

US EPA ARCHIVE DOCUMENT

REVISED PROGRAM DESCRIPTION
STATE OF TEXAS
TEXAS WATER COMMISSION
HAZARDOUS AND SOLID WASTE PROGRAM

INTRODUCTION

Since the beginning of the Federal hazardous waste management program, the State of Texas has continuously exercised its prerogative to participate in the process created by the Environmental Protection Agency for states to assume their roles in this important national program. As part of this process, Texas initially received authorization of its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§6901 et seq. (1976) on December 12, 1984. Texas received authorization for revisions to its program on March 26, 1985, October 4, 1985, January 31, 1986, and December 18, 1986. Texas submitted further revisions to its entire hazardous waste program and final authorization of the Texas hazardous waste program became effective on March 15, 1990.

Effective July 23, 1990, the Texas Water Commission was authorized to implement the Hazardous Waste Management Program revision as specified in 55 Fed Reg. 21383-21386 (May 24, 1990). This included the regulations in 40 CFR Parts 260 through 266, 268, 124, and 270 that were published in the Federal Register through June 22, 1987. The only provision not approved was section 3006(f) of RCRA, Availability of Information requirements, which was at the State's request. A draft application for Section 3006(f) authorization was submitted on June 4, 1990 and is being reviewed separately.

As required by 40 Code of Federal Regulations (CFR) Part 271, this revised program description and other pertinent documents are being submitted to obtain the Administrator's approval of the program changes associated with the Non-HSWA Cluster VI. The State assures the EPA that the authorized program remains equivalent to the Federal hazardous waste program under RCRA, as amended.

SCOPE, STRUCTURE, COVERAGE, AND PROCESS

- A. The Texas Water Commission (TWC) will adopt rules necessary to complete the coverage corresponding to revisions in the federal hazardous waste program known as "Non-HSWA Cluster VI" on or before June 30, 1993, to be effective not later than June 30, 1993. In all other areas of the "Non-HSWA Cluster VI" rules, the TWC program is equivalent to and not less stringent than the EPA program. This cluster includes

the following regulations:

1. Identification and Listing of Hazardous Waste; Amendments to F019 Hazardous Waste Listing (55 FR 5340); Listing of F039 (55 FR 22520 and 56 FR 3864); Bevill-Excluded Mineral Processing Wastes (54 FR 36592); Mining Waste Exclusion I (55 FR 2322 and 56 FR 27300); and Criteria for Listing Wastes as Hazardous Under RCRA (55 FR 18726). These regulations have all been adopted by reference at Title 31 Texas Administrative Code (TAC) Section 335.1. Thus, the TWC rules are equivalent to the EPA regulations because they have been adopted by reference.
2. Hazardous Waste Management System; Testing and Monitoring Activities (54 FR 40260 and 55 FR 8948). 40 CFR 260.11 provides a list of reference materials with respect to test methods. 40 CFR §260.11(a) is adopted by reference in new 31 TAC §335.2(j); thus, the TWC rule is equivalent to the EPA regulation because it is adopted by reference. 40 CFR Part 261 Appendix III is adopted by reference at 31 TAC §335.29; thus, the TWC rule is equivalent to the EPA regulation because it is adopted by reference.
3. National Uniform Manifest System and Recordkeeping (55 FR 2322). 31 TAC §335.10(a)(6) is amended to include the requirements of 40 CFR §262.23(e), such that generators who ship hazardous waste to a designated facility in an unauthorized state which has not yet obtained authorization to regulate that particular waste as hazardous assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility. The state regulation contains language identical to the federal regulation, and is, therefore, equivalent to the federal regulation.
4. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Delay of Closure Period for Hazardous Waste Management Facilities (54 FR 33376). 40 CFR Part 264.13 is adopted by reference at 31 TAC 335.152(a)(1). 40 CFR Part 264.112 is adopted by reference at 31 TAC 335.152(a)(5). 40 CFR Part 264.113 is adopted by reference at 31 TAC 335.152(a)(5). 40 CFR Part 264.142 is adopted by reference at 31 TAC 335.152(a)(6). 40 CFR Part 265.13 is adopted by reference at 31 TAC 335.112(a)(1). 40 CFR Part 265.112 is adopted by reference at 31 TAC 335.112(a)(6). 40 CFR Part 265.113 is adopted by reference at 31 TAC 335.112(a)(6). 40

CFR Part 265.142 is adopted by reference at 31 TAC 335.112(a)(7). Thus, the TWC rules are equivalent to the EPA regulations because they have been adopted by reference. The language of 31 TAC 305.69(h), Appendix I.D.1.f. is identical to the language of 40 CFR 270.42, Appendix I, D.1.f.; thus, the TWC rule is equivalent to the EPA regulation because it is identical.

5. Procedures for Decision Making; General Program Requirements.

- A. Application for a Permit. The language of 31 TAC 305.42 (Application Required) and 31 TAC §281.22 contain provisions which include the language of 40 CFR 124.3(a) and (a)(1); thus the TWC rule is equivalent to the EPA regulation because the EPA's provisions are included in the TWC regulations. Section 361.068 of the Texas Solid Waste Disposal Act (the "Act"), TEX. HEALTH AND SAFETY CODE ANN. Sections 361.001 - .345 (Vernon's Supp. 1991) defines when an application is administratively complete, such that an application may be processed under 40 CFR 124.3(a)(2). Section 361.066 of the Act sets forth the effect of having submitted an administratively complete application. 31 TAC 305.44 includes the provisions of 40 CFR 124.3(a)(3). Thus, the TWC statute and rules are equivalent to the EPA regulations, since the provisions of the EPA regulations are included in the TWC statutes and rules.
- B. Modification, Revocation and Reissuance, or Termination of Permits. The provisions of 40 CFR 124.5(a), (c)(1), and (c)(3) are included in 31 TAC §305.62. The provisions of 40 CFR 124.5(d) are included in 31 TAC §305.66. Thus, the TWC rules are equivalent to the EPA regulations, since the provisions of the EPA regulations are included in the TWC rules.
- C. Draft Permits. The provisions of 40 CFR 124.6(d)(1)-(3) are included in 31 TAC §§305.44, 305.122(a), 305.123, 305.124, 305.125, 305.127(1)(B), (2), & (3), 305.128, and Section 361.032 of the Texas Solid Waste Disposal Act, TEX. HEALTH AND SAFETY CODE ANN. Sections 361.001 - .345 (Vernon's Supp. 1991). The provisions of 40 CFR 124.6(d)(4)(i) are included in 31 TAC §§305.121-125, 305.127-128, 305.141-146. Thus, the TWC rules are equivalent to the EPA regulations, since the provisions of the EPA

regulations are included in the TWC rules.

- D. Public Notice of Permit Actions and Public Comment Period. The provisions of 40 CFR 124.10(c)(1)(iii) are included in 31 TAC §§305.100-103. The provisions of 40 CFR 124.10(c)(1)(ix) are included in 31 TAC §§305.103. The provisions of 40 CFR 124.10(c)(1)(x) are included in 31 TAC §§305.103. The provisions of 40 CFR 124.12(a)(2) are included in 31 TAC §§305.105. Thus, the TWC rules are equivalent to the EPA regulations, since the provisions of the EPA regulations are included in the TWC rules.

B. The State of Texas submitted a Program Description in 1984 as part of the State's original application for authorization to implement its hazardous waste program pursuant to the Resource Conservation and Recovery Act (RCRA) 42 U.S.C.A. §§6901 et seq. (1976). The State of Texas initially received authorization for its hazardous waste program on December 12, 1984. The 1984 Program Description was submitted by the Texas Department of Water Resources (TDWR), the predecessor agency of the TWC. The program areas identified in the 1984 Program Description that will be impacted by the State's receipt of authorization to implement the Non-HSWA VI requirements are as follows:

1. Section B. 1. Description of Staff
2. Section B. 2. Funding
3. Section B. 3. Estimated Number of Regulated Activities

However, the State's receipt of authorization to implement the Non-HSWA VI requirements will not impact the following 1984 Program Description program areas:

1. Section A. 1. listing or identifying of hazardous waste;
2. Section A. 2. standards for generators of hazardous waste;
3. Section A. 4. the standards for hazardous waste storage and treatment tank systems;
4. Section A. 4. the statistical methods for evaluating groundwater monitoring data from hazardous waste facilities;
5. Section C. 2. permitting and appellate review procedures; and;
6. Section C. 3. compliance tracking and enforcement procedures.

Revisions to the State program to implement the Non-HSWA VI requirements are made through the State's rule-making process and except for minor word differences, are equivalent to the Federal program changes.

FUNDING AND RESOURCES

1. Description of Staff

The administration of the RCRA Program, including the non-HSWA Cluster VI revisions, will involve an annual operating budget of approximately \$8.9 million dollars and 120 work years of effort. Individual cost allocations for each revision are not made. The reorganizational structure of the Texas Water Commission is shown in Figure 2. The agency has been reorganized along programmatic lines to make for an effective, efficient, and responsive public agency. Permitting, enforcement, and planning responsibilities for each major program have been vested in each division responsible for that particular area.

The day to day operation of the hazardous waste management program resides in three divisions: the Hazardous Waste Division whose primary function is to administer and oversee all aspects of hazardous and industrial solid waste activities in Texas; the Field Offices Division who performs most of the inspection and monitoring activities for the Commission; and the Legal Services Divisions who provides the legal representation required by the executive director of the Commission and the director's technical and administrative staff.

Table A shows staffing within the three divisions that participate in RCRA/HSW activities and the percentage of effort devoted to the implementation of the Texas hazardous waste management program.

Table A

State Agency Staff Carrying Out the Program		
	Number of Positions	Number of Workyears
Hazardous & Solid Waste	86	77.78
Field Operations	49	46.66
Legal	9	7.00
Total	134	131.44

2. Funding

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. These priorities and objectives are based upon and consistent with the Office of Solid Waste and Emergency Response's Agency Operating Guidance, FY 1992. Additional funding is provided through special revenue funds authorized by the Texas Legislature. During Fiscal Year 1992, it is expected the EPA will provide approximately 59 percent of the RCRA funding and a minimum of 41 percent will be provided by the Texas Water Commission.

Budget requirements for the fiscal year are met through funds authorized by §3011 of Subtitle C-Hazardous Waste Management of the Resource Conservation and Recovery Act of 1976 (RCRA) and made available by a federal Cooperative Agreement between the United States Environmental Protection Agency (EPA) and the State of Texas. Seventy-five percent (75%) of the funding is provided by the EPA and the remaining twenty-five percent (25%) state match is provided by funds appropriated by the Texas Legislature or assessed by the Commission through user fees.

Since the beginning of state fiscal year 1986, the funding support to state hazardous waste regulatory programs and remediation activities at abandoned waste disposal sites has been provided almost exclusively by fees assessed against industries involved in the production or management of hazardous waste.

Table B shows the allocation of federal and non-federal resources dedicated to the implementation of the state's RCRA Program.

Table B

Direct Program Costs

Program Element	Federal	Non-Federal
RCRA Program Implementation	\$2,388,354	\$ 796,118
Compliance Monitoring and Enforcement	2,986,478	995,492
Program Management	1,640,392	546,798
Total	\$7,015,224	\$2,338,408

Contractual Costs

Program Element	Federal	Non-Federal
RCRA Program Implementation	\$ 3,422	\$ 1,141
Compliance Monitoring and Enforcement	236,888	78,962
Program Management	42,060	14,020
Total	\$ 282,370	\$ 94,123

Table C shows the state's distribution of federal and non-federal funds by object class category.

Table C

Costs by Object Class Categories	
(a) Personnel	\$4,317,899
(b) Fringe Benefits (23.56% of Personnel)	1,017,297
(c) Travel	285,979
(d) Supplies	140,216
(e) Contractual	376,493
(f) Other	86,068
(g) Total Direct Charges (sum of a-h)	6,223,952
(h) Indirect Charges (Variable Rates)	3,129,680
(i) Total (Sum of g and h)	\$9,353,632

3. **Estimated Number of Regulated Activities**
Refer to Table 1

TABLE 1

ESTIMATED ACTIVITIES SUBJECT TO PROGRAM REVISION REQUIREMENTS

Type of Activity	Number of Handlers	Waste Quantities
Generators ¹	9,508	58,897,000 Tons*
Transporters ¹	1,489	**
Storage - on site ²	123	4,973,935 Tons
off site ²	26	34,692 Tons
Treatment - on site ²	123	38,703,105 Tons
off site ²	26	6,930,716 Tons
Disposal - on site ²	47	13,778,529 Tons
off site ²	12	443,267 Tons
Transported Into State	**	252,000 ¹ Tons
Transported Out of State	**	381,000 ¹ Tons
¹ 1989 Estimates: draft 12/90		
² 1987 data.		
*Does not include TCLP waste		
**Data Management System does not provide select information in this manner.		

C. **Estimated Number of Regulated Activities**

Table D contains the estimated hazardous and industrial solid waste activities that are subject to the state's program revision requirements.

TABLE D

ESTIMATED STATE OF TEXAS ACTIVITIES SUBJECT TO PROGRAM
REVISION REQUIREMENTS

Type of Activity	Number of Handlers (Texas)	Waste (1) Quantities Tons (Texas)
Generators	(2,3) 9,508	63,500,000
Transporters	(3) 1,489	(4) NA
Storage		
On-Site	(5) 143	4,424,500
Off-Site	(9) 21	(6) 61,109
Treatment		
On-Site	(5) 95	52,200,700
Off-Site	(9) 18	(6) 16,026,400
Disposal		
On-site	(5) 46	13,159,000
Off-Site	(10) 14	(6) 716,611
Transported Into Texas	(7) 24,691	260,500
Transported Out of Texas	(8) 878	378,000

Table D Legend

- (1) All volume data is based upon 1989 annual reporting data, as of March, 1991.
number of Generators within Texas with a hazardous waste stream on the Notice of Registration.

- (3) Number based upon October, 1990 data.
- (4) Data element not applicable to Texas.
- (5) Minimum number (of the top 200 handlers) reporting the activity at the end of the year.
- (6) Off-site includes all handlers receiving waste from off-site shipments to commercial and captive facilities. Discharges to wastewater treatment plants are included in shipment volume totals.
- (7) Number of individual shipments into Texas. (The State does not track individual shippers to Texas)
- (8) Number of Texas generators shipping out of State. (Does not include one-time shippers without a State Identification Number)
- (9) Number of permitted commercial facilities. (Does not include facilities under interim status or captive facilities)
- (10) Includes six landfills and eight UIC facilities.

IV. JOINT PERMITTING AGREEMENT

A. A Joint Permitting Agreement (JPA) has been entered into between the Texas Water Commission (TWC) and the EPA Region 6 to administer the provisions of RCRA and the Hazardous and Solid Waste Amendments of 1984 (HSWA). The details of the JPA are contained in a document entitled "Details of the Joint Permitting Agreement between the Texas Water Commission and the United States Environmental Protection Agency," a copy of which was provided to the EPA. The purposes of the document are to establish procedures to coordinate the actions of the TWC and EPA to implement the HSWA provisions of RCRA in a cost effective and expeditious manner and to satisfy requirements in both State and Federal law. The procedures to be utilized in joint permitting are described in Chapter III of the document. The specifics of the Joint Permitting Agreement, as set forth in the annual State grant work program, will be amended to reflect the Non-HSWA V authorization.

V. WORKLOAD COST ESTIMATES FOR NON-HSWA CLUSTER VI

- A. Non-HSWA Cluster VI regulations, which will add significant workload costs, are found at number 65 on the RCRA Revision Checklist, relating to Mining Waste Exclusion I (54 FR 36592-36642). In consideration of the number of facilities managing waste effectively removed from the exclusion of solid wastes which are not hazardous wastes in accordance with 40 CFR 261.4(b)(7), the total additional workload costs imposed on the Texas Water Commission by the requirements of Non-HSWA Cluster VI are estimated at \$137, 400. Assuming that the workload costs are spread over the period of FY '92 - '95, the workload costs are estimated at \$45,800 per year

over the three-year period.

Additional workload costs have been estimated by carefully considering the extra work which will be necessitated by the rules themselves. In other words, the estimated additional workload includes only tasks created by the existence of the particular regulation. For example, in consideration of the additional workload caused by the new permit modification procedures, the estimates do not take into account the additional workload of certain permit modifications such as those necessitated by the existence of a separate regulation (e.g. Toxicity Characteristic regulation). Furthermore, the estimates account for workload anticipated "over and above" previous (ie.; FY'90) workload levels. The new permit modification regulation itself is expected to have a minor impact on the number of Class 3 modifications (previously major amendments). However, this new regulation is expected to significantly increase the number of Class 2 modification requests compared to minor or major amendments and to greatly increase the number of Class 1 modification requests compared to previous minor amendment requests. Also, it is anticipated that a significant workload increase will result from requests for temporary authorizations.

As mentioned previously, the other rule which will add significant workload costs is related to Statistical Methods for Evaluating Groundwater Monitoring Data from Hazardous Waste Facilities. It is anticipated that many hazardous waste land disposal facilities will request permit modifications to authorize alternate statistical methods. After the first year, the number of such modification requests should decrease substantially.

EXHIBIT 1

Class Description	Sum of Amount	Sum of FTE
ADMINISTRATIVE SECRETARY	4,710	.25
ADMINISTRATIVE TECHNICIAN II	19,464	1.00
ADMINISTRATIVE TECHNICIAN III	8,320	.38
ADMINISTRATIVE TECHNICIAN IV	99,213	4.11
CHEMIST IV	36,633	1.27
CHEMIST V	21,100	.62
CLERICAL SUPERVISOR IV	25,803	1.25
DIRECTOR OF PROGRAMS I	19,746	.71
DIRECTOR OF PROGRAMS II	23,422	.60
ENGINEER I	28,836	1.00
ENGINEER II	202,356	6.00
ENGINEER III	181,728	5.00
ENGINEER IV	93,246	2.64
ENGINEERING ASSISTANT III	22,374	.75
ENVIRONMENTAL QUAL. SPEC. III	20,259	.75
ENVIRONMENTAL QUALITY SPEC. IV	30,828	1.00
ENVIRONMENTAL QUALITY SPEC. V	31,848	1.00
ENVIRONMENTAL QUALITY SPEC. VI	10,365	.25
GEOLOGIST I	303,937	9.22
GEOLOGIST II	123,952	3.38
GEOLOGIST III	103,047	3.01
GEOLOGIST IV	38,796	1.00
HYDROLOGIST I	62,676	2.00
HYDROLOGIST II	563,185	16.47
HYDROLOGIST III	74,563	2.02
HYDROLOGIST IV	120,039	3.00
HYDROLOGIST V	75,648	1.60
PROGRAM ADMINISTRATOR III	41,436	1.25
PROGRAMMER ANALYST II	42,816	1.00
RESEARCH ASSISTANT II	44,376	2.00
RESEARCH SPECIALIST II	28,836	1.00
WORD PROCESSING OPERATOR II	20,502	1.25
WORD PROCESSING OPERATOR III	18,226	1.00
	2,542,286	77.78

FY92 FIELD OPERATIONS DIVISION STAFFING FOR RCRA GRANT

<u>TITLE/ POSITION</u>	<u>NUMBER OF POSITIONS</u>	<u>PERSONNEL COSTS</u>	<u>WORKYEARS OF EFFORT</u>
ENVIRONMENTAL QUALITY SPECIALIST V-----	7-----	\$257,913-----	6.59
ENVIRONMENTAL QUALITY SPECIALIST IV-----	22-----	\$718,350-----	21.46
ENGINEERING TECHNICIAN V-----	4-----	\$108,723-----	3.50
BIOLOGIST III-----	1-----	\$31,064-----	1.00
ENVIRONMENTAL QUALITY SPECIALIST III-----	15-----	\$410,460-----	14.11
TOTAL-----	49-----	\$1,526,510-----	46.66

FY 92 RCRA GRANT
LEGAL DIVISION'S STAFF

	FTE'S	AMOUNT
Senior Attorney	0.5	25,200
Attorney VI	0.5	25,271
Attorney V	4.5	163,273
Administrative Technician III	0.5	12,838
Legal Secretary	1.00	22,521
Total	<u>7.00</u>	<u>249,103</u>

EXHIBIT 2

Texas Water Commission

September 21, 1992

