of carbamates and carbamoyl oximes of K157 provided the conditions in 261.3(a)(2)(iv)(F) are met as indicated in Revision Checklist 140.

Federal Authority: RCRA §§2002(a), 3001(b) and (e)(1); 40 CFR 261.3(a)(2)(iv)(E)&(F), as amended February 9, 1995 (60 FR 7824) and as affected by *Dithiocarbamate Task Force v. EPA*, CA DC 95-1249, 11/1/96.

Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

#### Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

GG. State statutes and regulations exclude from being hazardous certain wastewaters derived from the treatment of one or more wastes listed in 261.32, organic waste from the production of carbamates and carbamoyl oximes of K156, provided the conditions in 261.3(a)(2)(iv)(G) are met as indicated in Revision Checklist 140.

Federal Authority: RCRA §§2002(a), 3001(b) and (e)(1); 40 CFR 261.3(a)(2)(iv)(G), as amended February 9, 1995 (60 FR 7824) and as affected by *Dithiocarbamate Task Force v. EPA*, CA DC 95-1249, 11/1/96.

#### Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

#### Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

HH. State statutes and regulations exclude from being hazardous biological treatment sludge from the treatment of organic wastes from the production of carbamates and carbamoyl oximes of K156 and wastewaters from the production of carbamates and carbamoyl oximes of K157 as indicated in Revision Checklist 140.

Federal Authority: RCRA §§2002(a), 3001(b) and (e)(1); 40 CFR 261.3(c)(2)(ii)(D), as amended February 9, 1995 (60 FR 7824) and as

affected by *Dithiocarbamate Task Force v. EPA*, CA DC 95-1249, 11/1/96.

Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

6. Checklist number 141:

I. IDENTIFICATION AND LISTING

CC. State statutes and regulations incorporate by reference "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, the Third Edition (November 1986), as amended by Updates I, II, IIA, and IIB as indicated in Revision Checklists 128, 132, 139, and 141.

Federal Authority: RCRA §§2002(a), 3001(b), and 3001(e)(1); 40 CFR 260.11(a) as amended January 4, 1994 (59 FR 458), June 2, 1994 (59 FR 28484), January 13, 1995 (60 FR 3089), and April 4, 1995 (60 FR 17001).

Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

7. Checklist number 142:

XXIII. UNIVERSAL WASTES

A. State statutes and regulations provide hazardous waste management standards for the collection and management of certain widely generated wastes determined "universal wastes" as indicated in Revision Checklist 142 A.

Federal Authority: RCRA §§2002, 3001, 3002, 3003, 3004, 3005, 3010, 3013, 3017, and 7004; 40 CFR 260.10, 261.5(c), 261.5(f)(3)(vi), 261.5(g)(3)(vi), 261.9 intro, 262.10(b), 262.11(d), 264.1(g)(11) intro, 265.1(c)(14) intro, 268.1(f) intro, 270.1(c)(2)(viii) intro, 273.1(a) intro, 273.1(b), 273.5, 273.6, 273.10, 273.11, 273.12, 273.14 intro, 273.15-273.31, 273.32(a)(1)&(2), 273.32(b), 273.34 intro, 273.35-273.70 as amended May 11, 1995 (60 FR 25492).

Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

B. State statutes and regulations include hazardous waste batteries as a universal waste as indicated in Revision Checklist 142 B.

Federal Authority: RCRA §§3001, 3002, 3003, 3004, 3005, 3010, 3013, 3017, and 7004; 40 CFR 260.10, 261.9(a), 264.1(g)(11)(i), 265.1(c)(14)(i), 266.80(a), 266.80(b) intro, 268.1(f)(1), 270.1(c)(2)(viii)(A), 273.1(a)(1), 273.2, 273.6, 273.13(a), 273.14(a), 273.33(a), and 273.34(a) as amended May 11, 1995 (60 FR 25492).

Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

C. State statutes and regulations include hazardous waste pesticides that are either recalled or collected in waste pesticide collection programs as a universal waste as indicated in Revision Checklist 142 C.

Federal Authority: RCRA §§3001, 3002, 3003, 3004, 3005, 3010, 3013, 3017, and 7004; 40 CFR 260.10, 261.9(b), 264.1(g)(11)(ii), 265.1(c)(14)(ii), 268.1(f)(2), 270.1(c)(2)(viii)(B), 273.1(a)(2), 273.3, 273.6, 273.13(b), 273.14(b)&(c), 273.32(a)(3), 273.33(b), and 273.34(b)&(c) as amended May 11, 1995 (60 FR 25492).

Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

D. State statutes and regulations include hazardous waste thermostats as a universal waste as indicated in Revision Checklist 142 D.

Federal Authority: RCRA §§3001, 3002, 3003, 3004, 3005, 3010, 3013, 3017, and 7004; 40 CFR 260.10, 261.9(c), 264.1(g)(11)(iii), 265.1(c)(14)(iii), 268.1(f)(3), 270.1(c)(2)(viii)(C), 273.1(a)(3), 273.4, 273.6, 273.13(c), 273.14(d), 273.33(c), and 273.34(d) as amended May 11, 1995 (60 FR 25492).

Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

E. State statutes and regulations allow petitions to include other wastes as universal wastes as indicated in Revision Checklist 142 E.

Federal Authority: RCRA §3001, 3002, 3003, 3004, 3005, 3010, and 3013; 40 CFR 260.20(a), 260.23, 273.80, and 273.81 as amended May 11, 1995 (60 FR 25492).

Citation of Laws and Rules

27A O.S. Supp. 1996 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1996 § 2-2-104 Added by Laws 1994, effective July 1, 1994

75 O.S. 1991 § 305 Laws 1963, amended 1987

Rules 252:200-3-1 through 252:200-3-4 Amended June 18, 1996, emergency effective date August 1, 1996, permanent effective date June 1, 1997

Rules 252:200-3-5, 252:200-3-6 Finally adopted March 30, 1994, effective as permanent rules May 26, 1994

Rules 252:001-1-8, 252:002-5-1 Adopted January 26, 1994, effective as permanent rules May 26, 1994

Remarks of Legal Counsel

Rules 252:200-3-1 through 252:200-3-6 adopt the federal requirements by reference.

75 O.S. 1991 § 305 and Rules 252:001-1-8 and 252:002-5-1 provide rulemaking petitioning procedures.

FOR THE OKLAHOMA DEPARTMENT  
OF ENVIRONMENTAL QUALITY

Jimmy D. Givens  
Jimmy D. Givens, Staff Attorney

April 15, 1997  
Date