

US EPA ARCHIVE DOCUMENT

duplicate

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- Rule 74.15 Boilers, Steam Generators and Process Heaters (5MM BTUs and greater) (Adopted 12/3/91)
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- Appendix IV-A Soap Bubble Tests (Adopted 12/86)
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Rule 158 Source Abatement Plans (Adopted 9/17/91)

Rule 159 Traffic Abatement Procedures (Adopted 9/17/91)

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40 CFR Part 271

[FRL-4856-2]

Texas: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Texas has applied for final authorization of a revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), and the Environmental Protection Agency (EPA) has reviewed Texas' application and decided that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period provided for public participation in this process, EPA intends to approve Texas' hazardous waste program revision, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. Texas' application for the program revision is available for public review and comment.

DATES: This final authorization for Texas shall be effective June 27, 1994, unless EPA publishes a prior Federal Register (FR) action withdrawing this immediate final rule. All comments on Texas' program revision application must be received by the close of business May 27, 1994.

ADDRESSES: Copies of the Texas program revision application and the materials which EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: Texas Natural Resource Conservation Commission, 1700 N. Congress Avenue, Austin, TX 78711-3087, and U.S. EPA, Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-6444. Written comments, referring to Docket Number TX-94-4, should be sent to Dick Thomas, Region 6 Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Programs Branch, U.S. EPA Region 6,

First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655-8528.

FOR FURTHER INFORMATION CONTACT: Dick Thomas, Region 6 Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655-8528.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act (RCRA or "the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive interim authorization for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR 260-266, 268, 124, and 270.

B. Texas

Texas received final authorization to implement its hazardous waste management program on December 12, 1984, effective December 26, 1984 (see 49 FR 48300). This authorization was clarified in a notice published in the FR on March 26, 1985 (see 50 FR 11858). Texas received final authorization for revisions to its program in notices published in the FR on January 31, 1986, effective October 4, 1985 (see 51 FR 3952), on December 18, 1986, effective February 17, 1987 (see 51 FR 45320), on March 1, 1990, effective March 15, 1990 (see 55 FR 7318), on May 24, 1990, effective July 23, 1990 (see 55 FR 21383), on August 22, 1991, effective October 21, 1991 (see 56 FR 41626), and on October 5, 1992, effective December 4, 1992 (see 57 FR 45719). On December 8, 1992, the Texas

Water Commission (TWC) submitted a final complete program revision application for additional program approvals. (In 1991, Texas Senate Bill 2 created the Texas Natural Resources Conservation Commission (TNRCC) which combined the functions of the former Texas Water Commission and the former Texas Air Control Board. The transfer of functions to the TNRCC from the two agencies became effective on September 1, 1993. Under Chapter 361 of the Texas Health and Safety Code, the TNRCC has sole responsibility for the administration of laws and regulations concerning hazardous waste). Today, Texas is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA reviewed Texas' application, and made an immediate final decision that Texas' hazardous waste program

revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Texas. The public may submit written comments on EPA's final decision until May 27, 1994. Copies of Texas' application for program revision are available for inspection and copying at the locations indicated in the ADDRESSES section of this notice.

Approval of Texas' program revision shall become effective 75 days from the date this notice is published, unless an adverse written comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse written comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing

a response to the comment that either affirms that the immediate final decision takes effect or reverses the decision.

Texas' program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR Parts 124, 260-262, 264, 265, and 270 that were published in the FR through June 30, 1991. This proposed approval includes the provisions that are listed in the chart below. This chart also lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements. (As a result of the Texas reorganization presented above, TNRCC rules, once codified at Title 31 Texas Administrative Code, are now codified at Title 30 Texas Administrative Code).

Federal citation	State analog
1. Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038), November 2, 1990 [55 FR 46354], as amended on December 17, 1990 [55 FR 51707]. (Checklists 81 and 81.1).	Texas Solid Waste Disposal Act (TSWDA), Chapter 361, §361.003(15), §361.017 and §361.024; Texas Health and Safety Code (THSC) Ann. (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 31 Texas Administrative Code (TAC) Chapter 335, §335.1 and §335.29, both effective March 31, 1992, as amended.
2. Wood Preserving Listings, December 6, 1990 [55 FR 50450]. (Checklist 82).	TSWDA, Chapter 361, §361.003(15), §361.017 and §361.024; THSC Ann., (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 30 TAC, Chapter 305, §305.50(4)(a), effective November 23, 1993; Title 31 TAC Chapter 335, §335.1 and §335.29, both effective March 31, 1992, as amended; Title 31 TAC Chapter 335, §335.1 and §335.29, both effective September 30, 1992, as amended; and Title 31 TAC Chapter 335, §335.1, §335.69(a)(1)(iii), §335.112(a)(9), §335.112(a)(20), §335.152(a)(8), and §335.152(a)(14), all effective November 23, 1993.
3. Land Disposal Restrictions for Third Third Scheduled Wastes; Technical Amendments, January 31, 1991 [56 FR 3864]. (Checklist 83).	TSWDA, Chapter 361, §361.003(15), §361.017 and §361.024; THSC Ann., (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 31 TAC, Chapter 335, §335.1 and §335.29, both effective March 31, 1992, as amended; 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) and §335.69(f)(4), both effective November 23, 1993; Title 31 TAC Chapter 335, §335.152(a)(9)-(a)(12), §335.111(c), §335.112(a)(1), and §335.112 (a)(10)-(a)(13), all effective March 31, 1992, as amended; Title 31 TAC Chapter 335, §335.431, and §335.431(c), both effective November 23, 1993.
4. Burning of Hazardous Waste in Boilers and Industrial Furnaces, February 21, 1991 [56 FR 7134]. (Checklist 85).	TSWDA Chapter 361, §361.003(15), §361.017, and §361.024; THSC Ann. (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 31 TAC, Chapter 335, §335.1 and §335.29, both effective March 31, 1992, as amended; Title 31 TAC, Chapter 335, §335.221(a)(23), effective July 14 1992, as amended; Title 31 TAC, Chapter 335, §335.1, effective August 22, 1991, as amended; Title 31 TAC, Chapter 305, §305.50(4), §305.50(13), §305.69(h), §305.571, §305.572, §305.573, §305.51(a)(5), §305.51(c)(7), and §335.2(c), all effective July 29, 1992, as amended; Title 31 TAC §335.1, effective January 31, 1992, as amended; Title 31 TAC §335.2(j), effective November 23, 1993; Title 31 TAC §335.6 and §335.6 (i)(1)-(i)(3), §335.24(c), §335.152(a)(5), §335.152(a)(13), §335.112(a)(6), §335.112(a)(14), §335.221 (a)(1)-(a)(23), §335.221(b), §335.222 (a)-(c), §335.223 (a)(1)-(a)(8), §335.223(b), §335.224 (1)-(2), §335.224 (3)(A)-(3)(E), §335.224(4), §335.224 (5)(A)-(5)(J), §335.224 (6)-(8), §335.224 (11)-(14), and §335.225(a), all effective July 29, 1992, as amended.
5. Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment, February 25, 1991 [55 FR 7567]. (Checklist 86).	TSWDA, Chapter 361, §361.003(15), §361.017 and §361.024; THSC Ann., (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 31 TAC, Chapter 335, §335.1 and §335.29, both effective March 31, 1992, as amended.
6. Organic Air Emission Standards for process Vents and Equipment Leaks; Technical Amendment, April 26, 1991 [56 FR 19290]. (Checklist 87).	TSWDA, Chapter 361, §361.003(15); THSC Ann., (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 31 TAC, Chapter 335, §335.152(a)(1), §335.152(a)(4), §335.152(a)(16), and §335.152(a)(17), all effective August 31, 1992, as amended; Title 31 TAC Chapter 335, §335.112(a)(1), §335.112(a)(4), §335.112(a)(19), and §335.112(a)(20), all effective August 31, 1992, as amended; Title 31 TAC Chapter 305, §305.50(4)(A), effective March 31, 1992, as amended.
7. Mining Waste Exclusion III June 13, 1991 [56 FR 27300]. (Checklist 90).	TSWDA, Chapter 361, §361.003(15), §361.017, and §361.024; THSC Ann., (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 31 TAC, Chapter 335, §335.1 and §335.29, both effective March 31, 1992, as amended.

Texas is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

C. Decision

I conclude that Texas' application for a program revision meets the statutory and regulatory requirements established by RCRA. Accordingly, Texas is granted final authorization to operate its hazardous waste program as revised.

Texas now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Texas also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA, and to take enforcement actions under Sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

EPA uses 40 CFR 272 for codification of the decision to authorize Texas' program and for incorporation by reference of those provisions of Texas' statutes and regulations that EPA will enforce under Section 3008, 3013, and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR 272, Subpart E, until a later date.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Texas' program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping

requirements, Water pollution control, Water supply.

Authority: This rule is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(A), 6926, 6974(b).

Dated: March 21, 1994.

Joe D. Winkle,

Acting Regional Administrator.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 190, 192, 193, and 195

RIN 2137-AB71

[Docket No. PS-126; Amdts. 190-5, 192-72, 193-9, 195-50]

Passage of Instrumented Internal Inspection Devices

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the gas, hazardous liquid and carbon dioxide pipeline safety regulations to require that certain new and replacement pipelines be designed and constructed to accommodate the passage of instrumented internal inspection devices (smart pigs). This action was taken in response to a mandate in the Pipeline Safety Reauthorization Act of 1988. The intended effect of these amended regulations is to improve the safety of gas, hazardous liquid and carbon dioxide pipelines by permitting their inspection by "smart pigs" using the latest technology for detecting and recording abnormalities in the pipe wall.

EFFECTIVE DATE: The effective date of this final rule is May 12, 1994.

FOR FURTHER INFORMATION CONTACT: Albert C. Garnett, (202) 366-2036 regarding the subject matter of this amendment or the Docket Unit, (202) 366-5046 regarding copies of this amendment or other material in the docket.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

RSPA published a Notice of Proposed Rulemaking (NPRM) on November 20, 1992 (57 FR 54745) proposing that new and replacement gas transmission lines and new and replacement hazardous liquid pipelines and carbon dioxide pipelines be designed and constructed

to accommodate the passage of instrumented internal inspection devices. However, the rules would not apply to specific installations for which such design and construction would be impracticable. In addition, the NPRM proposed a procedure for operators seeking an administrative ruling on any rule in parts 192, 193 and 195 in which the administrator is authorized to make a finding or approval.

The NPRM was issued in response to Congressional mandates in sections 108(b) and 207(b) of the Pipeline Safety Reauthorization Act of 1988 (hereinafter "Reauthorization Act") (Pub. L. 100-561; Oct. 31, 1988). Section 108(b) of the Reauthorization Act amended section 3 of the Natural Gas Pipeline Safety Act of 1968 (NGPSA) by adding subsection (g), "Instrumented Internal Inspection Devices" (49 app. U.S.C. 1672). This new subsection requires the Secretary of Transportation to establish regulations requiring that:

(1) The design and construction of new [gas] transmission facilities, and (2) when replacement of existing transmission facilities or equipment is required, the replacement of such existing facilities, be carried out, to the extent practicable, in a manner so as to accommodate the passage through such transmission facilities of instrumented internal inspection devices (commonly referred to as "smart pigs").

Section 207(b) of the Reauthorization Act amended section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (HLPESA) (49 app. U.S.C. 2002) to require that DOT establish similar regulations with respect to pipeline facilities subject to the HLPESA.

Future Rulemaking Involving Smart Pigs

The Pipeline Safety Act of 1992 (hereinafter "PLSA of 1992") (Pub. L. 102-508; Oct. 24, 1992) in sections 103 and 203 amended the NGPSA and the HLPESA, respectively, by requiring the Secretary of Transportation to issue regulations that require the periodic inspection of gas transmission facilities and hazardous liquid pipelines in high-density population areas, and hazardous liquid pipelines in environmentally sensitive areas or crossing navigable waterways. In response to these mandates, RSPA will issue an NPRM proposing to prescribe the circumstances, if any, under which such inspections would be conducted with smart pigs. In those circumstances under which an inspection by a smart pig would not be required, RSPA is mandated to require the use of an inspection method that is at least as effective as the use of smart pigs in providing for the safety of the pipeline.