

US EPA ARCHIVE DOCUMENT

RCRA XIII

SUBCHAPTER 1. GENERAL PROVISIONS

252:205-1-1. Purpose, authority and applicability

(a) Purpose. The rules in this Chapter implement the Oklahoma Hazardous Waste Management Act, 27A O.S. § 2-7-101 et seq., the Hazardous Waste Fund Act, 27A O.S. § 2-7-301 et seq., the Oklahoma Hazardous Waste Reduction Program, 27A O.S. § 2-11-201 et seq., and the Recycling, Reuse and Source Reduction Incentive Act, 27A O.S. § 2-11-301 et seq.

(b) Authority. OAC 252:205 was promulgated and adopted under the Oklahoma Environmental Quality Code, 27A O.S. § 2-1-101 et seq., and the laws set forth in paragraph (a) above.

(c) Applicability. The rules in this Chapter apply to:

- (1) Any person who handles, transports, treats, stores, recycles, and/or disposes of hazardous wastes pursuant to the OHWMA;
- (2) Any municipality or county seeking a matching grant for emergency response training and protective equipment pursuant to the Hazardous Waste Fund Act;
- (3) Any generator of hazardous waste who voluntarily participates in the Hazardous Waste Reduction Program; and
- (4) Any person seeking a tax credit pursuant to the Recycling, Reuse and Source Reduction Incentive Act.

252:205-1-2. Definitions

In addition to the definitions contained in the statutes specified in 252:205-1-1(a) above, the following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Off-site recycling facility" means any facility which receives off-site shipments of hazardous waste to be recycled or processed for recycling, through any process conducted at the facility including fuel blending or burning;

"OHWMA" means the Oklahoma Hazardous Waste Management Act, 27A O.S. § 2-7-101 et seq.;

"Post closure permit" means the same as "operations permit" for procedural purposes except the assessment of permitting fees;

"RRSIA" means the Recycling, Reuse and Source Reduction Incentive Act, 27A O.S. § 2-11-301 et seq.;

"Reuse" for the purpose of applying for a tax credit under RRSIA, means the introduction of a material into a manufacturing process that, if discarded, would be classified as a hazardous waste. A material is "reused" if it is:

- (A) Used as an ingredient (including use as an intermediate) in an industrial process to make a product; or
- (B) Used in a particular function or application as an effective substitute for a commercial product;

"Speculative accumulation" is defined at 40 CFR 261.1(b)(8);

"Transfer facility" as used in the following definition of "transfer station", means any transportation-related facility, including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation;

"Transfer station" as used in Subchapter 15, means any transfer

facility where hazardous waste is transferred from one container or tank to another or where hazardous waste in separate containers or tanks is combined.

252:205-1-3. Consideration of other laws

(a) Permitting. All applicants seeking licenses, permits, certificates, registration, approval, charter or similar form of permission by law required by any of the statutes specified in 252:205-1-1(a) are also subject to the Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-14-101 et seq., and the uniform permitting rules found in 252:2-15.

(b) Zoning. This Chapter does not abrogate in any way the zoning authority of any duly constituted zoning agency.

(c) Other. Persons subject to this Chapter must also comply with all applicable state and Federal laws and rules.

Agency note: Please refer to 27A O.S. § 2-7-115(B) for requirements of County Commissioner involvement in permit issuance.

252:205-1-4. Public records and confidential information

(a) Public record. Information obtained by the DEQ and copies of official records of the DEQ regarding hazardous waste facilities and sites shall be made available to the public in accordance with the Oklahoma Open Records Act, 51 O.S. § 24A.1, Procedures of the DEQ (OAC 252:2), and in substantial accordance with 40 CFR Part 2.

(b) Availability to the public. Information about facilities and sites for treatment, storage and disposal of hazardous waste shall be made available to the public in substantially the same manner, and to the same degree, as would be the case if the EPA were carrying out the provisions of federal law in Oklahoma. [Also see Procedures of the Department of Environmental Quality, Availability of Records, 252:2-3-2.1]

(c) Availability to EPA. All records submitted to the DEQ shall be available to the EPA unless they are submitted under a claim of confidentiality separate and distinct from State Program Requirements in 40 CFR Part 271.

(d) Disclaimer. The DEQ expressly disclaims and denies any duties, responsibilities or obligations other than as stated in (a) and (b) of this Section. Submitters of records claimed to be confidential are advised that it is their responsibility, not the DEQ's responsibility, to monitor and/or defend claims of confidentiality with the EPA. The DEQ expressly disclaims and denies responsibility or liability for any disclosure by the EPA of records claimed by the submitter to be confidential.

(e) Hazardous Waste Reduction Plans. In accordance with 27A O.S. § 2-11-204(D), information in Hazardous Waste Reduction Plans is not a public record. Certified summary reports are public records.

(f) Applications for Tax Credit. An application for a tax credit is a public record. If the applicant demonstrates that the application contains information that is a trade secret, the applicant shall provide a general summary description that can be made available to the public. Although the detailed financial data contained in the application may be declared confidential, the dollar amount of any tax credit allowed will be public information.

SUBCHAPTER 3. INCORPORATION BY REFERENCE

252:205-3-1. Reference to 40 CFR

When reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified) the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through July 1, 1998, as well as any new or superseding provisions listed in 252:205-3-3.

252:205-3-2. Incorporation by reference

(a) Part 124. Procedures For Decision Making, those sections required by 40 CFR 271.14, with the following additions:

(1) § 124.19 (a) through (c) and (e);

(2) §§ 124.31, 124.32, & 124.33, substituting DEQ for EPA, and deleting the following sentence from each section: For the purposes of this section only, "Hazardous waste management units over which EPA has permit issuance authority" refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR part 271.

(b) Part 260. Hazardous Waste Management System: General, except 260.20 through 260.22. In the 260.10 definitions of "new tank system" and "existing tank system", the reference to "July 14, 1986" for commencement of tank installation applies only to tank regulations promulgated pursuant to the federal Hazardous and Solid Waste Amendment ("HSWA") requirements. The following categories outline HSWA requirements: (a) Interim status and permitting requirements applicable to tank systems owned and operated by small quantity generators [3001(d)]; (b) Leak detection requirements for all new underground tank systems [3004(o)(4)]; and (c) permitting standards for underground tanks that cannot be entered for inspection [3004(w)]. For tank regulations promulgated pursuant to statutory authority other than HSWA, the date relative to the commencement of installation is November 2, 1987. Additionally, § 260.10 is amended by adding in alphabetical order: Mercury-containing lamp is the bulb or tube portion of a lighting device specifically designed to produce radiant energy, in which mercury is purposely introduced by the manufacturer. The § 260.10 definition of Universal Waste is amended by adding in numerical order "(4) Mercury-containing lamps as described in 252:205-3-2(k)(5)". In 260.33(a) delete "in the region where the recycler is located".

(c) Part 261. Identification and Listing of Hazardous Waste. In 261.4(e)(3)(iii) delete "in the Region where the sample is collected". In 261.5(f)(3)(iv), and (v), and in 261.5(g)(3)(iv), and (v) add "other than Oklahoma" after the word "State". In 261.9 add "(d) Mercury-containing lamps as described in 252:205-3-2(k)(5)."

(d) Part 262. Standards Applicable to Generators of Hazardous Waste. In 262.42(a)(2) delete "for the Region in which the generator is located".

(e) Part 263. Standards Applicable to Transporters of Hazardous Waste.

(f) Part 264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except 264.1(f), 264.149, 264.150, 264.301(l) and Appendix VI to Part 264. In

264.1(g)(11) add "(iv) Mercury-containing lamps as described in 252:205-3-2(k)(5)." In 264.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988. In 264.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987. In 264.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987. In 264.570(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

(g) Part 265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except 265.1(c)(4), 265.149 and 265.150. In 265.1(c)(14) add "(iv) Mercury-containing lamps as described in 252:205-3-2(k)(5)." In 265.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988. In 265.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987. In 265.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987. In 265.440(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

(h) Part 266. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities. Due to an early incorporation by reference, for purposes of Part 266 only, HSWA and non-HSWA dates are the same.

(i) Part 268. Land Disposal Restrictions, except 268.5, 268.6, 268.10, 268.11, 268.12, 268.13, 268.42(b) and 268.44(a) through (g), and 268.44(m) through (p). In 268.1(f) add in numerical order "(4) Mercury-containing lamps as described in 252:205-3-2(k)(5)."

(j) Part 270. Permit Programs, except 270.14(b)(18). In 270.1(c)(2)(viii) add "(D) Mercury-containing lamps as described in 252:205-3-2(k)(5)."

(k) Part 273. Universal Waste Rule, with the following additions:

(1) In 273.1(a) add in numerical order "(4) Mercury-containing lamps as described in 252:205-3-2(k)(5)."

(2) § 273.6 is amended by adding in alphabetical order: Mercury-containing lamp is the bulb or tube portion of a lighting device specifically designed to produce radiant energy, in which mercury is purposely introduced by the manufacturer. Additionally, in § 273.6 the definition of Universal Waste is amended by adding "(d) Mercury-containing lamps as described in 252:205-3-2(k)(5)."

(3) § 273.55(a) is amended by adding, "or in the case of mercury-containing lamps, a consolidation point" after the last word in the sentence.

(4) § 273.62(a)(2) is amended to read "The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats or mercury-containing lamps)".

(5) Mercury-containing lamps as described in 252:205-3-7 are added as a universal waste in Oklahoma. In the event Part 273 contains requirements which are absent in 252:205-3-7, the requirements in Part 273 shall also apply to mercury-containing lamps. If the requirements of 252:205-3-7 conflict with the requirements of Part 273, the most stringent requirements shall prevail.

(1) **Part 279. Used Oil Management Standards.** The only portion of 279.82 which is adopted by reference is "The use of used oil as a dust suppressant is prohibited."

(m) **Excepted CFR Regulations.** Authority for carrying out excepted CFR regulations remains with EPA.

252:205-3-3. Subsequent incorporations

The new or superseding amendments to 40 CFR contained in 63 FR 37780-37782 published July 14, 1998 dealing with used oil management standards are incorporated by reference.

252:205-3-4. Terminology related to 40 CFR

(a) For purposes of interfacing with 40 CFR, the following terms apply:

(1) **"Administrator"** is synonymous with Executive Director except in §§ 262.12, 262.55, 262.56, 262.57, 262.87, 263.11, 270.5, 270.10(e)(2) and (3) and (f)(2) and (3), and 270.32(b)(2). In 260.10 and 270.2, the definition of "Administrator" is not synonymous with "Director". The terms as used in the excepted sections retain the meanings as defined in the CFR;

(2) **"Regional Administrator"** and **"EPA Regional Administrator"** are synonymous with Executive Director except in §§ 124.5(d), 124.10(b), 262.55, 262.56, 262.57, Item 19 of the Appendix to Part 262, 270.5, 270.10(f)(2) and (3) and (g)(1)(i) & (iii), 270.11(3) and 270.14(b)(20). See also §§ 264.12(a) and 265.12(a) where "Regional Administrator" should be replaced with "Regional Administrator and Executive Director". In 260.10 and 270.2, the definition of "Regional Administrator" is not synonymous with "Executive Director". The terms as used in the excepted sections retain the meanings as defined in CFR;

(3) **"Act"** is synonymous with the Oklahoma Hazardous Waste Management Act;

(4) **"State"** is synonymous with the DEQ;

(5) **"EPA"** is the United States Environmental Protection Agency, except in § 124.6 where "EPA" should be replaced with "DEQ", and as otherwise indicated in subparagraph 252:205-3-2(a)(2);

(6) **"Environmental Appeals Board"** is synonymous with Executive Director;

(7) **§§ 3008, 3013 and 7003** of the federal Resource Conservation and Recovery Act when referenced in the CFR should be read as including the analogous state enforcement authority set forth in the Oklahoma Environmental Quality Code-; and

(8) **"DOT"** and **"Department of Transportation"** is the U.S. Department of Transportation.

(b) **Financial security mechanisms.** The owner shall word the financial assurance instruments as provided in 40 CFR 264.151, except that:

- (1) the phrase "Department of Environmental Quality" ("DEQ" or "the Department"), an agency of the State of Oklahoma" shall be used instead of "Environmental Protection Agency";
- (2) "Director" shall be used instead of "Regional Administrator";
- (3) "DEQ" shall replace "EPA";
- (4) "Act" shall replace § 3008 of the Resource Conservation and Recovery Act"; and
- (5) the certification in each instrument that the language is identical to respective provisions of 40 CFR 264.151 shall include the phrase "United States Environmental Protection Agency approved amendment, for the State of Oklahoma."

252:205-3-5. Inclusion of CFR citations and definitions

When a provision of the Code of Federal Regulations is incorporated by reference, all citations contained therein are also incorporated by reference.

252:205-3-6. Inconsistencies or duplications

In the event that there are inconsistencies or duplications in the requirements of those rules incorporated by reference in 252:205-3-2, and the rules in this Chapter, the federal rules incorporated by reference shall prevail, except where the state rules in this Chapter are more stringent.

252:205-3-7. Mercury-containing lamps

(a) Applicability. This Section sets forth standards for managing mercury-containing lamps that are hazardous wastes. Mercury-containing lamps that are hazardous wastes and that are not managed in compliance with the requirements of this Section must be managed under the hazardous waste regulations in 40 CFR parts 260 through 272.

(b) Household and conditionally exempt small quantity generator waste mercury-containing lamps.

(1) Persons managing the wastes listed below may, at their option, manage them under the requirements of this Section without changing the wastes' exempt status:

(A) Household hazardous waste mercury-containing lamps that are exempt under 40 CFR 261.4(b)(1); and/or

(B) Conditionally exempt small quantity generator hazardous waste mercury-containing lamps that are exempt under 40 CFR 261.5.

(2) Persons who commingle household hazardous waste mercury-containing lamps and/or conditionally exempt small quantity generator hazardous waste mercury-containing lamps together with hazardous waste mercury-containing lamps regulated under this Section must manage the commingled mercury-containing lamps under the requirements of this Section.

(c) Generator requirements.

(1) The date a used mercury-containing lamp becomes a waste is the date the generator permanently removes it from its fixture.

(2) The date an unused mercury-containing lamp becomes a waste is the date the generator decides to throw it away.

(3) A waste mercury-containing lamp is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR

part 261, subpart C.

(4) A generator of hazardous waste mercury-containing lamps must at all times contain unbroken mercury-containing lamps in packaging that will minimize breakage during normal handling conditions, and contain broken mercury-containing lamps in packaging that will minimize releases of mercury-containing lamp fragments and residues.

(5) A generator may store a hazardous waste mercury-containing lamp for no longer than one year from the date the mercury-containing lamp became a waste unless the requirements of 252:205-3-7(h) are met.

(6) A generator who stores hazardous waste mercury-containing lamps must have met the requirements of 252:205-3-7(h) or be able to demonstrate that mercury-containing lamps are not stored for more than one year from the date they became a waste. A generator must make this demonstration by:

(A) Placing the mercury-containing lamps in a container and marking or labeling the container with the earliest date that any mercury-containing lamp in the container became a waste;

(B) Marking or labeling an individual mercury-containing lamp with the date that it became a waste;

(C) Maintaining an inventory system that identifies the date each mercury-containing lamp in storage became a waste;

(D) Maintaining an inventory system that identifies the earliest date that any mercury-containing lamp in a group of mercury-containing lamps became a waste; or

(E) Placing the mercury-containing lamps in a specific storage area and identifying the earliest date that any mercury-containing lamp in the storage area became a waste.

(7) A generator who stores more than 35,000 hazardous waste mercury-containing lamps at any time must have, before exceeding the 35,000 mercury-containing lamp quantity limit, sent written notification of hazardous waste mercury-containing lamp storage to the Department and received an EPA Identification Number. This notification must include:

(A) The generator's name and mailing address;

(B) The name and business telephone number of the person at the generator's site who should be contacted regarding the mercury-containing lamp storage activity;

(C) The address or physical location of the mercury-containing lamp storage activity;

(D) A statement indicating that the generator stores more than 35,000 hazardous waste mercury-containing lamps.

(8) A generator of hazardous waste mercury-containing lamps is prohibited from:

(A) Diluting or disposing of them;

(B) Treating them, except by responding to releases as provided in paragraph (c)(10) of this Section; and

(C) Sending or taking the hazardous waste mercury-containing lamps to a place other than a consolidation point, destination facility, or foreign destination.

(9) A generator must at all times manage hazardous waste mercury-containing lamps in a way that minimizes mercury-containing lamp breakage.

(10) A generator must immediately contain all releases of

residues from hazardous waste mercury-containing lamps. A generator must determine whether any materials resulting from the release are hazardous wastes, and if so, the generator must manage them in accordance with all applicable requirements of 40 CFR parts 260 through 272.

(11) A generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

(d) **Transporter requirements.**

(1) Transporters may only transport hazardous waste mercury-containing lamps from a generator to a consolidation point, from a generator to a destination facility, or from one consolidation point to another consolidation point.

(2) A transporter must at all times contain unbroken mercury-containing lamps in packaging that will minimize breakage during normal handling and transport conditions.

(3) A transporter must contain broken mercury-containing lamps in packaging that will minimize releases of mercury-containing lamp fragments and residues.

(4) A transporter of hazardous waste mercury-containing lamps may only store them at a transfer facility for ten days or less.

(5) A transporter of hazardous waste mercury-containing lamps is prohibited from:

(A) Diluting or disposing of them;

(B) Treating them, except by responding to releases as provided in paragraph (d)(7) of this Section; and

(C) Transporting them to a place other than a consolidation point, destination facility, or foreign destination.

(6) A transporter must at all times manage hazardous waste mercury-containing lamps in a way that minimizes mercury-containing lamp breakage.

(7) A transporter must immediately contain all releases of residues from hazardous waste mercury-containing lamps. A transporter must determine whether any materials resulting from the release are hazardous wastes, and if so, the transporter must manage them in accordance with all applicable requirements of 40 CFR parts 260 through 272.

(8) A transporter who transports shipments from a consolidation point to a destination facility must comply with 40 CFR part 263.

(e) **Consolidation point requirements.**

(1) The owner or operator of a consolidation point managing hazardous waste mercury-containing lamps must at all times:

(A) Contain unbroken mercury-containing lamps in packaging that will minimize breakage during normal handling conditions; and

(B) Contain broken mercury-containing lamps in packaging that will minimize releases of mercury-containing lamp fragments and residues.

(2) The owner or operator of a consolidation point may store a hazardous waste mercury-containing lamp for no longer than one year from the date that the owner or operator receives it unless the requirements of 252:205-3-7(h) have been met.

(3) The owner or operator of a consolidation point who stores

hazardous waste mercury-containing lamps must be in compliance with 252:205-3-7(h) or must be able to demonstrate that mercury-containing lamps are not stored for more than one year from the date they were received. The owner or operator may make this demonstration by:

- (A) Placing the mercury-containing lamps in a container and marking or labeling the container with the earliest date that any mercury-containing lamp in the container was received;
 - (B) Marking or labeling an individual mercury-containing lamp with the date that it was received;
 - (C) Maintaining an inventory system that identifies the date each mercury-containing lamp in storage was received;
 - (D) Maintaining an inventory system that identifies the earliest date that any mercury-containing lamp in a group of mercury-containing lamps was received; or
 - (E) Placing the mercury-containing lamps in a specific storage area and identifying the earliest date that any mercury-containing lamp in the storage area was received.
- (4) The owner or operator of a consolidation point managing hazardous waste mercury-containing lamps is prohibited from:
- (A) Diluting or disposing of them;
 - (B) Treating them, except by responding to releases as provided in paragraph (e)(6) of this Section; and
 - (C) Sending or taking them any place other than a consolidation point, destination facility, or foreign destination.
- (5) The owner or operator of a consolidation point must at all times manage hazardous waste mercury-containing lamps in a way that minimizes mercury-containing lamp breakage.
- (6) The owner or operator of the consolidation point must immediately contain all releases of residues from hazardous waste mercury-containing lamps. The owner or operator of a consolidation point must determine whether any materials resulting from the release are hazardous wastes, and if so, the owner/operator must manage them in accordance with all applicable requirements of 40 CFR parts 260 through 272.
- (7) The consolidation point owner or operator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.
- (8) A consolidation point owner or operator who stores more than 35,000 hazardous waste mercury-containing lamps at any time must have, before exceeding the 35,000 mercury-containing lamp quantity limit, sent written notification of hazardous waste mercury-containing lamp storage to the Department and received an EPA Identification Number. This notification must include:
- (A) The owner's or operator's name and mailing address;
 - (B) The name and business telephone number of the person who should be contacted regarding the mercury-containing lamp storage activity;
 - (C) The address or physical location of the mercury-containing lamp storage activity;
 - (D) A statement indicating that the owner or operator stores more than 35,000 hazardous waste mercury-containing lamps.
- (9) A consolidation point owner or operator who sends a

shipment of hazardous waste mercury-containing lamps directly from the consolidation point to a destination facility, who is not required to notify under paragraph (e)(8) of this Section, must have, before initiating the shipment, sent written notification of hazardous waste mercury-containing lamp shipments to a destination facility to the Department and received an EPA Identification Number. This notification must include:

(A) The owner's or operator's name and mailing address;

(B) A statement that the owner or operator intends to ship hazardous waste mercury-containing lamps to a destination facility;

(C) The name and business telephone number of the person who should be contacted regarding the mercury-containing lamp storage activity; and

(D) The address or physical location of the mercury-containing lamp storage activity.

(10) The owner or operator of a consolidation point who sends a shipment of hazardous waste mercury-containing lamps directly to a destination facility must comply with subpart B of 40 CFR part 262 and §§ 262.30 through 262.33, 262.40(a), 262.40(d), and 262.42 when initiating a shipment.

(f) Destination facility requirements.

(1) Owners or operators of destination facilities that recycle, treat, store, or dispose of hazardous waste mercury-containing lamps must comply with all applicable requirements of 40 CFR parts 264, 265, 266, 268, 270, and 124, and the notification requirement under section 3010 of RCRA.

(2) Owners and operators of destination facilities that recycle hazardous waste mercury-containing lamps without storing them before they are recycled must comply with 40 CFR 261.6(c)(2).

(g) Export requirements.

(1) A generator who sends hazardous waste mercury-containing lamps to a foreign destination, without first sending them to a consolidation point or destination facility, must:

(A) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a)(1) through (4), (6), and (b) and 262.57;

(B) Export such materials only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in 40 CFR part 262 Subpart E; and

(C) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

(2) A transporter transporting a shipment of hazardous waste mercury-containing lamps to a foreign destination may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:

(A) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and

(B) The shipment is delivered to the facility designated by the person initiating the shipment.

(3) An owner or operator of a consolidation point who sends hazardous waste mercury-containing lamps to a foreign

destination, without first sending them to another consolidation point or destination facility, must:

(A) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a) (1) through (4), (6), and (b) and 262.57;

(B) Export such materials only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in subpart E of 40 CFR part 262; and

(C) Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.

(4) A destination facility sending hazardous waste mercury-containing lamps to a foreign destination must also comply with the generator requirements of 40 CFR part 262, and with 40 CFR 264.71(c) or 265.71(c) pertaining to initiating the manifest.

(h) A generator of, or consolidation point for hazardous waste mercury-containing lamps may accumulate hazardous waste mercury-containing lamps for longer than one year for the sole purpose of accumulation of such quantities of hazardous waste mercury-containing lamps as necessary to facilitate proper recovery, treatment or disposal. The generator or consolidation point accumulating for longer than one year bears the burden of proving such activity is solely for the purpose of accumulation of such quantities of hazardous waste mercury-containing lamps as necessary to facilitate proper recovery, treatment, or disposal.

SUBCHAPTER 5. ADDITIONAL GENERATOR REQUIREMENTS

252:205-5-1. Disposal plans

All persons generating hazardous waste within Oklahoma or generating wastes to be stored, treated, recycled or disposed of in Oklahoma shall file a disposal plan with the DEQ on DEQ forms and shall obtain the DEQ's approval prior to offering the waste for transport.

(1) The generator must update the disposal plan as needed and must notify the DEQ at least five working days before any changes are implemented. The DEQ requires a minimum of five (5) working days to process and approve new or amended disposal plans. Changes shall not be implemented until approved by the DEQ.

(2) One-time disposal plans may be issued for emergency clean-up or waste removal.

(3) The DEQ may require supporting documentation including but not limited to, laboratory analyses and Material Safety Data Sheets to verify information submitted. If specific technical process knowledge is provided which the Department determines adequately identifies the waste, laboratory analysis will not be required.

(4) If a disposal plan is canceled for non-payment of fees, the generator must complete a new application and re-submit supporting documentation to the DEQ for approval.

252:205-5-2. SQG exemption from disposal plan requirements

Small quantity generators and conditionally exempt small quantity generators are not required to file disposal plans (252:205-5-1) or

quarterly reports (252:205-5-3) with the DEQ.

252:205-5-3. Quarterly reporting requirements

(a) General. All persons generating hazardous waste within Oklahoma including on-site treatment, storage, recycling, or disposal facilities, shall submit a report to the DEQ in a prescribed format which may include electronic submissions. The quarterly report shall be submitted no later than 60 days after the end of each quarter.

(b) Content. Quarterly reports shall include the total amount of hazardous waste generated and, when applicable, for each hazardous waste generated in a quarter:

(1) The appropriate waste stream number from the generator's disposal plan;

(2) The EPA ID number of all transporters who transported the waste;

(3) The EPA ID number of the receiving facility; and

(4) The handling code(s) corresponding to the method the generator expects the designated receiving facility to use.

(c) Characteristic hazardous waste. If characteristic hazardous waste is treated on-site to render it non-hazardous, the quarterly report shall so indicate.

(d) Reporting exclusions. This section does not apply to waste which is not subject to the substantive federal regulations adopted by reference by 252:205-3-2. There are many such exclusions, including but not limited to:

(1) Hazardous wastewater which is properly disposed of on-site in facilities permitted under the Clean Water Act;

(2) Hazardous wastewater which is properly disposed of on-site in Class I injection wells permitted under the Safe Drinking Water Act; and

(3) Hazardous wastes which are treated in elementary neutralization units to render them non-hazardous.

252:205-5-4. No endangerment provisions for generators

All generators must comply with 252:205-9-1.

252:205-5-5. Manifest requirements

(a) All large quantity generators shall include the disposal plan number on the Hazardous Waste Manifest before offering hazardous waste for shipment.

(b) Oklahoma large quantity generators shall, on at least a quarterly basis, submit copies of manifests signed by receiving facilities for wastes transported outside the United States.

SUBCHAPTER 7. ADDITIONAL TRANSPORTER RULES

252:205-7-1. Transporters required to register

(a) Registration required. Owners or operators of vehicles which pick up or deliver hazardous waste in Oklahoma shall register on forms available from the DEQ. Persons who transport hazardous waste only within a generator's plant site, or within the boundaries of a disposal or processing facility are not required to register so long as no movement occurs along a public right-of-way.

(b) Exemptions. The following categories of transporters are

exempt from this section:

- (1) Persons who transport hazardous waste through Oklahoma without picking up hazardous waste in Oklahoma or delivering it to an Oklahoma facility; and
- (2) Conditionally exempt small quantity generators (CESOGs) who transport their own hazardous wastes to a facility owned or operated by the CESOG or its parent company.

252:205-7-2. Leakage, other releases prohibited in transport

The transporter shall insure that the waste will be adequately contained so as to prevent any leakage, spillage, blowing, or dumping of the waste while in transport.

252:205-7-3. Manifest, disposal plan required

No person shall transport hazardous waste without a completed manifest containing the disposal plan number of the generator if the generator is required to have a disposal plan.

252:205-7-4. Mixing waste prohibited by transporters

Transporters shall not mix or combine shipments of incompatible waste from separate containers.

SUBCHAPTER 9. ADDITIONAL TREATMENT, STORAGE, DISPOSAL AND RECYCLING REQUIREMENTS

252:205-9-1. No endangerment or degradation

- (a) Hazardous waste sites and facilities shall be located, constructed, maintained, operated, and closed in a manner to prevent any endangerment of the public health and safety or degradation of the environment.
- (b) Degradation of the environment shall be deemed to have occurred if the site or facility causes or may cause a discharge or release to the air, land, or water which statistically increases (or decreases, in the case of pH) the level of a parameter indicative of hazardous waste contamination over what may normally be expected to be found in the environment at that time.
- (c) A statistical increase (or decrease) shall be determined by use of the tests specified in 40 CFR Parts 264 and 265.
- (d) Discharges in compliance with state or federal permits and rules shall not be deemed as degradation.

252:205-9-2. Monthly reports

- (a) Monthly reports required. Owners/operators of hazardous waste treatment, storage, disposal, and recycling facilities shall submit reports monthly in a format prescribed by the DEQ, which may include electronic submissions, identifying hazardous waste which is managed at the facility.
- (b) Content. The report shall be submitted within 30 days of the end of each month and shall include:
 - (1) The generator ID number;
 - (2) All waste numbers applicable to the waste;
 - (3) The appropriate treatment, disposal or recycling codes applicable to the waste;
 - (4) For all waste generated on-site and managed in permitted or interim status units, the amount of waste generated; and

(5) For all waste generated off-site, the amount of waste received and the EPA ID number of all transporters who handled the waste in Oklahoma.

(c) Manifests. Copies of all hazardous waste manifests for waste generated outside the United States received at the facility during the month shall be submitted to the DEO monthly.

252:205-9-3. Buffer zones

(a) No treatment, storage or disposal shall occur within 50' of the site perimeter of a land treatment facility or within 200' of the site perimeter of a surface impoundment or landfill.

(b) Existing units which become newly regulated due to changes in the statutory or regulatory requirements are excluded from the buffer zone restrictions to the extent of the encroachment existing as of the effective date of the statutory or regulatory changes.

252:205-9-4. Provisions for on-site inspectors

The DEO may add or include provisions for a full-time inspector in the permit conditions of commercial hazardous waste treatment, storage or disposal or recycling facilities. Permittees subject to these conditions shall provide on-site DEO inspectors with reasonable office facilities.

252:205-9-5. Additional closure requirements

(a) The provisions of 40 CFR 264 or 265, Subparts G and H, shall apply to all areas where hazardous waste is handled, including all recycling units, staging and processing areas, and temporary hazardous waste storage areas.

(b) The closure cost estimate may not incorporate any value that may be realized by the sale of recycled products.

252:205-9-6. Additional waste analysis requirements

(a) Prior to receipt of a hazardous waste for storage, treatment, disposal or recycling, the owner/operator of a treatment, storage or disposal facility or off-site recycling facility must obtain detailed chemical and physical analyses of a representative sample of the waste. The analyses must contain all information necessary to appropriately treat, store, dispose, or recycle the waste.

(b) Prior to receipt of any industrial waste not identified as hazardous waste at a treatment, storage or disposal facility or off-site recycling facility, the owner/operator must obtain the following records and maintain them in the facility operating record:

(1) Information regarding the chemical and physical nature of the waste which reasonably, considering the source, establishes that the waste does not exhibit any characteristic of hazardous waste as described by 40 CFR Subpart C. This information may include laboratory analyses, material safety data sheets, and analysis of raw materials, feedstocks, and process descriptions; and

(2) An affidavit by the original waste generator stating that the waste does not include any listed waste.

252:205-9-7. Receipt of waste

No hazardous waste treatment, storage, disposal, or recycling

facility shall accept hazardous waste from a large quantity generator unless the generator's disposal plan number is included on the manifest.

SUBCHAPTER 11. ADDITIONAL PERMIT PROCEDURES

252:205-11-1. Emergency plans relating to affected property owners

(a) In addition to the plans required by 40 CFR 264 Subpart D (contingency plans and emergency procedures), applicants for new proposed off-site treatment, storage, recycling or disposal sites shall also prepare a separate Emergency Plan to minimize hazards to the health and property of affected property owners from emergency situations or from sudden or nonsudden releases of hazardous waste or its constituents. This Emergency Plan shall follow the criteria of 40 CFR 264 Subpart D but shall specifically relate to each parcel.

(b) For purposes of these rules, a parcel of land owned by one or more affected property owners is a present possessory fee simple estate in land, excluding future interests.

(1) All discrete parcels, regardless of size, as specified in the county land records on the day the permit application is submitted, shall be counted equally, regardless of the number of affected property owners who may own concurrent interests in such parcel.

(2) The owner who is occupying a parcel, if there is only one owner in occupancy, or a majority of the owners, or the executor, administrator or trustee on behalf of a parcel undergoing probate or otherwise, shall represent the approval or disapproval of the Emergency Plan on behalf of the parcel for purposes of the OHWMA.

(3) A calculation of approval or disapproval by a majority of the affected property owners shall be made by summing the numbers of parcels whose owners approve or disapprove the Emergency Plan. A majority is a simple majority of the parcels.

(4) Approval or disapproval of the Emergency Plan by an affected property owner does not signify approval or disapproval of the technical aspects of the facility, nor limit the right under the Act of any affected property owner to oppose the permit.

(c) If an applicant has obtained the written approval of the Emergency Plan from the affected property owners of all or a majority of the parcels, the applicant shall certify this to the Department. When the DEO determines that all necessary approvals have been obtained, it shall then proceed with the process of issuance or denial of the permit.

(d) Affected property owners of a parcel of land who do not approve the Emergency Plan must specify reasons for non-approval which are based solely upon minimization of hazards to their health and property within forty five days of notice of the application being filed. Failure to do so shall cause the DEO to exclude those affected property owners from a calculation of a majority of affected property owners.

(e) For a determination of affected property owners, the area considered to be within one mile of the facility shall be measured from the outer perimeter of the site as specified in the permit

application.

252:205-11-2. Exclusionary siting criteria

(a) Ground water resources and recharge areas.

(1) Presumption of unapprovable site. The DEQ shall presume that the proposed location is unapprovable if it lies wholly or partially within an area designated as an actual or potential unconsolidated alluvial aquifer or terrace deposit aquifer or bedrock aquifer or recharge area, as shown on the maps described as "Sheet 1 - Unconsolidated Alluvium and Terrace Deposits" and "Sheet 2 - Bedrock Aquifers and Recharge Areas" of the "Maps Showing Principal Ground Water Resources and Recharge Areas in Oklahoma," compiled by Kenneth S. Johnson, Oklahoma Geological Survey (1983), or any successor map(s) compiled by the Oklahoma Geological Survey.

(2) Rebuttal of presumption. The applicant may rebut the presumption by submitting site-specific hydrological and geological data and other information sufficient to demonstrate clearly and convincingly that the proposed location does not lie in a prohibited area.

(3) DEQ reliance upon Oklahoma Geological Survey. In making a determination whether a proposed location is within a prohibited area, the DEQ shall request and rely upon review and conclusions by the Oklahoma Geological Survey.

(4) The Department may require site-specific hydrological and geological information for proposed facility locations outside a designated principal groundwater resource or recharge area where there is reason to believe that the proposed location may be unsuitable due to localized groundwater conditions.

(5) Groundwater protection plan. In determining whether a groundwater protection plan is required for an on-site facility pursuant to 27A O.S. § 2-7-111(B), the procedures used in subsections (1)-(4) of this section shall be used.

(6) Existing facilities. Existing facilities in these areas may continue to operate and may modify or expand their operations to the extent permitted by 27A O.S. § 2-7-111.

(b) Water wells. The DEQ shall not grant a permit for a new hazardous waste disposal facility proposed to be located within one-quarter mile of any public or private water supply well except private water supply wells on the applicant's property. Water supply wells that are demonstrated by the applicant to be permanently abandoned may be plugged upon a demonstration that the applicant has the right to plug them. The applicant shall notify the DEQ that the abandoned water wells have been plugged. If abandoned water wells are identified by the applicant during the preparation of his application or during the permit process, the applicant shall notify the DEQ so that these wells can be included in the Class V well inventory.

(c) Flood plain. No permit or modification of an existing permit which includes disposal of hazardous waste within a one-hundred year flood plain shall be granted, except for post-closure, corrective action or remedial activities conducted under the direction of the DEQ. For existing facilities, this modification prohibition applies only to land disposal units and to modifications of such units which would increase disposal rates or

designate new areas for disposal.

(d) Surface water. No permit shall be granted for a new hazardous waste disposal facility proposed to be located within one mile of the conservation pool elevation of any reservoir which supplies water for a public water supply or within one mile of any scenic river.

(e) Air pollution. No permit shall be granted for a new off-site hazardous waste disposal facility proposed to be located within one mile of any public school, educational institution, nursing home, hospital or public park.

(f) The Hazardous Waste Management Act also contains exclusionary siting criteria. See 27A O.S. § 2-7-111(B) and (C) (1) and § 2-7-114, as amended.

252:205-11-3. Upgrades of county roads and bridges

The owner/operator shall submit a certificate of acceptance of the completed upgrades by the appropriate board(s) of county commissioners or the Oklahoma Department of Transportation, as appropriate, pursuant to 27A O.S. § 2-7-115(B) (2).

SUBCHAPTER 13. MISCELLANEOUS

252:205-13-1. Incidents

(a) Release of hazardous waste. Upon release of materials that are or become hazardous waste whether by spillage, leakage, or discharge to soils or to air or to surface or ground waters (outside the limits of a discharge permit), or by other means, and which could threaten human health or the environment, the owner or operator shall immediately notify the DEQ and take all necessary action to contain, remediate, and mitigate hazards from the release.

(b) Contained releases. The owner/operator is not required to notify the DEQ of a release if it is completely contained in a secondary containment area.

(c) National Response Center. When a report is required to be made to the National Response Center pursuant to 40 CFR 262.34 (a) (4), 262.34 (d) (5), or 264.56 (d) (2) or 265.56 (d) (2), a report must also be made immediately to the DEQ at 1-800-522-0206.

(d) Determination of waste category. Spilled or leaked materials and soils and other matter that may be contaminated with such materials shall be tested by the responsible person to determine whether they are hazardous waste, nonhazardous industrial waste or solid waste.

(e) Proper disposal of waste from release. Waste materials resulting from a release shall be properly disposed of in accordance with the applicable rules.

(f) Recyclable materials. Materials that are to be recycled shall be collected and properly stored to prevent further contamination of the environment.

(g) Remediation plan. The DEQ may require submission of a remediation plan that meets the closure requirements of 40 CFR 265.111 and 265.114.

(h) Costs. The Executive Director may assess costs relating to expenses and damages incurred by the DEQ in responding to a release and overseeing its remediation. Costs shall be borne by the

responsible person(s).

SUBCHAPTER 15. TRANSFER STATIONS

252:205-15-1. Applicability and consideration of other laws

(a) Types of waste handled. The owner/operator of a transfer station which handles hazardous waste or both hazardous and solid wastes must comply with this Subchapter.

(b) Solid waste permits. The owner/operator of a hazardous waste transfer station operating or proposing to operate under an approved Plan which includes compliance with 252:205-15-2(c) is not subject to solid waste permitting rules.

(c) RCRA permits. The rules in this Subchapter do not supersede any obligations to obtain a hazardous waste permit.

(d) Exempt activities. The following are exempt from this Subchapter:

- (1) Activities of hazardous waste generators to consolidate waste on-site prior to shipment;
- (2) Activities regulated by hazardous waste permits which specifically address compliance with the plan requirements identified in 252:205-15-2(b); and
- (3) Activities immediately responding to a discharge of hazardous waste or material which becomes a hazardous waste when discharged or an imminent and substantial threat of a discharge of hazardous waste.

252:205-15-2. Development and Operations Plan

(a) Plan required. No person may construct or operate a hazardous waste transfer station without DEQ approval of a Transfer Station Development and Operations Plan (Plan).

(b) Content. The owner/operator of a transfer station shall identify and discuss all of the hazardous wastes which may be managed at the Transfer Station and the handling of any solid wastes to be managed as non-hazardous. The following shall be submitted:

- (1) Engineering plans for the construction design and a detailed description of all buildings, ramps, on-site roads, waste transfer and holding areas, and equipment used on-site;
- (2) A description of all proposed Transfer Station solid and hazardous waste handling activities including:
 - (A) estimations of waste holding capacities;
 - (B) description of wastes, tanks and containers;
 - (C) hours of operation;
 - (D) waste transfer and bulking procedures including associated compatibility analyses;
 - (E) provisions to assure that solid wastes destined for disposal in non-hazardous waste facilities are not co-mingled with hazardous waste; and
 - (F) truck and equipment cleaning and decontamination procedures.
- (3) A description of all safety, training and security provisions including site access and security provisions, site inspections, and personnel training in accordance with 40 CFR 264.14 through 264.17. The Plan shall also include a contingency and site safety plan that meets the requirements of

40 CFR 264, Subparts C and D;

(4) A description of spill control, containment, and remediation measures;

(5) A design and operations plan for waste transfer and unloading activities demonstrating that those activities are limited to areas with adequate secondary containment structures to prevent releases to soil, surface water or groundwater; and

(6) Information on closure and mechanisms to meet the financial assurance and liability requirements of 40 CFR 264, Subparts G and H.

(c) The owner/operator of a hazardous waste transfer station which handles solid waste destined for management at a solid waste facility must also demonstrate compliance with applicable rules in OAC 252:520, including location standards, if the hazardous waste Transfer Station Development and Operations Plan is to be used in lieu of a solid waste permit.

252:205-15-3. Design and operation

All transfer stations shall be designed and operated to minimize releases to the air from waste transfer and unloading activities. Activities shall be conducted only in areas protected by secondary containment structures approved in the Plan.

252:205-15-4. Modifications

(a) A proposed modification to an approved Plan which would alter the design or operation of a transfer station shall be requested in writing and shall not be implemented without the DEO's prior approval.

(b) The DEO may modify an approved Plan to require compliance with current rules.

(c) Modification to approved Plans shall be according to 40 CFR 270.42.

252:205-15-5. Exclusionary siting criteria

(a) The siting criteria for locating hazardous waste Transfer Stations which handle wastes destined for management at a hazardous waste facility are the same as those for any hazardous waste treatment or storage facility in 252:205-11-2.

(b) The siting criteria for locating hazardous waste Transfer Stations which also handle solid wastes destined for management at a solid waste facility include those listed in Subchapter 11 and, in addition, those in OAC 252:520.

(c) No Plan approval shall be granted for a Transfer Station proposed to be located over a principal groundwater resource or recharge area, unless the Plan includes specific provisions for protection of the groundwater resources. These provisions shall include financial assurances for the purpose of assuring immediate response and remediation in the event of a release.

252:205-15-6. No endangerment

All owners/operators of Transfer Stations shall comply with 252:205-9-1.

SUBCHAPTER 17. TAX CREDIT AND WASTE REDUCTION INCENTIVES

PART 1. TAX CREDITS

252:205-17-1. Certification

(a) Net investment cost. Upon evaluation by the DEO of an application in accordance with 27A O.S. § 2-11-304(A)(1)-(4) the DEO will issue a certificate to the Oklahoma Tax Commission specifying the actual or estimated agreed net investment cost of approved recycling, reuse, or source reduction processing operations.

(b) Energy recovery. Energy recovery from the destruction of a hazardous waste may be considered as recycling, and the equipment or devices needed to effectuate such recovery may be eligible under this Subchapter. In order to claim energy recovery, the unit must maintain a thermal energy recovery efficiency of at least sixty percent, calculated in terms of the recovered energy compared with the thermal value of the fuel, and at least seventy-five percent of this recovered energy must be exported and utilized on an annual basis. Credit will not be allowed for internal use of recovered heat in the same unit.

(c) Remedial action. Equipment installed for the purpose of recycling or reuse of hazardous waste recovered as a result of the clean-up of spills and/or remedial action at hazardous waste sites may be eligible.

(d) Replacement of equipment. Replacement of existing equipment is eligible for consideration only if the equipment being replaced has exceeded its design lifetime as specified at the time of installation. Replacement of existing equipment with equipment that will allow more complete recycling or increased source reduction will be considered, regardless of age.

(e) Any particular piece of equipment, plant, or property shall only be eligible for one tax credit allowance. Sale or transfer of that item to a new owner shall not recreate the eligibility for a tax credit.

(f) Trucks, trailers, containers, portable storage units or similar items that are necessary for the installation of processes used for the recycling, reuse or source reduction of hazardous waste may be considered. Equipment purchased or leased but not used solely for the recycling, reuse or source reduction of hazardous waste will be prorated based on use. Only equipment that is physically used in Oklahoma will be considered.

252:205-17-2. Tax credit limitations

The following are not eligible for consideration for a tax credit under this Subchapter:

- (1) Storage facilities used for the purpose of speculative accumulation;
- (2) Recycling of materials in a manner constituting disposal as described in 40 CFR Part 266;
- (3) Recycling, reuse or source reduction of materials that are not hazardous waste;
- (4) Operating expenses, interest charges, design costs and permit application costs; and
- (5) Dilution of a hazardous waste because dilution is not considered recycling, reuse or source reduction.

252:205-17-3. Application procedures for tax credit

(a) An application for a tax credit must be submitted separately from other permit applications. Application forms are available from the DEO. Applicants must comply with the Oklahoma Uniform Environmental Permitting Act (27A O.S. § 2-14-101 et seq.) and rules 252:2-15).

(b) The applicant must include the actual or estimated capital expenditures required to purchase and install the facility. Estimates must show all unit costs and bid quotations from equipment suppliers. The applicant must list names, addresses, telephone numbers and other relevant contact numbers, i.e. telefacsimile and internet, of all suppliers, contractors, and related participants in the installation of the facility.

(c) After the equipment is installed, the applicant shall notify the DEO that the facility is ready to be inspected. The applicant must point out any deviations from the approved application. Deviations will be evaluated by the DEO to determine if a new application will be required. The DEO will verify that the specified equipment has been installed and that it is operational. If so, the DEO will issue the certification to the Oklahoma Tax Commission.

252:205-17-4. Criteria for approval of tax credit

To qualify for approval of a tax credit under this subchapter:

(1) The tax credit must be taken within three years of the installation and initial use of the facility.

(2) The proposed facility or equipment must have been previously demonstrated to be effective and to perform as specified unless unproven technology procedures are followed in accordance with 252:205-17-5.

(4) The facility must be physically located in the State of Oklahoma.

Agency note: There is no minimum amount of a hazardous waste which must be recycled, reused or reduced.

252:205-17-5. Special conditions: new and unproven technologies

In addition to the requirements of 252:205-17-4, the following apply to persons who wish to use technologies that have not been proven to be effective or workable:

(1) If the review and evaluation of an application for a tax credit using unproven technologies indicates that the proposed facility has a high likelihood of being successful, but supporting data is not available to allow final approval by the DEO, the DEO may issue an Approval in Principle in lieu of the formal approval and certification to the Tax Commission. The Approval in Principle shall list the assumptions made in deciding upon its issuance and the conditions the facility is expected to meet before a formal approval and certification to the Oklahoma Tax Commission can be made.

(2) The Approval in Principle will automatically expire two years from the date of its issuance. It may be reissued if a new application is submitted to the DEO and a determination made that the conditions under which the first approval was issued are still applicable and that a high likelihood of success is

still feasible.

(3) Once the owner/operator of the facility has satisfactorily demonstrated that the technology performs as specified and has supplied documentation to the DEO showing that the conditions of the Approval in Principle have been satisfied, the DEO shall issue a formal approval and provide certification to the Oklahoma Tax Commission showing eligibility for a tax credit.

(4) The applicant must notify the DEO of any significant change in the design of the facility or in the equipment actually installed, or if there is an increase in costs of more than twenty percent from that specified in the application. Any significant change from the original application shall be cause for the DEO to reevaluate the application and make a new determination whether or not the project should be approved.

252:205-17-6. Required information in tax credit application

The applicant must submit the following information in an application:

(1) A description of the current or proposed plant process, as it relates to the recycling, reuse or source reduction operations, including flow diagrams and engineering drawings.

(2) A description of the proposed recycling, reuse or source reduction facility, including flow diagrams and engineering design drawings, the exact equipment necessary for the facility to perform as specified either by brand name and serial number, or by design specifications and drawings, and the estimated life expectancy and the vendor's name for each piece of equipment.

(3) The amount and character of waste streams prior to use of the facility and the amount and character of waste streams after use of the facility. If there is no current plant process, the applicant should provide information on the amount of hazardous waste expected to result from the proposed facility.

(4) A justification for the process decisions made, including a description of the recycling, reuse, or source reduction alternatives considered.

(5) A certification that the facility will be used in Oklahoma to process hazardous waste generated in Oklahoma. If the facility will be processing waste generated in other states, the applicant must specify the percentage of waste generated in Oklahoma.

(6) Income or savings that will be generated from the installation and operation of the facility.

(7) Actual invoices of installed unit costs or estimates of costs if the facility has not been built.

(8) If the facility to be installed uses a proven technology. If it is not a proven technology, the application must specify when supporting documentation will be available to determine if the technology will perform as specified.

(9) The date that construction or installation of the facility is scheduled to begin and the date the facility is scheduled to begin operations.

PART 3. WASTE REDUCTION INCENTIVES

252:205-17-20. Applicability

The rules in this Part provide economic incentives to encourage Oklahoma generators to reduce the volume or the toxicity of the hazardous waste they generate.

252:205-17-21. Incentives

(a) Large quantity generators. The DEQ shall give a reduction of up to one-half of the in-state hazardous waste treatment or disposal fee specified in 27A O.S. § 2-7-121 to an Oklahoma large quantity generator who:

- (1) Expands its full-time equivalent employment, up to a doubling of employees, while generating proportionally less hazardous waste than in the previous state fiscal year; or
- (2) Significantly reduces the toxicity of all or part of the hazardous waste which it generates, as demonstrated by a health-based risk analysis submitted by the generator in accordance with 27A O.S. § 2-11-204 (C).

(b) Small quantity generators. The DEQ shall give the maximum reduction of one-half of the in-state hazardous waste treatment or disposal fee specified in 27A O.S. § 2-7-121 to an Oklahoma small quantity generator who:

- (1) Expands its full-time equivalent employment, up to a doubling of employees, while generating proportionally less hazardous waste than in the previous state fiscal year; or
- (2) Significantly reduces the toxicity of all or part of the hazardous waste which it generates, as demonstrated by a health-based risk analysis submitted by the generator in accordance with 27A O.S. § 2-11-204(C).

Agency note: Owners/operators of treatment, storage or disposal facilities or off-site recycling facilities must pay the minimum statutory fees in 27A O.S. § 2-7-121.

252:205-17-22. Refund for volume reduction

Each generator who expands its full-time equivalent employment while generating proportionally less hazardous waste than in the previous state fiscal year will receive a disposal fee refund per ton of waste disposed in the application year as calculated in Appendix A.

252:205-17-23. Refund for toxicity reduction

(a) Each generator who significantly reduces the toxicity of all or part of the hazardous waste which it generates, as demonstrated by a health-based risk analysis submitted by the generator in accordance with 27A O.S. § 2-11-204 (C) will receive a disposal fee refund per ton of waste disposed in the application year. The amount of the fee refund will be equal to the unit of hazardous waste decreased in toxicity divided by the total units of hazardous waste generated, multiplied by the dollar amount of the applicable fee at the time of treatment or disposal.

(b) The degree to which the toxicity of a wastestream is reduced must be clearly demonstrated by a health-based risk analysis that examines the concentrations of hazardous waste constituents and the likely means of exposure to employees and to the public.

252:205-17-24. Refund for elimination of a waste stream

The DEQ will refund an additional \$0.50/ton for elimination of a hazardous waste stream through source reduction techniques.

252:205-17-25. Maximum total refund

The maximum amount refunded shall not exceed one-half of the total fees assessed.

252:205-17-26. Limitations

Fee reductions will not be given for reductions in volume or toxicity that result from production phase-outs or decline in production levels.

252:205-17-27. Application for fee reduction

(a) Small quantity generators shall submit a completed Small Quantity Generator's Hazardous Waste Reduction Plan form.

(b) Large quantity generators shall submit a Hazardous Waste Reduction Plan according to 27A O.S. § 2-11-204(E) and the following documents:

(1) A written request for reduction in fees, including:

(A) Documentation of reduction in hazardous waste generation compared with the applicable baseline year data and information to support claims of proportionate increase in employment during the same time period; or

(B) Documentation of reduction in hazardous waste toxicity, including health-based risk analysis data in compliance with 27A O.S. § 2-11-304(C).

(2) A copy of the facility's Hazardous Waste Reduction Plan; and

(3) A copy of the DEQ's Hazardous Waste Reduction Plan Summary Form.

(c) The previous state fiscal year's data will be used to establish the baseline for employment and waste generation data for those generators submitting Hazardous Waste Reduction Plans and requests for fee reductions after July 1, 1993. Applications for fee reduction must be submitted by October 1 following the application year.

(d) Once a baseline year has been established, the data will be used as the basis of comparison for future fee reductions. Another baseline may be approved if the generator provides a written request for change and includes justification for use of another baseline year.

(e) The DEQ shall refund fees at the end of each fiscal year.

(f) The DEQ will review the biennial plan summary reports to evaluate any need for fee refund adjustment.

(g) The DEQ shall continue to refund fees as long as the generator continues to meet waste reduction criteria of 27A O.S. § 2-11-201 et seq. and the rules in this Part.

SUBCHAPTER 19. ADDITIONAL RULES FOR RECYCLING

PART 1. REQUIREMENTS FOR OFF-SITE RECYCLERS

252:205-19-1. Permit required

(a) Owners/operators of off-site recycling facilities with units operational:

(1) Before July 1, 1990, are not required to obtain a permit for those units, but must comply with the rules in this Subchapter.

(2) After July 1, 1990 must obtain a permit for those units. Owners/operators of post-1990 off-site recycling facilities must also comply with the permit requirements of 40 CFR 270 and OAC 252:2. The owner/operator must include hazardous waste recycling units, staging and process areas, and permanent and temporary storage areas for recycled products and wastes in the permit application.

(b) Subchapter 9. Owners/operators of off-site recycling facilities shall comply with Subchapter 9.

252:205-19-2. Federal rules

Owners/operators of off-site recycling facilities must comply with the following provisions of 40 CFR 264 for all hazardous waste recycling units, staging and process areas, and permanent and temporary storage areas for recycled products and wastes:

- (1) Subpart B- General Facility Standards
- (2) Subpart C- Preparedness & Prevention
- (3) Subpart D- Contingency Plan & Emergency Procedures
- (4) Subpart E- Manifest System, Recordkeeping & Reporting
- (5) Subpart G- Closure & Post-Closure
- (6) Subpart H- Financial Requirements
- (7) Subpart I- Use & Management of Containers
- (8) Subpart J- Tank Systems

252:205-19-3. Replacement of recycling units

(a) The owner/operator may replace recycling units which are not required to be permitted with functionally equivalent units not more than 10% difference in capacity upon prior approval of the DEQ.

(b) The owner/operator must apply for a permit modification to increase the capacity of the recycling units or to add new or different recycling units.

Agency note: The application for permit modification is a Tier I under state rules (252:2-15-43) and a Class I under federal rules (40 CFR § 270.42).

252:205-19-4. Operating record

(a) Operating record required. The owner or operator of an off-site recycling facility must keep a written operating record at the facility.

(b) Content. The following information must be recorded as it becomes available and maintained in the operating record until closure of the facility:

- (1) A description and the quantity of each hazardous waste received;
- (2) The method(s) and date(s) of treatment, storage, or recycling of each hazardous waste received;
- (3) The location of all hazardous waste within the facility;
- (4) The quantity of hazardous waste at each location, including cross-references to specific manifest document numbers if the waste was accompanied by a manifest; and

(5) Complete documentation of the fate of all hazardous wastes received from off-site or generated on-site including records of the sale, reuse, off-site transfer, or disposal of all products and waste materials.

252:205-19-5. Blending low-Btu fuel prohibited

Blending of low fuel value hazardous waste (containing less than 5,000 Btu/pound) with other materials or waste to create a hazardous waste fuel is prohibited as a form of recycling. This waste can not be burned in any hazardous waste recycling unit in Oklahoma.

252:205-19-6. Fees

Application fees for an operations permit for an off-site recycling facility shall be the minimum amounts established by 27A O.S. § 2-7-119(B).

252:205-19-7. Processed hazardous waste to be recycled

Owners/operators who demonstrate to the DEO that units containing hazardous wastes which have been processed for recycling have a demonstrable market and no longer contain constituents which pose a hazard to human health or the environment are not required to obtain a permit for those units, but must still comply with 252:205-19-1(b) and 19-4.

PART 3. MOBILE RECYCLING UNITS

252:205-19-15. Mobile units

(a) Applicability. This Part applies to mobile recycling units that process hazardous waste at any facility which generates in excess of 1000 kilograms of hazardous waste in any calendar month. The requirements of this Part shall not apply to mobile recycling units when:

- (1) The recycling is performed at the generator's site;
- (2) The generator retains responsibility for proper management of the waste and any residues;
- (3) No waste generated by any other person is brought onto the site for treatment by the unit; and,
- (4) The generator and the recycler meet all applicable requirements for hazardous waste management.

(b) Permits. Mobile recycling units subject to this Part shall obtain a Recycling Permit for a Mobile Unit. Application for such permit shall include the application fee and three copies of the following:

- (1) A detailed description of the proposed recycling unit(s). This should include flow diagrams and engineering design drawings, specifying either by brand name and serial number, or by design specifications and drawings, the exact equipment necessary for the unit(s) to perform as specified.
- (2) The amount and nature (including waste codes and available laboratory analyses) of current hazardous waste streams able to be processed and the amount and nature of waste streams expected to result from operation of the proposed unit(s).
- (3) A description and quantification of any releases to the air, sewer, water, or ground that will result from operation of

the recycling unit(s).

(4) A description of the procedures used to decontaminate the unit, and including disposal of all contaminated residuals, after completion of the on-site processing.

(5) Evidence of compliance with personnel training requirements equivalent to 40 CFR 265.16 for all personnel dealing with waste handling or processing.

(6) A generic contingency and safety plan which meets all applicable provisions of 40 CFR 265, Subparts C and D.

PART 5. TANK AND CONTAINER RECYCLERS

252:205-19-29. Applicability

(a) This part applies to facilities which receive tanks or containers from off-site for cleaning or reconditioning which are empty as described at 40 CFR 261.7 and which contain a chemical residue. Tanks or containers hold a chemical residue if such residue is visible and/or the tank or container requires cleaning to assure that it is free of residue.

(b) Containers as described in 40 CFR 261.7 are assumed to contain a chemical residue until processed by the receiving facility to assure that such units are ready for resale.

(c) This part does not apply to:

(1) Facilities permitted pursuant to 40 CFR 264;

(2) Facilities which only receive containers or tanks for filling with product or waste without on-site cleaning or reconditioning; or,

(3) Companies, their affiliates and subsidiaries which receive back only their own containers and, as applicable:

(A) Remove residues of unused commercial chemical product for use at their facilities;

(B) Remove residues and manage such residues and wash wastes as hazardous or non-hazardous solid waste as determined per 40 CFR 261; or,

(C) Treat removed residues and wash wastes in units permitted pursuant to sections 402 and 307(b) of the Clean Water Act.

252:205-19-30. Incidents

Facilities subject to this part shall comply with 252:205-13-1.

252:205-19-31. Handling of tank and container residues, and cleaning wash solutions

(a) Chemical residues and wash solutions containing chemical residues generated by cleaning or reconditioning of tanks or containers shall be evaluated in accordance with 40 CFR 261 to determine if they are to be handled as hazardous wastes or as non-hazardous solid wastes.

(b) Chemical residues and wash solutions containing chemical residues generated by cleaning or reconditioning of tanks and containers are not exempted from 252:205-19-31(a) by 40 CFR 261.7. However, no hazardous waste listings in 40 CFR 261 Subpart D shall apply to residues removed from containers regulated pursuant to this part. Wastes generated from using solvents listed in 40 CFR 261.31 during the cleaning or reconditioning process and which meet the listing definition are hazardous waste.

(c) As determined, the following shall apply:

(1) 40 CFR 261-279 and OAC 252:205 shall apply to residues removed from containers regulated pursuant to this part unless exempted therein (e.g., exclusions for waste treated under §§ 402 and 307(b) of the Clean Water Act); however, the exemption found at 261.7 is modified pursuant to this part.

(2) For all non-hazardous solid waste, the generator is not exempt from applicable Oklahoma Regulations as specified by OAC 252:520.

252:205-19-32. Storage Requirements

(a) Facilities regulated pursuant to this part may not speculatively accumulate, as defined at 40 CFR 261.1(b)(8), tanks or containers awaiting cleaning or reconditioning. Tanks and containers which have not completed the full cleaning or reconditioning process must be so marked or placed into an area so marked and stored separately from containers or tanks which have been cleaned or reconditioned.

(b) All tanks and containers shall be stored under cover, or in a manner which will prevent the accumulation of precipitation in the tank or container or release to the environment of chemical residue. Any precipitation which may accumulate shall be considered a chemical residue requiring handling as described in 252:205-19-31.

(c) All tanks and containers shall be stored in such a manner that visual inspections can determine if spillage has occurred.

(d) Tanks and containers shall be inspected weekly for compliance with this section.

252:205-19-33. Notification Requirements

(a) Facilities shall notify the Department of activities regulated pursuant to this part in the following manner:

(1) Provide a general description of site utilization and processes; and,

(2) Provide a general description of how processes and activities will be conducted in a manner that minimizes releases to soil, air, and water.

(b) Facilities in operation on the effective date of this Part must submit the information required by 252:205-19-33(a) no later than January 1, 1999. New facilities must submit the information required by 252:205-19-33(a) prior to initiation of cleaning or reconditioning operations. Facilities shall submit a new notification to the Department if operations significantly change from those described in the original notification. This new notification must be submitted prior to making significant changes in operations.

252:205-19-34. Recordkeeping

(a) Facilities regulated pursuant to this part must maintain the following records on-site:

(1) Documentation of waste determinations and analyses, as appropriate, for hazardous wastes generated;

(2) Records of inspections performed pursuant to 252:205-19-32(d);

(3) Records of remedial actions performed on-site in accordance

with 252:205-13-1; and,

(4) Records demonstrating that the facility is not speculatively accumulating under 252:205-19-32(a).

(b) Records required by paragraph 252:205-19-34(a)(3) shall be kept for a period of three (3) years.

SUBCHAPTER 21. FEES

252:205-21-1. General fee provisions

Fees are payable to the DEQ. Monitoring fees and renewal fees are due and payable and must be postmarked within sixty days from the invoice date. Ranges of fees for generator disposal plans, transporter registration, permit application and application resubmittals, and facility monitoring are set by law. See 27A O.S. § 2-7-119. A late fee of 20% of the renewal fee will be charged as a penalty for late renewal of fees less than \$10,000. For fees of \$10,000 or more, see the penalty clause of 27A O.S. § 2-3-301. The DEQ will not re-assess fees at time of transfer of ownership if units and EPA I.D. number remain unchanged.

252:205-21-2. Generator fees

(a) Disposal plan. The fee for a disposal plan for one or two waste streams is \$100 per generator per year. Each additional waste stream is \$50 per year. There is no disposal plan fee for emergency incidents under 252:205-13-1. Disposal plans shall be canceled if the fees are not paid after the second notification.

(b) Annual monitoring and inspection fee. Oklahoma generators shall pay an annual fee of \$100, except small quantity generators who pay \$25. There is no monitoring fee for generators who obtain one-time disposal plans issued under 252:205-5-1 for emergency cleanup or waste removal.

252:205-21-3. Transporter fees

The transporter registration period is from March 1 of a given year to the last day of February of the following year. The fees are as follows:

(1) Per vehicle. For each trailer or other discrete transportation vehicle used in highway transportation of hazardous waste, there is an annual registration fee of \$20; or

(2) International Registration Plan. Common carriers participating in the "International Registration Plan" may pay a fee equivalent to \$20 per vehicle calculated by the ratio of the previous year's Oklahoma manifested waste mileage divided by the total fleet national mileage, multiplied by the total number of fleet trailers and vehicles (excluding power units); or

(3) Per trip vehicle rental. Transporters leasing or renting only one vehicle at a time for the transportation of hazardous waste may obtain a registration designated as per-trip rental by paying an annual fee of \$20. Each rental vehicle's identification information shall be reported to the DEQ before moving waste in that vehicle.

252:205-21-4. Treatment, storage and disposal facility fees

(a) Permit fees. Permit fees are listed in Appendix B. Renewals and post closure applications shall be 1/2 of the fee for the

facility listed in Appendix B, subject to the statutory minimum. Fees for re-submission of an application shall be the minimum amount established by 27A O.S. § 2-7-119(B). Re-submission is deemed to occur when an applicant, at the request of the Department, provides additional information to make an application complete, which constitutes substantial recomposition of the application. Fees for Tier 3 modifications are the application submission fee amounts in Appendix B of this Chapter. Ninety percent of the fee is refundable for applications withdrawn within 30 days. Application fees for an operations permit for an off-site recycling facility shall be the minimum amounts established by 27A O.S. § 2-7-119(B).

(b) **Monitoring and inspection fees.**

(1) All hazardous waste facilities shall be charged annual fees for monitoring and inspection by the Department. These fees are in addition to the \$100 monitoring fee for generators.

(2) Facilities that treat, store, or dispose of hazardous waste, or receive off-site hazardous waste for recycling, are subject to the fee provisions of § 2-7-121(A) of the Act, except as provided by 27A O.S. 2-7-121(B). The fee amounts and applicability are depicted in Appendix C of this Chapter. Facilities not subject to Appendix C of this Chapter shall be charged the minimum annual monitoring fee established at 27A O.S. § 2-7-119(B). (Appendix C of this Chapter is included for convenience and is subject to adjustment of the fees by statutory amendment.)

APPENDIX A. Refund For Volume Reduction [NEW]

	1-25% Increase in Employees	26-50% Increase in Employees	51-75% Increase in Employees	76-100% Increase in Employees
21-50% waste reduction	\$ ÷ 3.5	\$ ÷ 2.8	\$ ÷ 2.3	\$ ÷ 2
11-20% waste reduction	\$ ÷ 4.6	\$ ÷ 3.5	\$ ÷ 2.8	\$ ÷ 2.3
1-10% waste reduction	\$ ÷ 6.8	\$ ÷ 4.6	\$ ÷ 3.5	\$ ÷ 2.8

\$ = Applicable fee at time of treatment or disposal

"Percent Waste Reduction" equals the amount of waste generated in the previous state fiscal year minus the amount of waste generated in the application year, divided by the amount of waste generated in the baseline year, times 100.

"Percent Increase in Employees" equals the number of employees in the application year minus the number of employees in the baseline year, divided by the number of employees in the baseline year, times 100.

APPENDIX B. PERMIT APPLICATION FEES [NEW]

Facility Type or Description	Fee for Submission
All	\$3,000
Type 1 (Tanks & Containers)	\$2,000
Type 2 (Piles)	\$2,500
Type 3.a (Misc. Thermal unit)	\$2,000
Type 3.b (Incineration; Boiler & Ind. Furnaces; thermal treatment)	\$12,000
Type 4 (Deep Well)	\$15,000
Type 5 (Land Treatment Unit)	\$6,000
Type 6 (Landfill, Surface Impoundment)	\$20,000
Type 7 (Research)	\$2,000
Type 8 (Recyclers)	\$2,000

APPENDIX C. ANNUAL FACILITY MONITORING FEES [NEW]

Disposition of Waste	On-site	Off-site
Waste Storage, Treatment, or Land Disposal	\$9.00/ton (minimum \$20,000/yr per facility)	\$9.00/ton (minimum \$50,000/yr per receiving treatment or land disposal facility, minimum \$20,000/yr per storage facility*)
Waste Recycling	-----	\$4.00/Ton (minimum \$20,000/yr per receiving facility, excluding receiving facilities which consistently receive or recycle fewer than ten (10) tons of hazardous waste per month)
Underground Injection	\$0.03 per gallon	\$0.03 per gallon
Facilities Conducting Research & Design Tests	_____	\$9.00/ton treatment, storage, or disposal \$4.00/ton recycling (minimum \$10,000/yr per receiving facility)

* For the purpose of the \$20,000/yr per receiving facility minimum fee only, storage includes physical separation or combining of wastes solely to facilitate efficient storage at the facility and/or efficient transportation. Any off-site facility which is permitted for treatment or land disposal in addition to storage will be subject to the \$50,000/yr per receiving facility minimum fee.