

US EPA ARCHIVE DOCUMENT



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

ATTORNEY GENERAL'S STATEMENT FOR FINAL
AUTHORIZATION FOR CHANGES RCRA CLUSTER I

I hereby certify, pursuant to my authority as Attorney General 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 August 31, 1993, as specified below. These authorities and this certification supplement the previously certified authorities described in my or my predecessors certifications of December 4, 1989 (non-HSWA III and HSWA I), November 30, 1992 (non-HSWA VI) and March 8, 1993 (non-HSWA V). This revised Attorney General's Statement is for RCRA Cluster I.

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:

- (12) Generic delisting of strontium sulfide (CAS No. 1314-96-1), 40 CFR 261.33(e) and Part 261 Appendix VIII, as amended October 31, 1988 [53 FR 43881] and February 25, 1991 [56 FR 7567], Revision Checklists 57 and 86.
- (17) Listing of one waste (F039), 40 CFR 261.31 and Part 261 Appendix VII, as amended June 1, 1990 [55 FR 22520] and January 31, 1991 [56 FR 3864], Revision Checklists 78 and 83.
- (18) Listing of two wastes (F037 and F038) generated in the separation of oil/water/solids from petroleum refinery process wastewaters and oily cooling wastewaters, 40 CFR 261.31 and Part 261 Appendix VII, as amended November 2, 1990 [55 FR 46354] and December 17, 1990 [55 FR 51707], Revision Checklist 81.

- (19) Listing of three wastes (F032, F034 and F035) from wood preserving operations that use chlorophenolic, creosote and/or inorganic (arsenical and chromium) preservatives, 40 CFR 261.31, and 261 Appendices III, VII and VIII, as amended December 6, 1990 [55 FR 50450], Revision Checklist 82.

Federal Authority: RCRA §3001(b).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, Chapter 361, §361.017 and §361.024, Texas Health and Safety Code Ann. (Vernon Pamphlet 1992), effective September 1, 1991 as amended.

Texas Solid Waste Disposal Act, Chapter 361, §361.003(15), Texas Health and Safety Code Ann. (Vernon Pamphlet 1992), effective September 1, 1991 as amended.

State Regulations

Title 31 Texas Administrative Code (TAC) Chapter 335, §335.1 effective March 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

State law is equivalent to federal law. 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 4, 7, 18, 20, 22, 26, 46, 33, 53, 56, 57, 86, 68. In addition, Appendices I-X, contained in 40 Code of Federal Regulations (CFR) Part 261 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.

J. State statutes and regulations that:

- (2) remove five conditionally retained mineral processing wastes from the exemption from hazardous waste regulation under the Bevill exclusions, and amend the definitions of "beneficiation" and "designated facility" as indicated in Revision Checklists 71 and 90.

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, Chapter 361, §361.017 and §361.024, Texas Health and Safety Code Ann. (Vernon Pamphlet 1992), effective September 1, 1991 as amended.

Texas Solid Waste Disposal Act, Chapter 361, §361.003(15), Texas Health and Safety Code Ann. (Vernon Pamphlet 1992), effective September 1, 1991 as amended.

State Regulations

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

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

Remarks of the Attorney General

State law is equivalent to federal law. 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 4, 7, 18, 20, 22, 26, 46, 33, 53, 56, 57, 86, 68. In addition, Appendices I-X, contained in 40 Code of Federal Regulations (CFR) Part 261 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.

P. State statutes and regulations include definitions of oil/water/solids and aggressive biological treatment units and a statement concerning the point of generation for F037 and F038 sludges as indicated on Revision Checklist 81.

Federal Authority: RCRA §3001; 40 CFR 261.31(b), as amended November 2, 1990 (55 FR 46354) and December 17, 1990 (55 FR 51707).

Citation of Laws and Regulations; Date of Enactment and Adoption

Texas Solid Waste Disposal Act, Chapter 361, §361.017 and §361.024, Texas Health and Safety Code Ann. (Vernon Pamphlet 1992), effective September 1, 1991 as amended.

Texas Solid Waste Disposal Act, Chapter 361, §361.003(15), Texas Health and Safety Code Ann. (Vernon Pamphlet 1992), effective September 1, 1991 as amended.

State Regulations

Title 31 Texas Administrative Code (TAC) Chapter 335, §335.1 effective March 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

State law is equivalent to federal law. 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 4, 7, 18, 20, 22, 26, 46, 33, 53, 56, 57, 86, 68. In addition, Appendices I-X, contained in 40 Code of Federal Regulations (CFR) Part 261 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.

Q. State statutes and regulations exclude from being a solid waste spent wood preserving solutions that have been used and are reclaimed and reused for their original intended purpose as indicated in Revision Checklists 82.

Federal Authority: RCRA §3001; 40 CFR 261.4(a)(9) as amended December 6, 1990 (55 FR 50450) and July 1, 1991 (56 FR 30192).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, Chapter 361, §361.017 and §361.024, Texas Health and Safety Code Ann. (Vernon Pamphlet 1992), effective September 1, 1991 as amended.

Texas Solid Waste Disposal Act, Chapter 361, §361.003(15), Texas Health and Safety Code Ann. (Vernon Pamphlet 1992), effective September 1, 1991 as amended.

State Regulations

Title 31 Texas Administrative Code (TAC) Chapter 335, §335.1 effective March 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

State law is equivalent to federal law. The definition of solid waste in 31 TAC 335.1 explicitly excludes from the definition of solid waste any waste excluded from the definition of solid waste by 40 CFR 261.4(a).

R. State statutes and regulations allow deletion of certain hazardous waste codes following equipment cleaning and replacement, provided that the requirements of 261.35 are met, as indicated in Revision Checklist 82.

Federal Authority: RCRA §3001; 40 CFR 261.35 as amended December 6, 1990 (55 FR 50450).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Chapter 361, §§361.017, 361.003(15) and 361.024, Texas Health and Safety Code Ann. (Vernon Pamphlet 1992), effective September 1, 1991 as amended.

State Regulations

Title 31 Texas Administrative Code (TAC) Chapter 335, §335.1 effective September 30, 1992 as amended.
Title 31 Texas Administrative Code (TAC) Chapter 335, §335.29 effective September 30, 1992 as amended.

Remarks of the Attorney General

State law is equivalent to federal law. 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 Checklist 82. In addition, Appendices I-X, contained in 40 Code of Federal Regulations (CFR) Part 261 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.

T. State statutes and regulations exclude from being a solid waste coke and coal tar from the iron and steel industry that contains or is produced from decanter tank tar sludge, EPA

hazardous waste K087, when used as a fuel as indicated in Revision Checklist 85. The process producing the coke and coal tar from such decanter tank tar sludge in a coke oven is also excluded from regulation.

Federal Authority: RCRA §3001; 40 CFR 261.4(a)(10) and 261.6(a)(3)(vii)-(ix) as amended February 21, 1991 (56 FR 7134).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, Chapter 361, §361.017 and §361.024, Texas Health and Safety Code Ann. (Vernon Pamphlet 1992), effective September 1, 1991 as amended.

Texas Solid Waste Disposal Act, Chapter 361, §361.003(15), Texas Health and Safety Code Ann. (Vernon Pamphlet 1992), effective September 1, 1991 as amended.

State Regulations

Title 31 Texas Administrative Code (TAC) Chapter 335, §335.1 effective March 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

State law is equivalent to federal law. The definition of solid waste in 31 TAC 335.1 explicitly excludes from the definition of solid waste any waste excluded from the definition of solid waste by 40 CFR 261.4(a).

U. State statutes and regulations do not exclude residues, derived from the burning or processing of hazardous waste in a boiler or industrial furnace, from the definition of a hazardous waste under 40 CFR 261.4(b)(4), (7) or (8) if the owner or operator meets the requirements of 40 CFR 266.112 as indicated in Revision Checklist 85.

Federal Authority: RCRA §3001; 40 CFR 261.4(b)(4), 261.4(b)(7), 261.4(b)(8) and 266.112 as amended February 21, 1991 (56 FR 7134).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, ("TSWDA"), Chapter 361, §§361.017, 361.003(15) and 361.024, Texas Health and Safety Code Ann. (Vernon Pamphlet 1992), effective September 1, 1991 as amended.

State Regulations

Title 31 Texas Administrative Code, §335.221(a)(23) effective July 14, 1992 as amended.

Remarks of the Attorney General

State law is equivalent to federal law. Section 335.221(a)(23) of Title 31 of the Texas Administrative Code adopts by reference 40 CFR 266.112 and is therefore equivalent to the federal provision. Sections 335.1 and 335.29 of Title 31 of the Texas Administrative Code adopt 40 CFR Part 261 and its appendices, including §§ 261.4(b)(4), (b)(7) and (b)(8).

II. DEFINITION OF SOLID WASTE

B. State statutes and regulations include as solid waste secondary material fed to a halogen acid furnace that exhibit a characteristic of a hazardous waste or are listed as a hazardous waste in 40 CFR 261, Subparts C and D as indicated in Revision Checklists 85.

Federal Authority: RCRA §3001; 40 CFR Parts 261.2(d)(2) as amended February 21, 1991 (56 FR 7134).

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 Pamphlet 1992), effective September 1, 1991 as amended.

State Regulations

Title 31 Texas Administrative Code, §335.1 ("E" under definition of "solid waste") effective August 22, 1991 as amended.

Remarks of the Attorney General

State law is equivalent to federal law. The definition of "solid waste" in §335.1 of title 31 of the Texas Administration Code adopts by reference materials that the EPA Administrator identifies as "inherently waste-like" under 40 CFR §261.2(d).

XV. STANDARDS FOR FACILITIES¹

¹This section contains all changes to the Federal RCRA program concerning facility standards except for those specifically related to groundwater monitoring. This latter group of facility standard changes are addressed by Section XI.

K. 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 Checklists 79 and 87.

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) and April 26, 1991 (56 FR 19290).

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

Checklist 79

~~Title 31 Texas Administrative Code (TAC) Chapter 335, § 335.2(j), effective August 31, 1993 as amended.~~

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

~~Title 31 TAC §335.152(a)(1), (a)(4), effective March 31, 1992 as amended.~~

~~Title 31 TAC §335.152(a)(16) & (a)(17), effective August 31, 1993 as amended.~~

~~Title 31 TAC §335.155(3), effective March 31, 1992 as amended~~

~~Title 31 TAC §335.112(a)(1) & (a)(4), effective August 31, 1993 as amended.~~

~~Title 31 TAC §335.112(a)(19) & (a)(20), effective August 31, 1993 as amended.~~

~~Title 31 TAC §305.50(4)(a), effective August 31, 1993 as amended.~~

Checklist 87

Title 31 TAC Chapter 335, §335.152(a)(1), (a)(4), (a)(16), (a)(17), effective August 31, 1992 as amended.

Title 31 TAC Chapter 335, §335.112(a)(1), (a)(4), (a)(19), (a)(20), effective August 31, 1992 as amended.

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

Remarks of the Attorney General

Checklist 79

State law is equivalent to federal law. 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)(16), and (a)(17) adopt by reference 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 as amended and adopted in the Code of Federal Regulations through June 1, 1990. Title 31 TAC §335.112 (a)(1), (a)(4), (a)(19), and (a)(20) adopt by reference the federal requirements contained in 40 CFR Subparts B, E (except 40 CFR §265.71, §264.72, §264.75, §264.76, and §264.77), AA and BB as amended and adopted in the Code of Federal Regulations through June 1, 1990.~~

Checklist 87

State law is equivalent to federal law. Title 31 TAC §335.152(a)(1), (a)(4), (a)(16), and (a)(17) adopt by reference as amended and adopted in the Code of Federal Regulations through April 1, 1991 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 80. Title 31 TAC §335.112 (a)(1), (a)(4), (a)(19), and (a)(20) adopt by reference the federal requirements contained in 40 CFR Subparts B, E (except 40 CFR §265.71, §264.72, §264.75, §264.76, and §264.77), AA and BB as amended and adopted in the Code of Federal Regulations through April 26, 1991.

L. State statutes and regulations contain design, operating, inspection and closure requirements for drip pads and associated tanks, sumps and other devices used to assist in the collection of treated wood drippage as indicated in Revision Checklists 82 and 92.

Federal Authority: RCRA §§2002(a) and 3001(b)&(e)(1); 40 CFR 262.34(a)(2), 264.190, 264.570, 264.571, 264.572, 264.573, 264.574, 264.575, 265.190, 265.440, 265.441, 265.442, 265.443, 265.444, 265.445 as amended December 6, 1990 (55 FR 50450).

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 August 31, 1993 as amended.

Title 31 TAC Chapter 335, §335.69(a)(1)(iii), effective August 31, 1993 as amended.

Title 31 TAC Chapter 335, §335.112(a)(9), effective August 31, 1993 as amended.

Title 31 TAC Chapter 335, §335.112(a)(20), effective August 31, 1993 as amended.

Title 31 TAC Chapter 335, §335.152(a)(8), effective August 31, 1993 as amended.

Title 31 TAC Chapter 335, §335.152(a)(14), effective August 31, 1993 as amended.

Remarks of the Attorney General

State law is equivalent to federal law. Title 31 TAC Chapter 335, §§335.1, 335.29, 335.69, 335.112(a)(9), 335.112(a)(20), 335.152(a)(8), and 335.152(a)(14), and 31 TAC §305.50(4)(a), all meet the federal requirements contained in Checklist 82.

XVI. REQUIREMENTS FOR PERMITS

W. State statutes and regulations contain Special Part B information requirements for drip pads as indicated in Revision Checklists 82.

Federal Authority: RCRA §§2002(a) and 3001(b)&(e)(I); 40 CFR 270.22 as amended December 6, 1990 (55 FR 50450).

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 August 31, 1993 as amended.

Remarks of the Attorney General

State law is equivalent to federal law. Title 31 TAC §305.50(4)(a) conforms to the federal provisions contained in Checklist 82.

X. State statutes and regulations include permitting requirements for boilers and industrial furnaces burning hazardous waste as indicated in Revision Checklists 85.

Federal Authority: RCRA §§1006, 2002, 3001 through 3007; 40 CFR 270.22, 270.42(g), 270.42 Appendix I, 270.66, 270.72(a)(6)&(b)(7) and 270.73(f)&(g) as amended February 21, 1991 (56 FR 7134).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Section 3 and 4, 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 Texas Administrative Code (TAC), Chapter 305, § 305.50(4), effective on July 29, 1992 as amended.

Title 31 TAC §305.50(13), effective on July 29, 1992 as amended.

Title 31 TAC §305.69(h), effective on July 29, 1992 as amended.

Title 31 TAC §305.571, effective on July 29, 1992 as amended.

Title 31 TAC §305.572, effective on July 29, 1992 as amended.

Title 31 TAC §305.573, effective on July 29, 1992 as amended.

Title 31 TAC §305.51(a)(5), effective on July 29, 1992 as amended.

Title 31 TAC §305.51(c)(7), effective on July 29, 1992 as amended.

Title 31 TAC §335.2(c), effective on July 29, 1992 as amended.

Remarks of the Attorney General

State law is equivalent to federal law. Section 305.50(4) incorporates by reference the specific Part B information requirements for boilers and industrial furnaces burning hazardous waste that are listed in 270.22. Section 305.50(13) is equivalent to 270.22(e). Section 305.69(h) is the equivalent of 40 CFR 270.42(g).-- Section 305.571 is the equivalent of 40 CFR 270.66(a), while §305.572 is the equivalent of 270.66(b), (c), (d), (e), and (f). Section 305.573(a) is the equivalent of 40 CFR 270.66(g). The equivalent state citations to 40 CFR 270.72(a)(6) & (a)(7) are 305.51(a)(5) and (a)(7), respectively. Also, the state citations equivalent to 270.73(f) & (g) are 305.42(b) and 335.2(c), conjunctively.

XX. BURNING OF WASTE FUEL AND USED OIL FUEL IN BOILERS AND INDUSTRIAL FURNACES

C. State statutes and regulations include control standards for emissions of toxic organic compounds, toxic metals, hydrogen chloride, chlorine gas and particulate matter from boilers and industrial furnaces burning hazardous waste, and require owners and operators of such facilities to comply with the general facility standards applicable to hazardous waste treatment, storage and disposal facilities, as indicated in Revision Checklist 85. Hazardous waste storage units at regulated burners are subject to 40 CFR 264 requirements.

Federal Authority: RCRA §§1006, 2002, 3001 through 3007, 3010 and 7004; 40 CFR 260.10, 260.11, 261.3, 261.6, 264.112, 264.340,

265.112, 265.113, 265.340, 265.370, Part 266 Subpart H, and 266 Appendices I-X as amended February 21, 1991 (56 FR 7134).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Section 3 and 4, 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 §335.1, effective on January ~~Title~~ 31, 1992 as amended.
Title 31 TAC §335.2(j), effective on August 31, 1993.
Title 31 TAC §335.6, 335.6(i)(1) - (3), effective on July 29, 1992 as amended.
Title 31 TAC §335.24(c), effective July 29, 1992 as amended.
Title 31 TAC §335.152(a)(5), (a)(13), effective on July 29, 1992 as amended.
Title 31 TAC §335.112(a)(6) & (a)(14), effective on July 29, 1992 as amended.
Title 31 TAC §335.221(a)(1)-(23), effective on July 29, 1992 as amended.
Title 31 TAC §335.221(b), effective on July 29, 1992 as amended.
Title 31 TAC §335.222(a)-(c), effective on July 29, 1992 as amended.
Title 31 TAC §335.223(a)(1)-(8), 335.223(b), effective on July 29, 1992 as amended.
Title 31 TAC §335.224(1)-(2), effective on July 29, 1992 as amended.
Title 31 TAC §335.224(3)(A)-(E) & 335.224(4), 335.224(5)(A)-(J), 335.224(6)-(8), (11)-(14) effective on July 29, 1992 as amended.
Title 31 TAC §335.225(a), effective on July 29, 1992 as amended.

Remarks of the Attorney General

State law is equivalent to federal law except in two respects. First, the state definition of industrial furnace is broader in scope than the federal definition. Title 40 CFR §260.10 defines an industrial furnace as, "any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy." Title 31 TAC §335.1 defines a industrial furnace as, "any of the following enclosed devices that use thermal treatment to accomplish recovery of materials or energy." The purpose of excluding the phrase "that are integral components of manufacturing processes" is to include within the definition of industrial furnace a broader group of facilities: those that burn hazardous waste but do not produce a product.

Second, the state requirement for the submittal of revised certification of compliance is more stringent than the federal requirement. Title 40 CFR § 266.103(c)(8) provides that the owner or operator of an industrial furnace may submit a revised certification of compliance at any time. Title 31 TAC 335.221(a)(11) incorporates by reference § 266.103(c)(8), but is modified by §335.224(8). Section 335.224(8) provides that the executive director may reject the recertification of compliance or require additional information to be submitted within specified time frames.

XXI. LAND DISPOSAL RESTRICTIONS

F. State statutes and regulations provide specific treatment standards and effective dates for the "Third" wastes, "soft hammer" First and Second Third wastes, five newly listed wastes, four wastes that fall into the F002 and F005 (spent solvent) waste codes, F025, 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 Checklists 78 and 83.

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) and January 31, 1991 (56 FR 3864).

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 Regulation

Title 31 TAC Chapter 335, §335.1, effective January 31, 1992 as amended.
Title 31 TAC Chapter 335, §335.29, effective August 31, 1992 as amended.
Title 31 TAC Chapter 335, §335.504(2), effective August 31, 1993 as amended.
Title 31 TAC Chapter 335, §335.69(f)(4), effective August 31, 1993 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 August 31, 1993 as amended.

Title 31 TAC Chapter 335, §305.69(h) Appendix I. B.1.b. effective March 31, 1992 as amended.

Remarks of the Attorney General

State law is equivalent to federal law. 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 Regulation Part 261 and is therefore equivalent to the federal program. Title 31 TAC §335.431(c) adopts by reference the regulation 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 Appendices I-IX, 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 Checklists 78 and 83.

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) and January 31, 1991, (56 FR 3864).

Citation of Laws and Regulations; Date of Enactment and Adoption

State Statute

Texas Solid Waste Disposal Act, (the TSWDA), Section 3 and 4, Chapter 361, §361.017 and §361.024, Texas Health and Safety Code Ann. (Vernon Supp. 1991). Effective June 7, 1991 as amended.

State Regulation

Checklist 83

Title 31 TAC §335.431, effective August 31, 1993 as amended.

Remarks of the Attorney General

State law is equivalent to federal law.

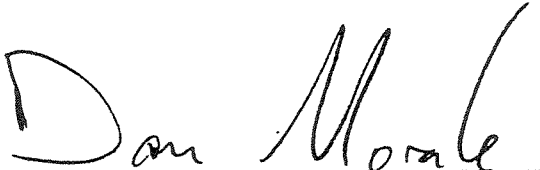
XXII. MEMORANDUM OF AGREEMENT (MOA)

If the State uses the MOA to satisfy Federal procedural requirements, the Attorney General must certify the following:

- (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 be binding.

Seal of Office



Signature

Name (Type or Print)

Title

Date