

US EPA ARCHIVE DOCUMENT

1991 SWDA
Supp



Signed 7/31/91

TC
Rule

Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

Attorney General's Statement for
Toxicity Characteristic Leaching Procedure
(TCLP) Authorization

I hereby certify, pursuant to my authority as Attorney General of the State of Texas 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 Part 271 that in my opinion the laws of the State of Texas provide adequate authority to carry out the revised program set forth in the "Program Description" submitted by the Texas Water Commission. The specific authorities provided, which are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which shall be fully effective by January 30, 1991, are specified below. These authorities and this certification supplement the previously certified authorities described in my certifications of December 4, 1989 (non-HSWA III and HSWA I) and April 20, 1990.

I. IDENTIFICATION AND LISTING

J. State statutes and regulations replace the Extraction Procedure (EP) leach test with the Toxicity Characteristic Leaching Procedure (TCLP); add 25 organic chemicals to the list of toxic chemicals of concern; and establish regulatory levels for these organic chemicals based on health-based concentration thresholds and a dilution attenuation factor as indicated in Revision Checklist 74.

Federal Authority: RCRA §§1006, 2002(a), 3001, 3002 and 3006; 40 CFR §§261.4, 261.8, 261.24, 261.30, Part 261 Appendix II, 264.301, 265.221, 265.273, and 40 CFR Part 268 Appendix I, as amended March 29, 1990 (55 FR 11798), June 29, 1990 (55 FR 26986), and August 2, 1990 (55 FR 31387).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes:

Texas Solid Waste Disposal Act (the "Act"); TEX. HEALTH AND SAFETY CODE ANN. §§361.017, 361.024, 361.003(11), 361.003(27), (Vernon Supp. 1991), as amended, effective September 1, 1989.
Texas Water Code, §§5.103, 5.105, 26.011, TEX. WATER CODE ANN. (Vernon 1990), as amended, effective September 1, 1985.

State Regulations:

Title 31 Texas Administrative Code (TAC) §335.1, as amended, effective August 1, 1990.

Title 31 TAC §335.29(2), as amended, effective March 18, 1991.

Title 31 TAC §335.168(e), as amended, effective March 18, 1991.

Title 31 TAC §335.173(e), as amended, effective March 18, 1991.

Title 31 TAC §335.112(a)(10), as amended, effective March 18, 1991.

Title 31 TAC §335.112(a)(12), as amended, effective March 18, 1991.

Title 31 TAC §335.112(a)(13), as amended, effective July 16, 1991.

Title 31 TAC §335.431(c), as amended, effective July 16, 1991

Remarks of the Attorney General

Not applicable; state statutes and regulations are equivalent to the federal program.

XXII. MEMORANDUM OF AGREEMENT (MOA)

- (1) The State has the authority to enter into the agreement;
- (2) The State has the authority to carry out the agreement; and
- (3) No applicable State statute (including the State Administrative Procedure Act) requires that the procedure be promulgated as a rule in order to binding.

SEAL OF OFFICE



Dan Morales
Attorney General of Texas


Date