

OKLAHOMA RCRA STATUTORY CHECKLIST (Abbreviated Version)

Titles of Legislation:

Oklahoma Environmental Quality Act (27A O.S. § 1-1-101, *et seq.*, as amended through 2005).
 Oklahoma Environmental Quality Code (27A O.S. § 2-1-101, *et seq.*, as amended through 2005).
 Oklahoma Hazardous Waste Management Act (27A O.S., § 2-7-101, *et seq.*, as amended through 2005).
 Oklahoma Environmental Permitting Act (27A O.S. § 2-14-101, *et seq.*, as amended through 2005).
 Oklahoma Administrative Procedures Act (75 O.S. § 250, *et seq.*, as amended through 2005).
 Oklahoma Open Meetings Act (25 O.S. § 301, *et seq.*, as amended through 2005).
 Oklahoma Environmental Crimes Act (21 O.S. § 1230.1, *et seq.*, as amended through 2005).
 Oklahoma Open Records Act (51 O.S. § 24A.1, *et seq.*, as amended through 2005).

Date Prepared: June 30, 2006

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
I. DEFINITIONS			
<i>Note that 40 CFR Part 271 does not specifically address definitions of terms. However, the Federal program relies on various definitions for establishing the applicability and scope of the hazardous waste regulations. If definitions of these terms appear in state statutes, they should be at least as stringent as the analogous Federal statutory or regulatory definition. The State should have the authority to define the following terms in a manner at least as stringent as the Federal program:</i>			
Disposal	N/A	§ 1004(3)	27A O.S. § 2-7-103
Generator	N/A	Not in RCRA; see 40 CFR 260.10 defn.	OAC 252:205-3-2(b)
Hazardous waste	N/A	§ 1004(5)	27A O.S. § 2-7-103
Manifest	N/A	§ 1004(12)	27A O.S. §§ 2-7-105(5) and 2-7-125
Person	N/A	§ 1004(15)	27A O.S. § 2-7-103
Storage	N/A	§ 1004(33)	OAC 252:205-3-2(b)
Transport	N/A	Not in RCRA; see 40 CFR 260.10 defn. of "transportation"	OAC 252:205-3-2(b)
Treatment	N/A	§ 1004(34)	27A O.S. § 2-7-103
Treatment, Storage or Disposal facility	N/A	Not in RCRA; see 40 CFR 260.10 defn. of "facility"	OAC 252:205-3-2(b)
Waste (solid)	N/A	§ 1004(27)	OAC 252:205-3-2(c)

Remarks of the Attorney General/Independent Counsel:

**OKLAHOMA RCRA STATUTORY CHECKLIST
(Abbreviated Version)**

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II. HAZARDOUS WASTE IDENTIFICATION AND LISTING [See 40 CFR §271.9]			
1. Authority to adopt a set of characteristics for identifying hazardous waste and a list of hazardous wastes that are no less stringent than, and consistent with, the Federal program, and to control all hazardous wastes controlled under 40 CFR part 261.	271.9(a)	§§ 3001(a), (b), (d), (e), (i) and 3018(b)	OAC 252:205-3-2(c)
2. Delisting (Optional): Authority to provide a delisting mechanism with regulations that are equivalent to 40 CFR 260.20(b) and 260.22 and that meets the requirements of RCRA § 3001(f)(1) & (2)	271.9(b)	§ 3001(b) and (f)	OAC 252:205-3-2(b) and OAC 252:205, Subchapter 25

Remarks of the Attorney General/Independent Counsel:

III. STANDARDS FOR GENERATORS [See 40 CFR §271.10]

Authority to regulate all generators EPA regulates under 40 CFR Part 262 and to adopt requirements that are no less stringent than, and consistent with, the Federal generator requirements.	271.10	§§ 3001, 3002, & 3017	OAC 252:205-3-2(d)
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Remarks of the Attorney General/Independent Counsel:

IV. STANDARDS FOR TRANSPORTERS [See 40 CFR §271.11]

Authority to regulate all transporters EPA regulates under 40 CFR Part 263 and to adopt requirements that are no less stringent than, and consistent with, the Federal transporter requirements.	271.11	§ 3001 § 3003	OAC 252:205-3-2(e)
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Remarks of the Attorney General/Independent Counsel:

**OKLAHOMA RCRA STATUTORY CHECKLIST
(Abbreviated Version)**

V. STANDARDS FOR HW STORAGE, TREATMENT, AND DISPOSAL FACILITIES [See 40 CFR 271.12]

1.	Authority to regulate all owners and operators of hazardous waste management facilities that EPA regulates under 40 CFR Parts 264 and 266 and to adopt technical standards, requirements, and prohibitions that are no less stringent than, and consistent with, the Federal TSD facility requirements.	271.12	§ 3004	OAC 252:205-3-2(f) and 3-2(h)
2.	Authority to require corrective action in a manner that is no less stringent than, and consistent with, the Federal corrective action requirements.	271.12	§ 3004(u) and (v), and 3004(a)(6)	OAC 252:205-3-2(f)

Remarks of the Attorney General/Independent Counsel:

VI. LAND DISPOSAL RESTRICTIONS [See 40 CFR 271.25]

Authority to enact land disposal restrictions that are no less stringent than, and consistent with, the Federal land disposal restrictions in 40 CFR Part 268.	271.25	§ 3004(d)-(g), (j) and (m)	OAC 252:205-3-2(i)
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Remarks of the Attorney General/Independent Counsel:

VII. PERMITS FOR HW STORAGE, TREATMENT AND DISPOSAL FACILITIES [See 40 CFR 271.13 and 271.14]

1.	Authority to require permits for owners and operators of all TSD facilities in a manner that is no less stringent than, and consistent with, the Federal permit program under 40 CFR Parts 270 and 124.	271.13(a)	§ 3005(a)	27A O.S. §§ 2-7-105(1) and 2-7-108(A) 27A O.S. § 2-14-101, <i>et seq.</i> OAC 252:205-3-2(a) and 3-2(j)
2.	Authority to require permit application information (including exposure information) and to issue permits containing all technical and administrative	271.13(a) 271.14	§ 3005(b) § 3005(c)(3) § 3005(g) § 3019(a)	OAC 252:205-3-2(j)

**OKLAHOMA RCRA STATUTORY CHECKLIST
(Abbreviated Version)**

	standards for facilities and any conditions necessary to protect human health and environment			
3.	Authority to provide for permit modification and termination (revocation) in a manner that is no less stringent than, and consistent with, the Federal program.	271.13(d) 271.14	§ 3005(c) § 3005(d)	OAC 252:205-3-2(j)
4.	<u>Interim Status:</u> Authority to authorize owners or operators of TSD facilities to operate under interim status if the facility would qualify for interim status under the Federal program.	271.13(a)	§ 3005(e)(1)	OAC 252:205-3-2(g)
5.	<u>Interim Status:</u> Authority to require interim status to terminate under conditions that are equivalent and consistent with the Federal program.	271.13(a)	§ 3005(e)(2) and (3)	27A O.S. § 2-7-107(A)(7) and OAC 252:205-3-2(g)
6.	<u>Interim Status:</u> Authority to require interim status facilities to comply with standards at least as stringent as those in 40 CFR Part 265.	271.13(a)	§ 3005(e)(1) § 3005(h) § 3005(i) § 3015	OAC 252:205-3-2(g)
7.	<u>Interim Status:</u> Authority to require interim status impoundments to comply with the double liner, leachate collection and ground-water monitoring requirements applicable to new units or stop treating, receiving or storing hazardous wastes. (SR1)	271.13(a)	§ 3005(j)	OAC 252:205-3-2(g)
8.	<u>(Optional):</u> Authority to modify the double liner, leachate collection and groundwater monitoring requirements for impoundments in § 3005(j)(1) if prior to October 1, 1984, the owner/operator has entered into a consent decree, order, agreement with EPA or an authorized State which requires correction and provides	271.13(a)	§ 3005(j)(2)-(9) and (j)(13)	OAC 252:205-3-2(j)

**OKLAHOMA RCRA STATUTORY CHECKLIST
(Abbreviated Version)**

protection of health and environment at least equivalent to that in § 3005(j)(1). (SR2)			
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Remarks of the Attorney General/Independent Counsel:

VIII. PUBLIC PARTICIPATION [See 40 CFR 271.14]

Authority to adopt public participation procedures for the permit process.	271.14(v)-(aa)	§ 7004(b)	27A O.S. § 2-14-101, <i>et seq.</i>
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Remarks of the Attorney General/Independent Counsel:

IX. REQUIREMENTS FOR USED OIL MANAGEMENT [See 40 CFR 271.26]

Authority to promulgate regulations establishing special generator and transporter standards, performance standards, and other requirements as may be necessary to protect health and the environment from hazards associated with recycled used oil, as specified in 40 CFR Part 279.	271.26	§ 3014(a), (c) and (d) ⁶	OAC 252:205-3-2(1)
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Remarks of the Attorney General/Independent Counsel:

X. INSPECTIONS [See 40 CFR 271.15]

Authority to enter, inspect and obtain samples (at all regulated premises and any location where records are kept).	271.15(c)	§ 3007	27A O.S. §§ 2-3-501(A) and 2-7-105(3)
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Remarks of the Attorney General/Independent Counsel:

XI. ENFORCEMENT REMEDIES (INCLUDING PUBLIC PARTICIPATION IN ENFORCEMENT)⁷ [See 40 CFR 271.16]

1. Authority to immediately restrain unauthorized activity.	271.16(a)(1)	§ 3006	27A O.S. §§ 2-3-502(E) and 2-3-504(A)(4)
2. Authority to sue to enjoin any threatened or continuing program violation without prior revocation of permit.	271.16(a)(2)	§ 3006	27A O.S. §§ 2-3-504(A)(4) and 2-7-129(3)
3. Authority to obtain civil penalties for any violation (maximum no less than \$10K	271.16(a)(3)(i), (b), and (c)	§ 3006	27A O.S. §§ 2-3-504(A)(2), 2-3-504(A)(3), 2-7-126(1)(b), and 2-7-129(4)

**OKLAHOMA RCRA STATUTORY CHECKLIST
(Abbreviated Version)**

per day).			
4. Authority to obtain criminal penalties for specified maximum violations (no less than \$10K per day and imprisonment with maximum no less than 6 months); burden of proof no greater than under Federal law	271.16(a)(3)(ii) and (b)	§ 3006	27A O.S. § 2-7-130 and 21 O.S. § 1230.1, <i>et seq.</i>
5. Authority to allow public intervention.	271.16(d)	§ 7004	27A O.S. §§ 2-3-101(F)(1), 2-3-104, and 2-3-503
6. Optional: Require that neither the State nor citizens may bring action against common carriers for imminent hazards arising after delivery of the shipment to the consignee, provided the carrier exercised due care when handling the work.	Not required	§ 7002(g) § 7003(a)	Not required

Remarks of the Attorney General/Independent Counsel:

XII. SHARING OF INFORMATION WITH EPA [See 40 CFR 271.17]

Authority to share all information with EPA	271.17(a)	§ 3007(b)	27A O.S. § 2-7-105(15), 51 O.S. § 24A.1, <i>et seq.</i> , and OAC 252:205-1-4(c)
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Remarks of the Attorney General/Independent Counsel:

XIII. EXPOSURE ASSESSMENTS

Authority to make exposure and health assessment information available to the Agency for Toxic Substances and Disease Registry (See CERCLA § 104(i)) (SI)	Not in 40 CFR Part 271	§ 3019(b)(1)	27A O.S. § 2-7-105(15) and OAC 252:205-1-4(a) and (b)
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Remarks of the Attorney General/Independent Counsel:

XIV. RADIOACTIVE MIXED WASTE

Authority to regulate hazardous waste that is radioactive except to the extent that the waste is source, special nuclear,	271.9(a)	§ 1004(27)	27A O.S. § 2-7-107(B)
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**OKLAHOMA RCRA STATUTORY CHECKLIST
(Abbreviated Version)**

or byproduct material as defined by the Atomic Energy Act of 1954, as amended. (68 Stat. 923) (MW)			
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Remarks of the Attorney General/Independent Counsel:

XV. AVAILABILITY OF INFORMATION [See 40 CFR 271.17]

Authority to make information about treatment, storage, and disposal facilities available to the public in substantially the same manner and to the same degree as if EPA were running the program (AI)	271.17(c)	§ 3006(f)	27A O.S. § 2-7-105(15), 51 O.S. § 24A.1, <i>et seq.</i> , and OAC 252:205-1-4(a) and (b)
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Remarks of the Attorney General/Independent Counsel:

XVI. ADDITIONAL MISCELLANEOUS AUTHORITIES

1. Authority to grant variances and exemptions that are no less stringent than allowed by Subtitle C of RCRA.	Not required	N/A	Not required
2. Importation ban.	Not required	N/A	Not required
3. Siting.	Not required	N/A	Not required
4. Authority to adopt existing and/or future Federal regulations by reference (current and prospective incorporation by reference).	N/A	N/A	N/A
5. Limitation on State authority to adopt more stringent or broader in scope provisions.	N/A	N/A	N/A

Remarks of the Attorney General/Independent Counsel: