

US EPA ARCHIVE DOCUMENT

Non-HSWA IV

REVISED PROGRAM DESCRIPTION
STATE OF TEXAS
TEXAS WATER COMMISSION
HAZARDOUS WASTE MANAGEMENT PROGRAM

INTRODUCTION

Through this application, the State of Texas seeks authorization to add Non-HSWA Cluster IV to its authorized hazardous waste management program. The State received final program authorization from the U. S. Environmental Protection Agency (EPA) on December 26, 1984.

Pursuant to 40 Code of Federal Regulations (CFR) §271.21, [the State is submitting this application to reflect recent revisions and to assure that the authorized state hazardous waste program remains equivalent to the federal hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended.] QUEST 7

I. STATE STATUTES OR REGULATIONS WHICH SUPPORT ADDITION OF NON-HSWA CLUSTER IV

A. DEFINITION OF HAZARDOUS WASTE

- 1) In 31 Texas Administrative Code (TAC) §335.1, a definition of hazardous waste is included which tracks the statutory definition of hazardous waste in the Texas Solid Waste Disposal Act (the "Act"), TEX. HEALTH AND SAFETY CODE ANN. Sections 361.001 et seq. (Vernon's Supp. 1990). "Hazardous waste" is defined by the Act as "any solid waste identified or listed as hazardous waste by the Administrator of the United States Environmental Protection Agency (EPA) pursuant to the federal Solid Waste Disposal Act, 42 United States Code, Section 6901 et seq., as amended by RCRA as amended." In 40 CFR Part 261, the EPA has promulgated regulations which identify or list hazardous wastes. The Texas Water Commission ("TWC") regulations have, by virtue of the TWC definition of hazardous waste, incorporated by reference all of 40 CFR Part 261 which functions in the identification and listing of hazardous waste, including the appendices. As a result of this definition, [the universe of hazardous waste in Texas is identical to the federal RCRA universe of hazardous waste and the modifications in the federal definition of hazardous waste are incorporated into the State's definition of hazardous waste.] QUEST 7

- 2) A technical correction was promulgated by EPA on July 10, 1987 (52 FR 26012). The enclosed revision checklist 41 provides the corresponding State regulation. The correction clarifies that residues remaining in containers that have held commercial chemical products that are listed in 40 CFR 261.33(e) and (f) are hazardous when discarded, not the containers or liners themselves. V B
- 3) Other technical corrections were promulgated by EPA on April 22, 1988 (53 FR 13382-13393). These corrections are incorporated by the State's definition of hazardous waste, as explained previously. Revision checklist 46 provides the corresponding State regulation. V E
- 4) By operation of the statutory and regulatory definitions of hazardous waste in Texas, the following identifications and listings of hazardous waste by the EPA are included in the universe of hazardous waste in the state:
 - (a) List (Phase I) of Hazardous Constituents for Groundwater Monitoring published July 9, 1987 at 52 FR 25942-25953 (RCRA Revision Checklist 40). V A.
 - (b) Identification and Listing of Hazardous Waste published July 10, 1987 at 52 FR 26012 (RCRA Revision Checklist 41). V B.

B. INDUSTRIAL SOLID WASTE AND MUNICIPAL HAZARDOUS WASTE

- 1) The TWC regulations at 31 TAC §§335.1 and 335.152, concerning industrial solid waste and municipal hazardous waste, have been amended to incorporate by reference the federal regulations regarding standards applicable to owners and operators of hazardous waste miscellaneous units promulgated by the EPA on December 10, 1987 (52 FR 46946-46965). The enclosed revision checklists 43 and 45 provide the corresponding TWC regulations.
- 2) The TWC regulations at 31 TAC §335.152 have been amended to incorporate by reference the federal regulations regarding liability requirements for the hazardous waste facilities assets test promulgated by the EPA on November 18, 1987 (52 FR 44314-44321). These regulations authorize the use of a corporate guarantee for liability by firms capable of passing the financial test and able to meet the other requirements. V C.

C. DIVISION OF RESPONSIBILITIES OF STATE AGENCIES

The Texas Solid Waste Disposal Act (the "Act"), TEX. HEALTH AND SAFETY CODE ANN. §§361.001 - .345 (Vernon's Supp. 1990) divides the responsibility for solid waste management in the State of Texas between the Texas Department of Health ("TDH") and the TWC. TDH is designated as the State solid waste agency with respect to the collection, handling, storage, and disposal of municipal solid waste, and shall be the coordinating agency for all municipal solid waste activities. Industrial solid waste and municipal solid waste are defined in the Act. Where both municipal solid waste and industrial solid waste are involved in any activity of collecting, handling, storing, or disposing of solid waste, TDH is the State agency responsible and has jurisdiction over the activity. Class I industrial waste, which by statutory definition includes hazardous industrial waste, may be accepted at a municipal solid waste disposal facility if authorized by TDH with the concurrence of TWC. Municipal solid waste, including municipal hazardous waste, may be accepted in an industrial waste facility if written authorization is received from both TDH and TWC.

D. DETECTION MONITORING AND COMPLIANCE MONITORING

The TWC regulations set forth in 31 TAC §§335.164 and 335.165, concerning the detection monitoring program and the compliance monitoring program, have been amended to track the federal regulations promulgated by the EPA on July 9, 1987 (52 FR 25942-25953). The enclosed revision checklist 40 provides specific references on the correspondence of the TWC regulations to the EPA regulations.

E. CONSOLIDATED PERMITS

- 1) The TWC regulations at 31 TAC §305.50, concerning consolidated permits, have been amended to incorporate by reference the federal regulations regarding standards applicable to owners and operators of hazardous waste miscellaneous units promulgated by the EPA on December 10, 1987 (52 FR 46946-46965).
- 2) The enclosed revision checklist 45 provides specific references on the correspondence of the TWC regulations to the EPA regulations.
- 3) In the case of an application for a permit to store, process, or dispose of hazardous waste, the application shall also contain information required

by 40 CFR §§270.13-270.21 and 270.23, except that closure cost estimates shall be prepared in accordance with 40 CFR 264.142(a)(1), (a)(3), (a)(4), (b), and (c) and 335.178 of this title (relating to Cost Estimate for Closure).

- 4) At any time after the effective date of the requirements contained in 31 TAC Chapter 335, Subchapter F of this title (relating to Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or disposal Facilities), the executive director may require the owner or operator of an existing hazardous waste facility to submit that portion of his application containing the information specified in 40 CFR §§270.14-270.21 and 270.23. Any owner or operator shall be allowed a reasonable period of time from the date of the request to submit the information. An application for a new hazardous waste management facility must be submitted at least 180 days before physical construction of the facility is expected to commence.

F. FUNDING AND RESOURCES

1) Description of Staff

The administration of the RCRA Program, including the non-HSWA Cluster IV revisions, will involve an annual operating budget of approximately \$8.2 million dollars and 118 work years of effort.

2) Funding

- (a) The Commission's budget for RCRA implementation is partially funded through a cooperative agreement specifying commitments and efforts to accomplish state and national hazardous waste management priorities and objectives according to EPA's Fiscal 1990 Agency Operating Guidance. Additional funding is provided through special revenue funds authorized by the Texas Legislature. During Fiscal 1990, it is expected that the EPA will provide approximately 59% of the RCRA funding and a minimum of 41% will be provided by the Texas Water Commission.
- (b) The total additional workload costs imposed on the TWC by the requirements of non-HSWA Cluster IV are estimated to be \$285,000.

- (c) The total additional workload costs imposed on the TWC by the requirements of Subchapter X are estimated to be \$227,000.
- (d) It should be noted that it is not expected that the total additional workload costs estimated above will be incurred during FY 91, but rather over the next 2-3 years as the requirements are applied to facilities as appropriate to comply with regulatory timeframes (e.g., land disposal facility permit five-year re-opener clause) and budget constraints.
- (e) Approximately 44 Subpart X units will be added to the TWC hazardous waste permitting universe by virtue of the State of Texas receiving Subpart X authority under the non-HSWA Cluster IV package. New permits appear to be required for four facilities, while permit modifications appear to be necessary for seven facilities. Thus, an additional minimum of eleven separate permit final determinations will be required. Under state law, these permits will receive input from the Texas Air Control Board, as well as from the TWC.
- (f) TWC staff has determined that Subpart X will have only a negligible effect on the underground injection control (UIC) permitting program.

3. Estimated Number of Regulated Activities

Refer to Table 1

4. Effect of New Rules & Requirements on TWC Workloads

Refer to Table 2

TABLE 1

ESTIMATED ACTIVITIES SUBJECT TO PROGRAM REVISION REQUIREMENTS

Type of Activity	Number of Handlers	Waste Quantities
Generators	6,311	60,000,000 Tons
Transporters	1,175	*
Storage -on site	123	4,973,935 Tons
-off site	26	34,692 Tons
Treatment -on site	123	38,703,105 Tons
-off site	26	6,930,716 Tons
Disposal -on site	47	13,778,529 Tons
-off site	12	443,267 Tons
Transported Into State	8,589**	174,000 Tons
Transported out of State	691	235,000 Tons
* Data management system does not provide select information in this manner.		
** Minimum Number of Handlers		

TABLE 2

NON-HSWA CLUSTER IV
EFFECT OF NEW RULES AND REQUIREMENTS ON TWC WORKLOADS

Effect on TWC Workload	Citation for regulation	Description of regulations added
Minor effect	52 <u>FR</u> 25942	Amended groundwater monitoring rules to replace the requirement to monitor for all Appendix VIII constituents with new requirements to analyze for a specified core list of constituents plus those specified by the Executive Director
Negligible effect	52 <u>FR</u> 26012	Spent pickle liquor hazardous waste listing-clarification
No effect	52 <u>FR</u> 33936	Simple correction of previous rule
Negligible effect	52 <u>FR</u> 44314	Revisions to liability coverage requirements concerning corporate guarantees
Negligible effect	53 <u>FR</u> 13382	Technical corrections and clarification of 40 CFR Part 261 Appendix VIII and also 261.33(e) and (f)
Significant effect	52 <u>FR</u> 46946	Subpart X: Permitting standards for miscellaneous units.