

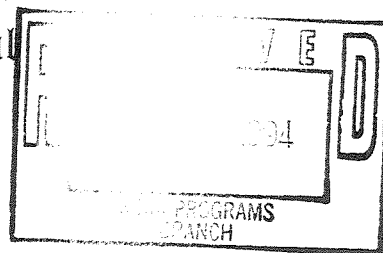
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DICK 110-445
H-II AG

Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL



ATTORNEY GENERAL'S STATEMENT FOR
HSWA CLUSTER II

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 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 revised "Program Description" submitted by the Texas Water Commission. The specific authorities provided are contained in statutes or regulations which shall be fully effective by the dates specified below. These authorities and this certification supplement the previously certified authorities described in my predecessors certification(s) of December 4, 1989 (non-HSWA III and HSWA I) and April 20, 1990. This revised Attorney General's Statement is for HSWA Cluster II and will supplement all previous 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:

- (13) Listing of two wastes (K131 and K132) generated during the production of methyl bromide, 40 CFR 261.32 and 261 Appendices III and VII, as amended October 6, 1989 [54 FR 41402], Revision Checklist 68.
- (14) Listing of one generic category (F025) of waste generated during the manufacture of chlorinated aliphatic hydrocarbons by free radical catalyzed processes and amending F024, 40 CFR 261.31 and 261 Appendix VII; adding one toxicant to 261 Appendix VIII; as amended December 11, 1989 [54 FR 50968], Revision Checklist 69.
- (16) Listing of four wastes (K107-K110) generated during the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides, 40 CFR 261.31 and Part 261 Appendices III and VII, as amended May 2, 1990 [55 FR

18496], Revision Checklist 75.

- (17) Listing of multisource waste (F039), 40 CFR 261.31 and Part 261 Appendix VII, as amended June 1, 1990 [55 FR 22520], Revision Checklist 78.

Federal Authority: RCRA §3001(b).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §361.003 (15), Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulations

Title 31 Texas Administrative Code (TAC) Chapter 335, §335.1 effective January 31, 1992 as amended.

Title 31 Texas Administrative Code (TAC) Chapter 335, §335.29 effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; the definition of "hazardous waste" contained in Title 31 TAC §§335.1 and 361.003(15) of the TSWDA adopts by reference the requirements of 40 Code of Federal Regulations Part 261 and are therefore equivalent to the federal provisions of Checklists 68, 69, 75, and 78. In addition, Appendices I-X, contained in 40 Code of Federal Regulations (CFR) Part 261 which are in effect as of April 1, 1987, except Appendix II which is in effect as of September 25, 1990, are adopted by reference by §335.29 and are also equivalent. Sections 361.017 and 361.024 of the TSWDA establish the powers and duties of the Texas Water Commission (the Commission) for the management of industrial solid waste and hazardous municipal waste in the State of Texas and grants the Commission the authority to adopt any rules necessary to carry out those powers and duties.

B. State statutes and regulations define hazardous waste so as to control the generation, transportation, treatment, storage and disposal of hazardous waste produced by small quantity generators of between 100 and 1000 kilograms/month as indicated in Revision Checklist 23 (which supersedes prior amendments by Revision Checklist 17 A) and Revision Checklist 47 (providing technical corrections to Checklist 23).

Federal Authority: RCRA §3001(d); 40 CFR Parts 260-263 and 270 as amended March 24, 1986 (51 FR 10146), October 1, 1986 (51 FR 35190), and July 19, 1988 (53 FR 27162).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulations

Title 31 Texas Administrative Code (TAC) Chapter 335, §335.78 (e) effective September 1, 1989 as amended.

Title 31 Texas Administrative Code (TAC) Chapter 335, §335.78 (f) (2) effective September 1, 1989 as amended.

Remarks of the Attorney General

Not applicable; Title 31 TAC §§335.78 (e) and 335.78 (f) (2) comprise the state equivalent of the 40 CFR §§261.5(e) and 261.5(f)(2) federal provisions contained in Checklist 47.

N. State statutes and regulations add eight new testing methods related to air emission control to the section of regulations that incorporates these methods by reference as indicated in Revision Checklist 79.

Federal Authority: RCRA §§3001, 3004, 3005 and 3006; 40 CFR 260.11(a) as amended June 21, 1990 (55 FR 25454).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulations

Title 31 Texas Administrative Code (TAC) Chapter 335, §335.152 (a) (15) and §335.152 (a) (16) effective March 31, 1992.

Title 31 TAC Chapter 335, §335.112 (a) (18) and §335.112 (a) (19) effective March 31, 1992.

Remarks of the Attorney General

Not applicable; Title 31 TAC §§335.152 (a) (15) and (a) (16) adopt by reference as amended and adopted in the Code of Federal Regulations through June 1, 1990 the federal requirements contained in 40 CFR Part 264 Subparts AA and BB and are therefore equivalent to the federal provisions listed in Checklist 79. Likewise, Title 31 TAC §§335.112 (a) (18) and (a) (19) adopt by reference as amended and adopted in the Code of Federal Regulations through June 1, 1990 the federal requirements contained in 40 CFR Part 265 Subparts AA and BB and are therefore also equivalent to the federal provisions listed in Checklist 79.

VII. NATIONAL UNIFORM MANIFEST SYSTEM AND RECORDKEEPING

B. State statutes and regulations require that generators, of between 100 and 1000 kg/mo of hazardous waste, file an exception report in those instances where the generator does not receive confirmation of delivery of his hazardous waste to the designated facility as indicated in Revision Checklist 42.

Federal Authority: RCRA §§3001(d) and 3002(a)(5); 40 CFR Parts 262.42 and 262.44 as amended September 23, 1987 (52 FR 35894).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulations

Title 31 TAC Chapter 335, §§335.13(c), (d), and (g) effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.74 effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; Title 31 TAC §§335.13(c), (d) and (g) and 335.74 as amended conform to the federal provisions contained in Checklist 42 and are therefore equivalent.

XIII. CORRECTIVE ACTION

C. State statutes and regulations require owners and operators of facilities seeking permits to provide descriptive information on the solid waste management units themselves and all available information pertaining to any releases from the units as indicated in Revision Checklist 44 A.

Federal Authority: RCRA §3004(u); 40 CFR 270.14 as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulation

Title 31 TAC Chapter 305, §305.50 (4) (A) effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; Title 31 TAC §305.50 (4) (A) incorporates by reference the federal requirements contained in Checklist 44 A and is therefore equivalent.

D. State statutes and regulations require that owners and operators of hazardous waste treatment, storage and disposal facilities (including permit-by-rule facilities subject to 264.101) institute corrective action beyond the facility boundary to protect human health and the environment, unless the owner/operator is denied access to adjacent lands despite the owner/operator's best efforts, as indicated in Revision Checklist 44 B.

Federal Authority: RCRA §3004(v); 40 CFR 264.100(e) and 264.101(c), as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulation

Title 31 TAC Chapter 335, §335.166 (5) effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.167 (c) effective March 31, 1992.

Remarks of the Attorney General

Not applicable; Title 31 TAC §§335.166 (5) and 335.167 (c) conform to the federal requirements contained in Checklist 44 B and are

therefore equivalent.

E. State statutes and regulations contain the following corrective action requirements for injection wells as indicated in Revision Checklist 44 C.

(1) Hazardous waste injection wells now operating under RCRA interim status may retain interim status after issuance of a UIC permit. Until a RCRA permit or a RCRA "rider" to a UIC permit, which addresses Section 3004(u) corrective action, is issued, the well must comply with applicable interim status requirements imposed by §265.430, Parts 144.146 and 147, and any UIC permit requirements.

Federal Authority: RCRA §3004(u); 40 CFR 144.1(h) as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulations

Title 31 TAC Chapter 331, §331.121 (e) effective March 31, 1992.

Remarks of the Attorney General

Not applicable; Title 31 TAC Chapter 331, §331.121 (e) conforms to the federal provisions of Checklist 44 C and is therefore equivalent.

(2) As part of the UIC permit process, available information regarding operating history and condition of the injection well must be submitted as well as any available information on known releases from the well or injection zone.

Federal Authority: RCRA §3004(u); 40 CFR 144.31(g) as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulations

Title 31 TAC Chapter 331, §331.121 (d)(1)-(3) effective March 31, 1992.

Remarks of the Attorney General

Not applicable; Title 31 TAC §§331.121 (d)(1)-(3) conform to the federal provisions of Checklist 44 C and is therefore equivalent.

(3) UIC facility owners/operators must submit certain information related to corrective action with their UIC applications.

Federal Authority: RCRA §3004(u); 40 CFR 270.60(b)(3) as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulations

Title 31 TAC Chapter 331, §335.47(c) effective March 31, 1992.

Remarks of the Attorney General

Not applicable; Title 31 TAC §335.47(c) conforms to the federal provisions of Checklist 44 C and is therefore equivalent.

XIV. HAZARDOUS WASTE EXPORTS

A. State statutes and regulations require generators and transporters of hazardous waste destined for export outside the United States to comply with standards equivalent to those as indicated in Revision Checklists 17 R, 31, and 48 (with the latter providing technical corrections to Checklist 31).

Federal Authority: RCRA §3017; 40 CFR 262.50 as amended July 15, 1985 (50 FR 28702), August 8, 1986 (51 FR 28664), and July 19, 1988 (53 FR 27164).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991),

effective June 7, 1991 as amended.

State Regulations

Title 31 TAC Chapter 335, §335.61 (b) and (e) effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.41(d)(4) effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; Title 31 TAC Chapter 335, §§335.61 (b) and (e) and §335.41(d)(4) conform to the federal requirements of Checklist 48 and are therefore equivalent.

XV. STANDARDS FOR FACILITIES

I. State statutes and regulations require companies that generate, treat or store hazardous waste in tanks to comply with tank standards equivalent to those indicated in Revision Checklists 28 and 52.

Federal Authority: RCRA §§1006, 2002, 3001 - 3007, 3010, 3014, 3017 - 3019 and 7004; 40 CFR Parts 260, 261, 262, 264, 265, and 270 as amended July 14, 1986 (51 FR 25422), August 15, 1986 (51 FR 29430) and September 2, 1988 (53 FR 34079).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulations

Title 31 TAC Chapter 335, §335.1 effective January 31, 1992 as amended.

Title 31 TAC Chapter 335, §§335.152 (a) (5) and 335.152 (a) (8), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §§335.112 (a) (6), 335.112 (a) (9), effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; The State is currently proposing definitional changes to adopt the terms "elementary neutralization unit" and "wastewater treatment unit" to conform to the federal program and

thereby be equivalent. These definitional changes will be effective in the State on or before January 31, 1992. Title 31 TAC §§335.152 (a) (5) and (a) (8) adopt by reference as amended and adopted in the Code of Federal Regulations through June 1, 1990 the federal requirements contained in 40 CFR Part 264 Subparts G and J and are therefore equivalent to the federal provisions listed in Checklist 52. Likewise, Title 31 TAC §§335.112 (a) (6) and (a) (9) adopt by reference as amended and adopted in the Code of Federal Regulations through June 1, 1990 the federal requirements contained in 40 CFR Part 265 Subpart G (except 40 CFR §265.112 (d) (3) and (4) and §265.118 (e) and (f)) and Subpart J and are therefore also equivalent to the federal provisions listed in Checklist 52.

L. State statutes and regulations require new and existing hazardous waste treatment, storage or disposal facilities to control organic air emissions from process vents and equipment leaks as indicated in Revision Checklist 79.

Federal Authority: RCRA §§1006, 2002, 3001-3007, 3010, 3014 and 7004; 40 CFR Parts 261, 264, 265 and 270 as amended June 21, 1990 (55 FR 25454).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §361.003(15), Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulations

Title 31 Texas Administrative Code (TAC) Chapter 335, §335.1 effective January 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.2 (j) effective March 31, 1992.

Title 31 TAC Chapter 335 §335.152 (a) (1), (a) (4), (a) (15), (a) (16), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.112 (a) (1), (a) (4), (a) (18), (a) (19) effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.155 (3) effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.115 (4) effective March 31, 1992.

Title 31 TAC Chapter 305, §305.50 (4) (A) effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; the definition of "hazardous waste" contained in Title 31 TAC §§335.1 and 361.003(15) of the TSWDA adopts by reference the requirements of 40 Code of Federal Regulations Part 261 and are therefore equivalent. Title 31 TAC §335.2 (j) adopts by reference the references contained in 40 Code of Federal Regulations Part 260.11 and is therefore equivalent to the 40 CFR part 260 provisions of Checklist 79. Title 31 TAC §335.152 (a) (1), (a) (4), (a) (15), and (a) (16) adopt by reference as amended and adopted in the Code of Federal Regulations through June 1, 1990 the federal requirements contained in 40 CFR Part 264 Subparts B, E (except 40 CFR §264.71, §264.72, §264.75, §264.76, and 264.77), AA and BB and are therefore equivalent to the federal provisions listed in Checklist 79. Likewise, Title 31 TAC §§335.112 (a) (1), (a) (4), (a) (18), and (a) (19) adopt by reference as amended and adopted in the Code of Federal Regulations through June of 1990 the federal requirements contained in 40 CFR Part 265 Subparts B, E (except 40 CFR §265.71, §265.72, §265.75, §265.76, and 265.77), AA and BB and are therefore also equivalent to the federal provisions listed in Checklist 79.

XVI. REQUIREMENTS FOR PERMITS

K. State statutes and regulations allow the permit granting agency to initiate modifications to a permit without first receiving a request from the permittee, in cases where statutory changes, new or amended regulatory standards or judicial decisions affect the basis of the permit as indicated in Revision Checklist 44 D.

Federal Authority: RCRA §3005(c); 40 CFR 270.41(a)(3) as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §361.017 and §361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulation

Title 31 TAC Chapter 305, §305.62 (d) (3) effective September 1, 1989 as amended.

Remarks of the Attorney General

Not applicable; Title 31 TAC §305.62 (d) (3) conforms to the federal provisions contained in Checklist 44 D and is therefore equivalent.

L. State statutes and regulations require that permittees

must comply with new requirements imposed by the land disposal restrictions promulgated under Part 268 even when there are contrary permit conditions, as indicated in Revision Checklist 44 E.

Federal Authority: RCRA §3006(g); 40 CFR 270.4(a) as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §361.017 and §361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulation

Title 31 TAC Chapter 305, §305.124 effective March 31, 1989 as amended.

Remarks of the Attorney General

Not applicable; Title 31 TAC §305.124 conforms to the federal provisions contained in Checklist 44 E and is therefore equivalent.

M. State statutes and regulations require information from permit applicants concerning permit conditions necessary to protect human health and the environment as indicated in Revision Checklist 44 F.

Federal Authority: RCRA §3005(c); 40 CFR 270.10 as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §361.017 and §361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulation

Title 31 TAC Chapter 305, §305.50 (13) effective March 31, 1992.

Remarks of the Attorney General

Not applicable; Title 31 TAC §305.50 (13) conforms to the federal provisions contained in Checklist 44 F and is therefore equivalent.

N. State statutes and regulations require post-closure

permits for all landfills, surface impoundments, waste piles and land treatment units receiving hazardous waste after July 26, 1982 as indicated in Revision Checklist 44 G.

Federal Authority: RCRA §3005(i); 40 CFR 270.1(c) as amended December 1, 1987 (52 FR 45788).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §361.017 and §361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulation

Title 31 TAC Chapter 335, §335.2 (h) effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; Title 31 TAC §335.2 (h) is amended to conform to the federal provisions contained in Checklist 44 G and is therefore equivalent.

XVII. MINIMUM TECHNOLOGICAL REQUIREMENTS

B. State statutes and regulation require:

(1) New units, expansions, and replacement units at interim status landfills and surface impoundments and landfills and surface impoundments for which Part B of the permit application is received by the proper authority after November 8, 1984, meet the requirements for double liners and leachate collection systems applicable to new permitted landfills and surface impoundments in 40 CFR 264.221 and 264.301 and 265.221 and 265.301 as indicated in Revision Checklists 17 H and 77.

Federal Authority: RCRA §§1006, 2002(a), 3004, 3005 and 3015(b); 40 CFR 264.221, 265.221, 264.301 and 265.301 as amended July 15, 1985 (50 FR 28702) and May 9, 1990 (55 FR 19262).

Citation of Laws and Regulations; Date of Enactment and Adoption

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §361.017 and §361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulation

Title 31 TAC Chapter 335, §335.168 (c) effective March 31, 1992 as

amended.

Title 31 TAC Chapter 335, §335.173 (c) effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; Title 31 TAC §§335.168 (c) and 335.173(c) are amended to conform to the federal provisions contained in Checklist 77 and are therefore equivalent.

XXI. LAND DISPOSAL RESTRICTIONS

A. State statutes and regulations provide for the restrictions of the land disposal of certain spent solvents and dioxin-containing hazardous wastes as indicated in Revision Checklists 34, 39, and 50.

Federal Authority: §3004(d)-(k) and (m); 40 CFR Parts 260, 261, 262, 263, 264, 265, 268 and 270 as amended on November 7, 1986 (51 FR 40572), June 4, 1987 (52 FR 21010), July 8, 1987 (52 FR 25760), and August 17, 1988 (53 FR 31138).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulations

Checklist 39

Title 31 TAC Chapter 335, §335.2(j), effective March 31, 1992.

Title 31 TAC Chapter 335, §335.77, effective September 1, 1989 as amended.

Title 31 TAC Chapter 335, §335.152(a)(1), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.112(a)(1), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.431(c), effective March 31, 1992 as amended.

Title 31 TAC Chapter 305, §305.51(c), effective March 31, 1992.

Checklist 50

Title 31 TAC Chapter 335, §335.152(a)(1), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.152(a)(4), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.112(a)(1), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.112(a)(4), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.211(b), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.431(c), effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; Title 31 TAC §335.431 (c) adopts by reference the regulations contained in 40 CFR Part 268, Subpart A (except 40 CFR §268.5), adopts by reference Subparts B, C, D (except 40 CFR §§268.42(b) and 268.44), E and Appendix II, which are in effect as of June 4, 1987, and Appendix I, which is in effect as of September 25, 1990 and are thus equivalent to the federal provisions of Checklist 39 and Checklist 50. In addition, Appendices III, IV, V, VI, VII, and VIII of 40 CFR Part 268 are adopted by reference in §335.431(c) as amended and adopted in the Code of Federal Regulations through June 1, 1990 and are also equivalent to the federal provisions of Checklist 39 and Checklist 50.

B. State statutes and regulations for restricting the disposal of certain California list wastes, including liquid hazardous waste containing polychlorinated biphenyls (PCBs) above specified concentrations, and hazardous waste containing halogenated organic compounds (HOCs) above specified concentrations as indicated in Revision Checklists 39, 50, and 66.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR Parts 262, 264, 265, 268 and 270 as amended on July 8, 1987 (52 FR 25760), October 27, 1987 (52 FR 41295), August 17, 1988 (53 FR 31138), and September 6, 1989 (54 FR 36967).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulations

Checklist 39

Title 31 TAC Chapter 335, §335.2(j), effective March 31, 1992.

Title 31 TAC Chapter 335, §335.77, effective September 1, 1989 as amended.

Title 31 TAC Chapter 335, §335.152(a)(1), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.112(a) (1), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.431(c), effective March 31, 1992 as amended.

Title 31 TAC Chapter 305, §305.51(c), effective March 31, 1992.

Checklist 50

Title 31 TAC Chapter 335, §335.152(a) (1), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.152(a) (4), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.112(a) (1), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.112(a) (4), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.211(b), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.431(c), effective March 31, 1992 as amended.

Checklist 66

Title 31 TAC Chapter 335, §335.211(b), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.431(c), effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; Title 31 TAC §335.431 (c) adopts by reference the regulations contained in 40 CFR Part 268, Subpart A (except 40 CFR §268.5), adopts by reference Subparts B, C, D (except 40 CFR §§268.42(b) and 268.44), E, and Appendix II, which are in effect as of June 4, 1987, and Appendix I, which is in effect as of September 25, 1990 and are thus equivalent to the federal provisions of Checklist 39 and Checklist 50. In addition, Appendices III, IV, V, VI, VII, and VIII of 40 CFR Part 268 are adopted by reference in §335.431(c) as amended and adopted in the Code of Federal Regulations through June 1, 1990 and are also equivalent to the federal provisions of Checklist 39 Checklist 50 and Checklist 66.

C. State statutes and regulations for specific treatment standards and effective dates for certain wastes from the "First Third" of the schedule of restricted wastes listed in 40 CFR 268.10 as well as land disposal restrictions for those First Third wastes for which a treatment standard is not established as indicated in Revision Checklists 50, 62 and 66.

Federal Authority: RCRA §3004 (d)-(k) and (m); 40 CFR Parts 264, 265, 266, and 268 as amended on August 17, 1988 (53 FR 31138), February 27, 1989 (54 FR 8264), May 2, 1989 (54 FR 18836),

September 6, 1989 (54 FR 36967) and June 13, 1990 (55 FR 23935).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulations

Checklist 50

Title 31 TAC Chapter 335, §335.152(a)(1), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.152(a)(4), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.112(a)(1), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.112(a)(4), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.211(b), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.431(c), effective March 31, 1992 as amended.

Checklist 62

Title 31 TAC Chapter 335, §335.431(c), effective March 31, 1992 as amended.

Checklist 66

Title 31 TAC Chapter 335, §335.211(b), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.431(c), effective March 31, 1992 as amended.

Remarks of the Attorney General

Checklist 50

Not applicable; Title 31 TAC §335.152 (a) (1) adopts by reference as amended and adopted in the Code of Federal Regulations through June 1, 1990 the federal requirements contained in 40 CFR Part 264 Subpart B. Title 31 TAC §335.112 (a) (1) adopts by reference as amended and adopted in the Code of Federal Regulations through June 1, 1990 the federal requirements contained in 40 CFR Part 265 Subpart B. These state sections are therefore equivalent to the federal provisions listed in Checklist 50.

Checklists 62 and 66

Not applicable; Title 31 TAC §335.431 (c) adopts by reference the regulations contained in 40 CFR Part 268, Subpart A (except 40 CFR §268.5), adopts by reference Subparts B, C, D (except 40 CFR §§268.42(b) and 268.44), E and Appendix II, which are in effect as of June 4, 1987, and Appendix I, which is in effect as of September 25, 1990 and are thus equivalent to the federal provisions of Checklist 62 and Checklist 66. In addition, Appendices III, IV, V, VI, VII, and VIII of 40 CFR Part 268 are adopted by reference in §335.431(c) as amended and adopted in the Code of Federal Regulations through June 1, 1990 and are also equivalent to the federal provisions of Checklist 62 and Checklist 66.

D. State statutes and regulations for certain treatment standards and prohibition effective dates for certain Second Third wastes and for imposing the "soft hammer" provisions of 40 CFR 268.8 on Second Third wastes for which the Agency is not establishing treatment standards as indicated in Revision Checklist 63.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR Part 268 as amended June 23, 1989 (54 FR 26594).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulation(s)

Title 31 TAC Chapter 335, §335.431 (c), effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; Title 31 TAC §335.431 (c) adopts by reference the regulations contained in 40 CFR Part 268, Subpart A (except 40 CFR §268.5), adopts by reference Subparts B, C, D (except 40 CFR §§268.42(b) and 268.44), E and Appendix II, which are in effect as of June 4, 1987, and Appendix I, which is in effect as of September 25, 1990 and are thus equivalent to the federal provisions of Checklist 63. In addition, Appendices III, IV, V, VI, VII, and VIII of 40 CFR Part 268 are adopted by reference in §335.431(c) as amended and adopted in the Code of Federal Regulations through June 1, 1990 and are also equivalent to the federal provisions of Checklist 63.

E. State statutes and regulations for treatment standards and

effective dates for certain First Third "soft hammer" wastes as well as for certain wastes originally contained in the Third Third of the Schedule as indicated in Revision Checklist 63.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR Parts 264, 265 and 268 as amended June 23, 1989 (54 FR 26594).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 7, 1991 as amended.

State Regulation(s)

Title 31 TAC Chapter 335, §335.431 (c), effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; Title 31 TAC §335.431 (c) adopts by reference the regulations contained in 40 CFR Part 268, Subpart A (except 40 CFR §268.5), adopts by reference Subparts B, C, D (except 40 CFR §§268.42(b) and 268.44), E and Appendix II, which are in effect as of June 4, 1987, and Appendix I, which is in effect as of September 25, 1990 and are thus equivalent to the federal provisions of Checklist 63. In addition, Appendices III, IV, V, VI, VII, and VIII of 40 CFR Part 268 are adopted by reference in §335.431(c) as amended and adopted in the Code of Federal Regulations through June 1, 1990 and are also equivalent to the federal provisions of Checklist 63.

F. State statutes and regulations provide specific treatment standards and effective dates for the "Third Third" wastes, "soft hammer" First and Second Third wastes, five newly listed wastes, certain mixed radioactive/hazardous wastes, characteristic wastes, and multi-source leachate, as well as establish revised treatment standards for petroleum refining hazardous wastes (K048-K052) as indicated in Revision Checklist 78.

Federal Authority: RCRA §§3001 and 3004 (d)-(k) and (m); 40 CFR 261, 262, 264, 265, 268, and 270 as amended June 1, 1990 (55 FR 22520).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.003(15), Texas Health and Safety Code Ann. (Vernon Supp.

1991), effective June 7, 1991 as amended.

State Regulations

Title 31 TAC Chapter 335, §335.1 effective January 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.29 effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.62(2), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.69(a)(4), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.152(a)(9), (a)(10), (a)(11), (a)(12), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.111(c), effective March 31, 1992.

Title 31 TAC Chapter 335, §335.112(a)(1), (a)(10), (a)(11), (a)(12), (a)(13), effective March 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.431(c), effective March 31, 1992 as amended.

Title 31 TAC Chapter 305, §305.69(h) Appendix I. B.1.b. effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; the definition of "hazardous waste" contained in Title 31 TAC §335.1 and §361.003(15) of the Act adopts by reference the requirements of 40 Code of Federal Regulations Part 261 and is therefore equivalent to the federal program. Title 31 TAC §335.431(c) adopts by reference the regulations contained in 40 CFR Part 268, Subpart A (except 40 CFR §268.5), adopts by reference Subparts B, C, D (except 40 CFR §§268.42(b) and 268.44), E and Appendix II, which are in effect as of June 4, 1987, and Appendix I, which is in effect as of September 25, 1990 and are thus equivalent to the federal provisions of Checklist 62 and Checklist 66. In addition, Appendices III, IV, V, VI, VII, and VIII of 40 CFR Part 268 are adopted by reference in §335.431(c) as amended and adopted in the Code of Federal Regulations through June 1, 1990 and are also equivalent to the federal provisions of Checklist 78.

G. State statutes and regulations provide for alternate treatment standards for lab packs meeting certain criteria as indicated in Revision Checklist 78.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR 264.316(f), 265.316(f), 268.7(a)(7), 268.7(a)(8), 268.42(c), 268.42(c)(1)-(4), and Part 268 Appendices IV and V, as amended June 1, 1990 (55 FR 22520).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statutes

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017 and 361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991), effective June 1, 1991 as amended.

State Regulation(s)

Title 31 TAC Chapter 335, §335.431 (c), effective March 31, 1992 as amended.

Remarks of the Attorney General

Not applicable; Title 31 TAC §335.431 (c) adopts by reference the regulations contained in 40 CFR Part 268, Subpart A (except 40 CFR §268.5), adopts by reference Subparts B, C, D (except 40 CFR §§268.42(b) and 268.44), E, and Appendix II, which are in effect as of June 4, 1987, and Appendix I, which is in effect as of September 25, 1990 and are thus equivalent to the federal provisions of Checklist 63. In addition, Appendices III, IV, V, VI, VII, and VIII of 40 CFR Part 268 are adopted by reference in §335.431(c) as amended and adopted in the Code of Federal Regulations through June 1, 1990 and are also equivalent to the federal provisions of Checklist 78.

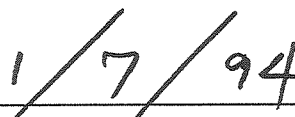
XXII. MEMORANDUM OF AGREEMENT (MOA)

- (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 1991) requires that the procedure be promulgated as a rule in order to be binding.

Seal of Office



Dan Morales
Attorney General of Texas



Date