

US EPA ARCHIVE DOCUMENT

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1990 Supp
SWDA



Signed
2/25/92

Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

ATTORNEY GENERAL'S STATEMENT
FOR NON-H.S.W.A. CLUSTER IV

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 of 1976, 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 Texas provide adequate authority to carry out the program set forth in the "Program Description" submitted by the Texas Water Commission (also "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 the time the program is approved, 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. This revised Attorney General's Statement is for non-HSWA Cluster IV and will supplement all previous state authorizations.

I. IDENTIFICATION AND LISTING

- A. State statutes and regulations contain lists of hazardous waste which encompass all wastes controlled under the following Federal regulations as indicated in the designated Revision Checklists:
- (8) Listing of commercial chemical products and Part 261 Appendix VIII Constituents, 40 CFR 261.33 and Part 261 Appendix VIII, as amended August 6, 1986 [51 FR 28296], Revision Checklist 29; as amended July 10, 1987 [52 FR 26012], Revision Checklist 41; and as amended April 22, 1988 [53 FR 13382], Revision Checklist 46.

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes:

Texas Solid Waste Disposal Act §§361.003, 361.017, and 361.024, TEXAS HEALTH AND SAFETY CODE ANN., Chapter 361 (Vernon's Supp. 1990), effective September 1, 1989, as amended.

Texas Water Code §§5.103, 5.105, and 26.011, TEX. WATER CODE ANN. Chapters 5 and 26 (Vernon 1990), effective September 1, 1985, as amended.

State Regulation:

31 TAC 335.1, effective August 4, 1989.

Remarks of the Attorney General

Section 361.001 of the Texas Solid Waste Disposal Act, TEXAS HEALTH AND SAFETY CODE ANN. Chapter 361 (Vernon's Supp. 1990), empowers the Texas Water Commission ("TWC") to adopt rules and establish minimum standards of operation for the management and control of solid waste. The TWC's jurisdiction concerning industrial solid waste and hazardous municipal waste is contained in §361.017 of the Act.

The TWC's rulemaking authority is derived from §361.024 of the Act.

The general powers and duties of the TWC to administer the provisions of the Texas Water Code (the "Code"), TEX. WATER CODE (Vernon 1990) are found in §26.011. Additional rulemaking authority for the TWC is found in §§5.103 and 5.105 of the Code.

VII. NATIONAL UNIFORM MANIFEST SYSTEM AND RECORDKEEPING

- C. State statutes and regulations require that the following be recorded, as it becomes available, and maintained in the operating record, until facility closure, as indicated in Revision Checklist 45: monitoring, testing or analytical data, corrective action where required by 40 CFR Part 264 Subpart F and §§264.226, 264.253, 264.254, 264.276, 264.278, 264.280, 264.303, 264.309, 264.347, and 264.602.

[Federal Authority: RCRA §§3004 and 3005; 40 CFR 264.73(b), as amended December 10, 1987 (52 FR 46946).]

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes:

Texas Solid Waste Disposal Act §§361.003, 361.017, 361.024, and 361.036, TEXAS HEALTH AND SAFETY CODE ANN. Chapter 361 (Vernon's Supp. 1990), effective September 1, 1989, as amended.

Texas Water Code §§5.103, 5.105, 26.011, and 27.019, TEX. WATER CODE ANN. Chapters 5, 26, and 27 (Vernon 1990), effective September 1, 1985, as amended.

State Regulations:

31 TAC 335.152(a), effective December 13, 1991.
31 TAC 335.152(a)(4), effective December 13, 1991.

Remarks of the Attorney General

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

XI. GROUNDWATER MONITORING

- C. State statutes and regulations provide that with regard to ground-water monitoring, all land-based hazardous waste treatment, storage, and disposal facilities analyze for a specified core list (Part 264, Appendix IX) of chemicals and, in addition, those chemicals specified by the Regional Administrator on a site-specific basis as indicated in Revision Checklist 40.

[Federal Authority: RCRA §§1006, 2002(a), 3001, 3004, and 3005; 40 CFR Parts 264.98, 264.99, Appendix IX of 264, and 270.14 as amended July 9, 1987 (52 FR 25942).]

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes:

Texas Solid Waste Disposal Act §§361.017 and 361.024, TEXAS HEALTH AND SAFETY CODE ANN. Chapter 361 (Vernon's Supp. 1990), effective September 1, 1989, as amended.

Texas Water Code §§5.103, 5.105, and 26.011, TEX. WATER CODE ANN. Chapters 5 and 26 (Vernon 1990), effective September 1, 1985, as amended.

State Regulations:

31 TAC 305.50(4), effective August 4, 1989.
31 TAC 335.164, effective August 4, 1989.
31 TAC 335.164(8)(B), effective August 4, 1989.
31 TAC 335.164(8)(C), effective August 4, 1989.
31 TAC 335.164(8)(D)(i), effective August 4, 1989.
31 TAC 335.165, effective August 4, 1989.
31 TAC 335.165(6), effective August 4, 1989.

Remarks of the Attorney General

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

XIII. CORRECTIVE ACTION

- F. State statutes and regulations require that miscellaneous hazardous waste management units comply with regulations (40 CFR Part 264 Subpart F) regarding releases from solid waste management units when necessary to comply with §§264.601 through 264.603 as indicated in Revision Checklist 45.

[Federal Authority: RCRA 3004(u); 40 CFR 264.90(d) as amended December 10, 1987 (52 FR 46946).]

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes:

Texas Solid Waste Disposal Act §§361.017 and 361.024, TEXAS HEALTH AND SAFETY CODE ANN. Chapter 361 (Vernon's Supp. 1990), effective September 1, 1989, as amended.

Texas Water Code §§5.103, 5.105, 26.011, and 27.019, TEX. WATER CODE ANN. Chapters 5, 26, and 27 (Vernon 1990), effective September 1, 1985, as amended.

State Regulations:

31 TAC 335.152(a), effective December 13, 1991.
31 TAC 335.152(a)(5), effective December 13, 1991.
31 TAC 335.152(a)(14), effective December 13, 1991.

Remarks of the Attorney General

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

XV. STANDARDS FOR FACILITIES

- G. State statutes and regulations require compliance with closure/post-closure and financial responsibility requirements applicable to owners and operators of hazardous waste treatment, storage and disposal facilities, as indicated in Revision Checklists 24, 36 and 45.

[Federal Authority: RCRA §§3004 and 3005, 40 CFR Parts 260, 264, 265, and 270 as amended May 2, 1986 (51 FR 16422), March 19, 1987 (52 FR 8704) and December 10, 1987 (52 FR 46946).]

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes:

Texas Solid Waste Disposal Act §§361.017 and 361.024, TEXAS HEALTH AND SAFETY CODE ANN. Chapter 361 (Vernon's Supp. 1990), effective September 1, 1989, as amended.

Texas Water Code §§5.103, 5.105, and 27.019, TEX. WATER CODE ANN. Chapters 5 and 27 (Vernon 1990), effective September 1, 1985, as amended.

State Regulations:

31 TAC 335.1, effective August 4, 1989.
31 TAC 335.152(a), effective December 13, 1991.
31 TAC 335.152(a)(1), effective December 13, 1991.
31 TAC 335.152(a)(5), effective December 13, 1991.
31 TAC 335.152(a)(6), effective December 13, 1991.

Remarks of the Attorney General

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

- H. State statutes and regulations allow qualified companies that treat, store or dispose of hazardous waste to use a corporate guarantee to satisfy liability assurance requirements as indicated in Revision Checklists 27 and 43.

[Federal Authority: RCRA §§2002, 3004, and 3005, 40 CFR 264.147, 264.151, and 265.147 as amended July 11, 1986 (51 FR 25350) and November 18, 1987 (52 FR 44314).]

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes:

Texas Solid Waste Disposal Act §§361.017 and 361.024, TEXAS HEALTH AND SAFETY CODE ANN. Chapter 361 (Vernon's Supp. 1990), effective September 1, 1989, as amended.

Texas Water Code §§5.103, 5.105, and 26.011, TEX. WATER CODE ANN. Chapters 5 and 26 (Vernon 1990), effective September 1, 1985, as amended.

State Regulations:

31 TAC 335.152(a)(6), effective December 13, 1991.

31 TAC 335.112(a)(7), effective December 13, 1991.

Remarks of the Attorney General

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

- J. State statutes and regulations require environmental performance standards, monitoring, testing, analytical data, inspection, response and reporting procedures, and post-closure care for miscellaneous units as indicated in Revision Checklist 45.

[Federal Authority: RCRA §§3004 and 3005; 40 CFR 264.600, 264.601, 264.602, and 264.603 as amended December 10, 1987 (52 FR 46946).]

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes:

Texas Solid Waste Disposal Act §§361.017 and 361.024, TEXAS HEALTH AND SAFETY CODE ANN. Chapter 361 (Vernon's Supp. 1990), effective September 1, 1989, as amended.

Texas Water Code §§5.103, 5.105, 26.011, and 27.019, TEX. WATER CODE ANN. Chapters 5, 26, and 27 (Vernon 1990), effective September 1, 1985, as amended.

State Regulations:

31 TAC 335.152(a), effective December 13, 1991.

31 TAC 335.152(a)(5), effective December 13, 1991.

31 TAC 335.152(a)(14), effective December 13, 1991.

Remarks of the Attorney General

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

XVI. REQUIREMENTS FOR PERMITS

0. State statutes and regulations require that all owners and operators of units that treat, store, or dispose of hazardous waste in miscellaneous hazardous waste units must comply with the general application requirements (including Part A permit requirements), the Part B general application requirements of section 270.14, and specific Part B information requirements for miscellaneous units as indicated in Revision Checklist 45.

[Federal Authority: RCRA §§3004 and 3005; 40 CFR §§264.600, 270.14 and 270.23 as amended December 10, 1987 (52 FR 46946) and January 9, 1989 (54 FR 615).]

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes:

Texas Solid Waste Disposal Act §§361.017 and 361.024, TEXAS HEALTH AND SAFETY CODE ANN. Chapter 361 (Vernon's Supp. 1990), effective September 1, 1989, as amended.

Texas Water Code §§5.103, 5.105, 26.011, and 27.019, TEX. WATER CODE ANN. Chapters 5, 26, and 27 (Vernon 1990), effective September 1, 1985, as amended.

State Regulations:

31 TAC 305.50, effective August 4, 1989.
31 TAC 305.50(4), effective August 4, 1989.
31 TAC 331.3, effective August 4, 1989.
31 TAC 331.9, effective May 9, 1990.
31 TAC 335.152(a), effective December 13, 1991.
31 TAC 335.152(a)(14), effective December 13, 1991.

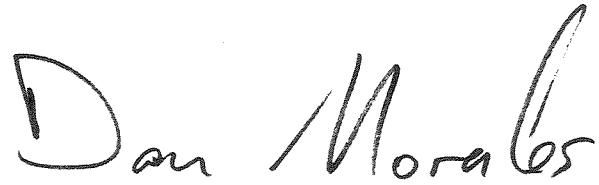
Remarks of the Attorney General

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

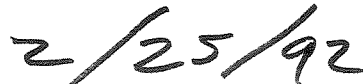
XXII. MEMORANDUM OF AGREEMENT (MOA)

- (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 Administrative Procedure and Texas Register Act, TEX.REV.CIV.STAT.ANN. art. 6252-13a [Vernon's 1990]) requires that the procedure be promulgated as a rule in order to be binding.

SEAL OF OFFICE



Dan Morales,
Attorney General of Texas



Date