

US EPA ARCHIVE DOCUMENT

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
STATEMENT OF INDEPENDENT LEGAL COUNSEL
FOR FINAL AUTHORIZATION FOR
RCRA PROGRAM CLUSTER XVIII (JULY 2007-JUNE 2008)

I hereby certify, pursuant to my authority as Independent Legal Counsel 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 hazardous waste program set forth in the Program Description submitted by the Oklahoma Department of Environmental Quality ("DEQ") and finally authorized by EPA on January 10, 1985 and the Program Description Addendum(s) approved by EPA on the publication dates set forth at 74 F.R. 5994, 5995, the Program Description Addendum for RCRA Cluster XVIII attached hereto, and to meet the requirements of 40 C.F.R. Part 271, Subpart A. The specific authorities provided are contained in statutes or regulations lawfully adopted and in effect at the time this Statement is signed. The statutory and regulatory authorities for the State of Oklahoma are documented in the REGULATORY DOCUMENTATION FOR FEDERAL PROVISIONS FOR WHICH THE STATE OF OKLAHOMA IS SEEKING AUTHORIZATION, FEDERAL FINAL RULES PUBLISHED JULY 2007 THROUGH JUNE 2008, RCRA CLUSTER XVIII, dated _____ and attached to this statement as Attachment A.

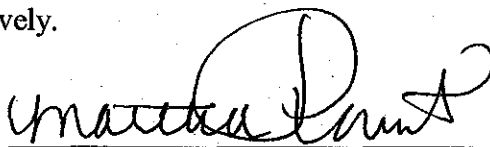
The Oklahoma Hazardous Waste Management Act, 27A O.S. 2-7-101 *et seq.* provides statutory authority for Oklahoma's hazardous waste program. The most recent amendment was accomplished by Senate Bill 349 with an effective date of April 3, 2009. In my opinion, statutes relied on in previously approved authorization applications have not been amended, modified or revised by statute or judicial decision in a way that diminishes and interferes with the authority to carry out the previously authorized hazardous waste program to meet the requirements of 40 C.F.R. Part 271, Subpart A.

The provisions for which the State of Oklahoma is seeking authorization are documented in Attachment A. Differences between the State provisions and the Federal provisions are noted in Attachment A. The official State hazardous waste regulations may be found in Title 252, Chapter 205 of the Oklahoma Administrative Code ("OAC").

This certification supplements my or my predecessors certification(s) submitted as a part of the previous authorizations described at 74 F.R. 5994, 5995. These approved authorizations included statements of legal authority for the General Counsel of the DEQ to prepare these certifications in lieu of the State Attorney General as set forth in 40 CFR 271.7. There have been no changes to State or Federal law or regulations that have diminished the authority of the General Counsel of the DEQ as Independent Legal Counsel to represent the DEQ in court on all matters pertaining to the State program.

The DEQ incorporates the Federal Regulations by reference and there have been no changes in State or Federal laws or regulations that have diminished the DEQ's ability to adopt the Federal regulations by reference as set forth in the authorizations set forth at 74 F.R. 5994, 5995. The Federal hazardous waste regulations are adopted by reference by the DEQ at OAC 252:205, subchapter 3. The most recent amendments to OAC 252:205-3-1 *et seq.*, were adopted on November 18, 2008 with an effective date of July 1, 2009. The DEQ does not adopt Federal regulations prospectively.

Date: 12-23-09



Martha Penisten
General Counsel
Oklahoma Department of Environmental Quality