

US EPA ARCHIVE DOCUMENT

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

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; October 15, 1992, as amended September 24, 1993; as well as the Attorney's Statements of June 24, 1994; December 8, 1994; March 4, 1996; April 15, 1997 and February 6, 1998 as amended June 11, 1998. 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. **Revision Checklist 153:**

I. **IDENTIFICATION AND LISTING**

JJ. State statutes and regulations require that when wastes generated by conditionally exempt small quantity generators are sent to a State permitted, licensed or registered facility, that facility must be subject to 40 CFR Part 258 or §§ 257.5 through 257.30 as specified in Revision Checklist 153. However, 27A O.S. § 2-10-301 prohibits disposal of hazardous waste in landfills approved to receive only solid waste.

Federal Authority: RCRA §3001(d)(4); 40 CFR 261.5(f)(3) & (g)(3) as amended July 1, 1996 (61 FR 34252).

Citation of Laws and Rules

27A O.S. Supp. 1997 § 2-2-104 Added by Laws 1994, effective July 1, 1994

27A O.S. Supp. 1997 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

Rules 252:200-3-1 & 252:200-3-2 Amended January 27, 1998, emergency effective date March 23, 1998, permanent effective date June 1, 1998

Rule 252:200-3-4 Amended June 18, 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. Oklahoma's hazardous waste program is more stringent than the federal program because disposal of hazardous waste, including conditionally exempt small quantity generator waste, in Oklahoma landfills approved to receive only solid waste is prohibited by 27A O.S. § 2-10-301.

2. **Revision Checklist 154:**

XV. **STANDARDS FOR FACILITIES**

W. State statutes and regulations provide for organic air emission standards for tanks, surface impoundments and containers and provide that air emission control requirements be added to the permit terms and provisions specified for miscellaneous units as specified in Revision Checklist 154.

Federal Authority: RCRA § 3004(n); 40 CFR 60 Appendix A, 260, 261, 262, 264, 265, and 270 as amended December 6, 1994 (59 FR 62896); May 19, 1995 (60 FR 26828); September 29, 1995 (60 FR 50426); November 13, 1995 (60 FR 56952); February 9, 1996 (61 FR 4903); June 5, 1996 (61 FR 28508); and November 25, 1996 (61 FR 59932)

Citation of Laws and Rules

27A O.S. Supp. 1997 § 2-2-104 Added by Laws 1994, effective July 1, 1994

27A O.S. Supp. 1997 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

Rules 252:200-3-1 & 252:200-3-2 Amended January 27, 1998, emergency effective date March 23, 1998, permanent effective date June 1, 1998

Rule 252:200-3-4 Amended June 18, 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. **Revision Checklist 155:**

XXI. LAND DISPOSAL RESTRICTIONS

U. State statutes and regulations provide a six (6) month extension of the current national capacity variance for spent potliners from primary aluminum production (Hazardous Waste Number K088) so that K088 wastes do not have to be treated to meet LDR treatment standards until July 8, 1997, as indicated in Revision Checklist 155.

Federal Authority: RCRA §§ 3004(d) through (k), and 3004(m); 40 CFR 268.39(c) as amended January 14, 1997 (62 FR 1992).

Citation of Laws and Rules

27A O.S. Supp. 1997 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1997 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 & 252:200-3-2 Amended January 27, 1998, emergency effective date March 23, 1998, permanent effective date June 1, 1998

Rule 252:200-3-4 Amended June 18, 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. **Revision Checklist 156:**

XV. STANDARDS FOR FACILITIES

X. State statutes and regulations identify when conventional and chemical military munitions become a hazardous waste under RCRA and provide for the safe storage and transport of such waste. They also clarify that emergency responses involving both military and non-military munitions and explosives are considered an immediate response to a discharge or imminent and substantial threat of a discharge of a hazardous waste as indicated in Revision Checklist 156.

Federal Authority: RCRA § 2002, 3001-3007, 3010, and 7003; 40 CFR 260.10; 261.2(a)(2)(iii)-(iv); 262.10(i); 263.10(e)&(f); 264.1(g)(8)(i)(D), (g)(8)(iv), and (i); 264.70; 264.1200 through 264.1202; 265.1(c)(11)(i)(D), (c)(11)(iv), and (f); 265.70; 265.1200 through 265.1202; 266.200(a)-(b); 266.201, 266.202, 266.204, 266.206, 270.1(c)(3)(i)(D), and 270.1(c)(3)(iii) as amended on February 12, 1997 (62 FR 6622).

Y. State statutes and regulations provide for a manifest exemption for off-site shipment of unused waste munitions from one military installation to another as indicated in Revision Checklist 156.

Federal Authority: RCRA § 3001, 3003, 3004(y); 40 CFR 266.203 as amended on February 12, 1997 (62 FR 6622).

Z. State statutes and regulations provide for conditional exemption for waste munitions storage as indicated in Revision Checklist 156.

Federal Authority: RCRA § 3001 and 3004(y); 40 CFR 266.205 as amended on February 12, 1997 (62 FR 6622).

Citation of Laws and Rules

27A O.S. Supp. 1997 §§ 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1997 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 & 252:200-3-2 Amended January 27, 1998, emergency effective date March 23, 1998, permanent effective date June 1, 1998

Rule 252:200-3-4 Amended June 18, 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. **Revision Checklist 157:**

I. **IDENTIFICATION AND LISTING**

KK. State statutes and regulations include revisions of the exclusion of scrap metal and circuit boards from RCRA regulation as indicated in Checklist 157.

Federal Authority: RCRA §§3001; 40 CFR 261.1(c)(9)-(12), 261.2(c) table 1, 261.4(a)(13), 261.4(a)(14), 261.6(a)(3)(ii) as amended May 12, 1997 (62 FR 25998).

Citation of Laws and Rules

27A O.S. Supp. 1997 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1997 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 & 252:200-3-2 Amended January 27, 1998, emergency effective date March 23, 1998, permanent effective date June 1, 1998

Rule 252:200-3-4 Amended June 18, 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

V. State statutes and regulations prohibit the land disposal of the wood preserving waste F032, F034 and F035 by August 11, 1997, and also prohibit any soil and debris and

radioactive waste mixed with above chemicals from land disposal effective May 12, 1999. In between these effective dates, mixtures may only be land disposed if the facilities follow certain procedures included in State statutes and regulations as indicated in Revision Checklist 157.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.30(a)-(e) and 268.40 as amended May 12, 1997 (62 FR 25998).

W. State statutes and regulations include revisions of record keeping and paperwork requirements indicated in Revision Checklist 157. State statutes and regulations also include revisions to update the land disposal restrictions to better reflect the current program, as indicated in Revision Checklist 157.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.4(a)(2)(iv), 268.4(a)(4), 268.7(a)-(c)(2), 268.9(a), 268.9(d)(1)(ii), 268.32, 268.34-268.37, 268.44(o), and Part 268 Appendices I-III, VI, VIII and X, as amended May 12, 1997 (62 FR 25998).

X. State statutes and regulations include revisions introducing polymerization as an alternative treatment method as indicated in Revision Checklist 157.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.42 table 1 as amended May 12, 1997 (62 FR 25998).

Y. State statute and regulations include revisions which indicate that the *de minimis* provision applies to minor losses of characteristic wastes as indicated in Revision Checklist 157.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.1(e)(4) as amended May 12, 1997 (62 FR 25998).

Citation of Laws and Rules

27A O.S. Supp. 1997 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1997 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 & 252:200-3-2 Amended January 27, 1998, emergency effective date March 23, 1998, permanent effective date June 1, 1998

Rule 252:200-3-4 Amended June 18, 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. Revision Checklist 158

I. IDENTIFICATION AND LISTING

LL. State statutes and regulations include required test methods in EPA Publication SW-846 and Third Edition of the EPA Approved Test Methods Manual "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" through Update III and include amendments as indicated in Revision Checklist 158.

Federal Authority: RCRA §§1006, 2002(a), 3001-3007, 3010, 3013-3018, and 7004; 40 CFR Parts 260.11, 264.1034(d)(1)(iii), 264.1034(f), 264.1063(d)(2), Part 264 Appendix IX, 265.1034(d)(1)(iii), 265.1034(f), 265.1063(d)(2), 266.104(e)(1), 266.106(g)(1)&(2), 266.107(f), and 266 Appendix IX, as amended June 13, 1997 (62 FR 32452).

Citation of Laws and Rules

27A O.S. Supp. 1997 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1997 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 & 252:200-3-2 Amended January 27, 1998, emergency effective date March 23, 1998, permanent effective date June 1, 1998

Rule 252:200-3-4 Amended June 18, 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. Revision Checklist 159

I. IDENTIFICATION AND LISTING

MM. State statutes and regulations include revisions designed to conform with the Federal appeals court ruling (98 F.3d 1394 (D.C. Cir. 1996)) which invalidated, in part, certain

EPA regulations listing certain carbamate wastes as hazardous as indicated in Revision Checklist 159.

Federal Authority: RCRA 3001 and 3004; 40 CFR 261.32, 261.33(f), 261 Appendix VII, 261 Appendix VIII as amended June 17, 1997 (62 FR 32974).

Citation of Laws and Rules

27A O.S. Supp. 1997 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1997 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 & 252:200-3-2 Amended January 27, 1998, emergency effective date March 23, 1998, permanent effective date June 1, 1998

Rule 252:200-3-4 Amended June 18, 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

Z. State statutes and regulations include revisions designed to conform with the Federal appeals court ruling (98 F.3d 1394 (D.C. Cir. 1996)) which invalidated, in part, certain EPA regulations including the land disposal prohibitions and treatment standards for the vacated carbamate wastes as indicated in Revision Checklist 159.

Federal Authority: RCRA 3004(d)-(k) and (m); 40 CFR 268.39(a), 268.39(d), and 268.40 as amended June 17, 1997 (62 FR 32974).

Citation of Laws and Rules

27A O.S. Supp. 1997 § 2-7-106 Amended by Laws 1993, effective July 1, 1993

27A O.S. Supp. 1997 § 2-2-104 Added by Laws 1994, effective July 1, 1994

Rules 252:200-3-1 & 252:200-3-2 Amended January 27, 1998, emergency effective date March 23, 1998, permanent effective date June 1, 1998


Rule 252:200-3-4 Amended June 18, 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

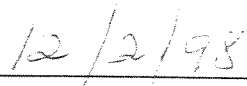
Remarks of Legal Counsel

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

FOR THE OKLAHOMA DEPARTMENT
OF ENVIRONMENTAL QUALITY



Martha Penisten, Staff Attorney



Date