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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[FRL-6422-1]

Texas: Final Authorization and Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Texas has revised its Hazardous Waste Program under the Resource Conservation and Recovery Act (RCRA). With respect to today's document, Texas has made conforming changes to make its regulations internally consistent relative to the revisions made in this document. Texas has also revised its regulations to make them more consistent with the Federal requirements. The EPA has reviewed Texas Natural Resource Conservation Commission's (TNRCC) revisions to its program and has determined that Texas' 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, EPA's decision to approve Texas' Hazardous Waste Program revision will take effect as provided below. In addition, today's document corrects technical errors made in the table of authorities published in the March 1, 1990 (55 FR 7318), April 11, 1994 (59 FR 16987), and September 12, 1997 (62 FR 47947) authorization documents for Texas.

The EPA uses part 272 of Title 40 Code of Federal Regulations (CFR) to provide notice of the authorization status of State programs, and to incorporate by reference those provisions of the State statutes and regulations that are part of the authorized State program. Thus, EPA intends to revise and incorporate by reference, the Texas authorized State program in 40 CFR part 272. The purpose of this action is to incorporate by reference into CFR the currently authorized State hazardous waste program in Texas. This document incorporates by reference provisions of State hazardous waste statutes and regulations and clarifies which of these provisions are included in the

authorized and Federally enforceable program.

DATES: This rule and final authorization for Texas's program revisions shall be effective November 15, 1999, unless an adverse comment pertaining to the State's revision discussed in this document 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 rule or, (2) a document containing a response to the comment that either affirms that the immediate final rule takes effect or withdraws the rule. All comments on the program revisions must be received by October 14, 1999. The incorporation by reference of certain Texas statutes and regulations was approved by the Director of the **Federal Register** as of November 15, 1999 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Written comments referring to Document number TX 99-1 should be sent to Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, phone (214) 665-8533. Copies of Texas program revisions and materials which EPA used in evaluating the revisions are available for inspection and copying from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: Texas Natural Resource Conservation Commission, 1700 N. Congress Avenue, Austin, TX 78711-3087, phone (512) 239-1000 and EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Phone number: (214) 665-6444.

FOR FURTHER INFORMATION CONTACT:

Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD-G), Multi-Media Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8533.

SUPPLEMENTARY INFORMATION:

I. Authorization of State-Initiated Changes

A. Background

States with final authorization under section 3006(b) of the RCRA, 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. 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 parts 124, 260-266, 268, 270, 273, and 279.

B. Texas

Texas initially received final authorization on December 26, 1984 (49 FR 48300), to implement its Base Hazardous Waste Management Program. This authorization was clarified in a notice published March 26, 1985 (50 FR 11858). Texas received authorization for revisions to its program on January 31, 1986, effective October 4, 1985 (51 FR 3952), effective February 17, 1987 (51 FR 45320), effective March 15, 1990 (55 FR 7318), effective July 23, 1990 (55 FR 21383), effective October 21, 1991 (56 FR 41626), effective December 4, 1992 (57 FR 45719), effective June 27, 1994 (59 FR 16987), effective June 27, 1994 (59 FR 17273), effective November 26, 1997 (62 FR 47947) and, effective December 3, 1997 (62 FR 49163).

The EPA reviewed Texas's application, and today is making an immediate final decision, subject to public review and comment, that Texas's Hazardous Waste Program revisions satisfies all of the requirements necessary to qualify for final authorization. Consequently, the EPA intends to grant authorization for the additional program modifications to Texas. The public may submit written comments on EPA's final decision until October 14, 1999. Copies of Texas' program revisions are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document.

Approval of TNRCC's program revision shall become effective 60 days from the date this document is published, unless an adverse comment pertaining to the State's revision discussed in this document 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 rule or, (2) a document containing a response to the comment that either affirms that the immediate final rule takes effect or withdraws the rule.

The EPA grants Texas final authorization to carry out the following provisions of the State's program in lieu of the Federal program. These provisions are analogous to the indicated RCRA regulations found at 40 CFR as of July 1, 1994.

State requirement	Federal requirement
30 Texas Administrative Code (TAC) § 305.62(a), effective June 13, 1996 (except the phrase "§ 305.70 of this title * * * Solid Waste Class I Modifications" and the sentence "If the permittee requests a modification of a municipal solid waste permit * * * Solid Waste Class I Modifications.").	40 CFR 124.5(a).
30 TAC § 305.69(d)(2), introductory paragraph, effective February 26, 1996	40 CFR 270.42(c)(2) (introductory paragraph).
30 TAC § 305.69(d)(2)(F), effective February 26, 1996	40 CFR 270.42(c)(2)(v).
30 TAC § 305.69(g), effective February 26, 1996	40 CFR 270.42(f).
30 TAC § 305.141(a), effective June 13, 1996	40 CFR 270.30 (introductory paragraph).
30 TAC § 335.19(b), effective March 1, 1996	40 CFR 260.31(b).
30 TAC § 335.22, effective November 20, 1996	40 CFR 260.40.
30 TAC § 335.23, introductory paragraph, effective November 20, 1996	40 CFR 260.41 (introductory paragraph).
30 TAC § 335.23(1), effective November 20, 1996	40 CFR 260.41(a).
30 TAC § 335.69(a), introductory paragraph, effective February 26, 1996	40 CFR 262.34(a) (introductory paragraph).
30 TAC § 335.112(a)(13), effective November 20, 1996	40 CFR 265, Subpart N (except 265.301(f)–(i), 265.314, and 265.315).
30 TAC § 335.112(a)(22), introductory paragraph, effective November 20, 1996	40 CFR 265, Appendices.
30 TAC § 335.112(a)(22)(B)–(D), effective November 20, 1996	40 CFR 265, Appendices II–V.
30 TAC § 335.152(a)(5), effective November 20, 1996	40 CFR 264.110–264.120.
30 TAC § 335.152(a)(20), introductory paragraph, effective November 20, 1996	40 CFR 264, Appendices.
30 TAC § 335.152(a)(20)(B)–(E), effective November 20, 1996	40 CFR 264, Appendices IV, V, VI and IX.
30 TAC § 335.152(b), effective November 20, 1996	40 CFR 264.18(b).
30 TAC § 335.154(a)(3), effective July 14, 1987	40 CFR 264.75(d).
30 TAC § 335.164(7)(C), effective October 29, 1990	40 CFR 264.98(g)(3).
30 TAC § 335.504(2), effective March 6, 1996	40 CFR 262.11(b).

In addition to the above listed changes, EPA is authorizing changes to the following State provisions. These provisions do not have a direct analog in the Federal RCRA regulations. However, none of these provisions are considered broader in scope than the Federal program. This is so because

these provisions were either previously authorized as part of Texas' base authorization or have been added to make the State's regulations internally consistent with changes made for the other authorizations listed in the first paragraph of this section. The EPA has reviewed these provisions and has

determined that they are consistent with and no less stringent than the Federal requirements. Additionally, this authorization does not affect the status of State permits and those permits issued by EPA because no new substantive requirements are a part of these revisions.

State Requirement

Texas Solid Waste Disposal Act (TSWDA) § 361.063(h); Texas Health and Safety Code Ann. (THSC) (Vernon's Supp. 1997), effective September 1, 1996, as amended.
 TSWDA § 361.079; THSC (Vernon's Supp. 1997), effective September 1, 1996, as amended.
 TSWDA § 361.089(d); THSC (Vernon's Supp. 1997), effective September 1, 1996, as amended.
 30 Texas Administrative Code (TAC) § 281.2, introductory paragraph, effective November 7, 1994.
 30 TAC § 281.2(4), effective November 7, 1994.
 30 TAC § 305.50(1), effective November 20, 1996.
 30 TAC § 305.69(c)(11), effective February 26, 1996.
 30 TAC § 305.69(d)(2)(A), effective February 26, 1996.
 30 TAC § 335.112(b), effective November 20, 1996.
 30 TAC § 335.112(c), effective February 26, 1996.
 30 TAC § 335.152(c), effective November 20, 1996.

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 program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Texas is granted final authorization to operate its hazardous waste program as revised. Upon effective final approval

Texas will be responsible for permitting treatment, storage, and disposal facilities within its borders and 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.

II. Corrections

A. Corrections to March 1, 1990 (55 FR 7318) Authorization Document

There were omissions in the table published as part of the March 1, 1990 (55 FR 7318), authorization notice for Texas. The affected entry for that table is shown in the table below. The corrections have been bolded and italicized.

Federal citation	State analog
5. Financial Responsibility—Settlement Agreement—changes to 40 CFR part 260, subpart B; 264 subparts G and H; 265, subparts G and H; and 270, subparts B, D, and G—as published in the Federal Register on May 2, 1986..	5. 31 TAC §§ 335.1; 335.152(a)(5) and (6); 335.178; 335.112(a)(6) and (7); 335.118(a) and (b); 335.119; 335.127; 305.50(4); 305.51; 305.62(c)(2)(C)(x) and 305.64(g), revised July 14, 1987.

B. Corrections to April 11, 1994 (59 FR 16987) Authorization Document

There was a typographical error in the table published as part of the April 11, 1994 (59 FR 16987) authorization notice for Texas. The affected entry, No. 26, for that table regarding Checklist 54 incorrectly cites 305.184(1)–(3).

Subparagraph (3) was removed by Checklist 54. The correct citation is 305.184(1)–(2).

C. Corrections to the September 12, 1997 (62 FR 47947) Authorization Document

There were numerous typographical and effective date errors in the tables

published as part of the September 12, 1997 (62 FR 47947) authorization notice for Texas. The affected entries for that table are shown in the table below. The corrections have been bolded and italicized. In addition, entry No. 39 is added to the table.

Federal citation	State analog
2. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments I, July 17, 1991 (56 FR 32688). (Checklist 94).	TSWDA, Chapter 361, Secs. 361.003(12), 361.061, 361.064 THSC Ann., (Vernon 1992 and Supplement 1996), effective September 1, 1995, as amended; TSWDA and THSC Sec. 361.032 (Vernon Supplement 1996), effective August 28, 1995, as amended, TSWDA and THSC Secs. 361.036, 361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC Sec. 305.50(4)(A), effective November 23, 1993, Sec. 305.69(d)(1)(D), effective February 26, 1996, as amended, Title 30 TAC 305.69(h)(1), effective February 22, 1994, as amended, Sec. 335.69(h)(1)(A), Title 30 TAC Sec. 305.69(h)(1)(D), effective February 26, 1996, as amended, Title 30 TAC 305.69(i), L.5, effective July 29, 1992, as amended, Title 30 TAC Secs. 305.572 (<i>introductory paragraph</i>), 305.572(1), 305.572(2), and 305.572(5), effective July 29, 1992, as amended, November 20, 1996, as amended, Title 30 TAC Sec. 305.42(b), effective October 29, 1990, as amended and Title 30 TAC Sec. 335.43(b), effective November 7, 1991, as amended, Title 30 TAC Sec. 335.24(b), effective September 1, 1986, Title 30 TAC Sec. 335.24(b)(2), effective September 1, 1986, Title 30 TAC Sec. 335.112(a) (112)(a)(15), TAC Secs. 335.221(b)(1), effective February 26, 1996, as amended, 335.221(b)(3), effective July 29, 1992, as amended, Title 30 TAC Sec. 335.221(b)(2), effective March 1, 1996, and 1992, as amended, Secs. 335.221(a)(3), 335.221(a)(5), 335.221(a)(6), 335.221(a)(7), 335.221(a)(10), 335.221(a)(11), 335.221(a)(15), 335.221(a)(17), 335.221(a)(13), 335.221(a)(18), 335.221(a)(19), 335.221(a)(20), 335.221(a)(21), 335.221(a)(23), effective March 1, 1996, as amended, Title 30 TAC Sec. 335.224(5), effective February 26, 1996, Title 30 TAC Sec. 335.24(b), effective September 1, 1996, as amended, Title 30 Sec. 335.24(b)(2), effective September 1, 1986, Title 30 TAC Sec. 335.112(a)(15), effective November 23, 1993, as amended, Title 30 TAC Secs. 335.221(a), 335.221(a) (1) and (9) effective March 1, 1996, as amended, Title 30 TAC Sec. 335.112(a)(6), effective February 26, 1996, as amended, Title 30 TAC Secs. 335.224(5)(H), 335.224(5)(H)(i), and 335.224(5)(H)(ii), effective February 26, 1996, as amended, Title 30 TAC Sec. 335.224(7), effective November 23, 1993 as amended, Title 30 TAC Sec. 335.224(14), effective February 26, 1996, as amended, Title 30 TAC Secs. 335.221(a)(4), and 335.221(a)(22), effective March 1, 1996, as amended, Title 30 TAC Sec. 335.1, effective February 26, 1996, as amended, Title 30 TAC Sec. 20.15, effective June 6, 1996, Title 30 TAC 335.41(g), effective March 6, 1996, as amended, Title 30 TAC Sec. 335.222(c)(1), effective July 29, 1992, as amended, and Title 30 TAC Sec. 335.222(c)(2), effective February 26, 1996, as amended.
* * * * *	
4. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendments II, August 27, 1991 (56 FR 42504). (Checklist 96).	TSWDA Chapter 361, THSC Secs. 361.003(34), 361.024(Vernon 1992 & Supp. 1996) effective September 1, 1995, as amended, TSDWA, THSC Sec. 361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC Sec. 335.1, effective March 1, 1996, as amended, TSWDA, THSC Secs. 361.003(12), 361.024, 361.061 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC Sec. 361.032 (Vernon Supp 1996), effective August 28, 1995, as amended, TSWDA, THSC Secs. 361.036, 361.078 (Vernon 1992), effective September 1, 1989, TAC Sec. 2001.021 Texas Government Code Ann. (Vernon Supp 1996) effective September 1, 1993, Title 30 TAC Secs. 335.24(b), 335.24(b)(2), effective September 1, 1986, effective November 23, 1993, as amended, Sec. 335.221(b)(1), effective March 6, 1996, as amended, Sec. 335.221(b)(3), effective July 29, 1992, as amended, Sec. 335.221(b)(2), effective March 1, 1996, 1992, as amended, Secs. 335.221(a) (1), (3), (5), (6), (7), (9), (10), (11), (13), (14), (15), (17), (18), (19), (20), (21), (23), Sec. 335.221(a) effective March 1, 1996, Sec. 335.224(5), effective February 26, 1996, Secs. 305.572 (<i>introductory paragraph</i>), 1992, as amended, Sec. 335.112(a)(6), effective February 26, 1996, Sec. 335.112(a) (1), (9), effective February 26, 1996, Secs. 335.224(5)(H), (i)–(ii), effective February 26, 1996, Sec. 335.224(7), effective 335.223(b), effective July 29, November 23, 1993, Sec. 335.224(14), effective February 26, 1996, Sec. 335.221(a)(22), effective March 1, 1996, Sec. 335.1, effective February 26, 1996, Sec. 20.15, effective June 6, 1996, Sec. 335.41(g), effective March 6, 1996, Sec. 335.222(c)(1), July 29, 1992, and Sec. 335.222(c)(2), effective February 26, 1996 as amended.

Federal citation	State analog
<p>15. Land Disposal Restrictions for Newly Listed Wastes and Hazardous Debris, (57 FR 37194–37282) August 18, 1992. (Checklist 109).</p>	<p>TSWDA, THSC, Secs. 361.003(12), 361.024, 361.064, (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC, Sec. 361.078 (Vernon 1992), effective 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC Sec. 361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC Sec. 355.1, effective July 14, 1987, as amended, Title 30 TAC Sec. 335.431(c)(1) and (c)(3), effective March 22, 1995, as amended, Title 30 TAC Sec. 305.50(4)(A), effective November 23, 1993, as amended, TSWDA, THSC, Secs. 361.024 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC Sec. 361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC Sec. 335.1, effective February 26, 1996, as amended, Title 30 TAC Sec. 335.69(a)(1)(C), effective February 26, 1996, as amended, Title 30 TAC Sec. 335.69(a)(1)(D), Title 30, TAC Sec. 335.69(a)(1)(D)(i)–(ii), Title 30 TAC Sec. 335.69(a)(2), Title 30 TAC Sec. 335.152(a)(5)–(6), Title 30 TAC Sec. 335.152(a)(19), Title 30 TAC Sec. 335.112(a)(6), Sec. 335.112 (a)(7), Title 30 TAC Sec. 335.118(b), Title 30 TAC Secs. 335.112(a)(10) and (21), effective February 26, 1996, as amended, Title 30 TAC Sec. 305.69(f)(5)(B)(ii), Title 30 TAC Sec. 305.69(i), I.6, Title 30 TAC Sec. 305.69(i), (N), Title 30 TAC Sec. 305.51(c)(6), effective February 26, 1996.</p>
<p>17. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment III, [57 FR 38558–38566] August 25, 1992. (Checklist 111).</p>	<p>TSWDA Chapter 361, THSC Secs. 361.003(34), 361.024 (Vernon 1992 & Supp. 1996) effective September 1, 1995, as amended, TSDWA, THSC Sec. 361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC Sec. 335.1, effective March 1, 1996, as amended, TSWDA, THSC Secs. 361.003(12), 361.024, 361.061 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC Sec. 361.032 (Vernon Supp 1996), effective August 28, 1995, as amended, TSWDA, THSC Secs. 361.036, 361.078 (Vernon 1992), effective September 1, 1989, TAC Sec. 2001.021 Texas Government Code Ann. (Vernon Supp 1996) effective September 1, 1993, Title 30 TAC Secs. 335.24(b), 335.24(b)(2), effective September 1, 1986, Sec. 335.221(b)(2), effective March 1, 1996, 1992, as amended, Secs. 335.221(a)(1), (10), (11), (15), (17), (18), (19), (23), Sec. 335.221(a) effective March 1, 1996, Sec. 335.224(5), effective February 26, 1996, Sec. 335.223(b), effective July 29, 1992, as amended, Sec. 335.112(a)(1), (9), effective February 26, 1996, Secs. 335.224(5)(H), (i)–(ii), effective February 26, 1996, Sec. 335.224(7), effective November 23, 1993, Sec. 335.224(14), effective February 26, 1996, Sec. 335.221(a)(22), effective March 1, 1996, Sec. 335.1, effective February 26, 1996, Sec. 20.15, effective June 6, 1996, Sec. 335.41(g), effective March 6, 1996, Sec. 335.222(c)(1), July 29, 1992, and Sec. 335.222(c)(2), effective February 26, 1996 as amended.</p>
<p>18. Consolidated Liability Requirements, (53 FR 33938–33960) July 1, 1991, and [57 FR 42832–42844] September 16, 1992. (Checklists 113, 113.1, & 113.2).</p>	<p>TSWDA, THSC, Secs. 361.024, 361.085 (Vernon 1992 Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC, Sec. 361.078 (Vernon 1992), effective September 1, 1989; Title 30 TAC Secs. 335.152(a)(6), 335.152(a)(6)(C), effective February 26, 1996, as amended, Title 30 TAC Secs. 335.112(a)(7), 335.152(a)(6), effective February 26, 1996, as amended.</p>
<p>19. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment IV, (57 FR 44999–45001) September 30, 1992. (Checklist 114).</p>	<p>TSWDA Chapter 361, THSC Secs. 361.003(34), 361.024 (Vernon 1992 & Supp. 1996) effective September 1, 1995, as amended, TSDWA, THSC Sec. 361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC Sec. 335.1, effective March 1, 1996, as amended, TSWDA, THSC Secs. 361.003(12), 361.024, 361.061 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC Sec. 361.032 (Vernon Supp 1996), effective August 28, 1995, as amended, TSWDA, THSC Secs. 361.036, 361.078 (Vernon 1992), effective September 1, 1989, TAC Sec. 2001.021 Texas Government Code Ann. (Vernon Supp 1996) effective September 1, 1993, Title 30 TAC Secs. 335.24(b), 335.24(b)(2), effective September 1, 1986, Sec. 335.221(b)(2), effective March 1, 1996, 1992, as amended, Secs. 335.221(a) (3), (5), (6), (7), (10), (11), (13), (15), (17), (18), (19), (20), (21), (23), Sec. 335.221(a) effective March 1, 1996, Sec. 335.224(5), effective February 26, 1996, Sec. 335.223(b), effective July 29, 1992, as amended, Sec. 335.112(a)(1), (9), effective February 26, 1996, Secs. 335.224(5)(H), (i)–(ii), effective February 26, 1996, Sec. 335.224(7), effective November 23, 1993, Sec. 335.224(14), effective February 26, 1996, Sec. 335.221(a)(22), effective March 1, 1996, Sec. 335.1, effective February 26, 1996, Sec. 20.15, effective June 6, 1996, Sec. 335.41(g), effective March 6, 1996, Sec. 335.222(c)(1), July 29, 1992, and Sec. 335.222(c)(2), effective February 26, 1996 as amended.</p>
<p>20. Chlorinated Teluene Production Waste Listing, (57 FR 47376–47386) October 15, 1992. (Checklist 115).</p>	<p>TSWDA, THSC, Secs. 361.003(12), 361.024 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC Sec. 361.078 (Vernon 1992), effective September 1, 1989, as amended, Title 30 TAC Sec. 335.1, effective July 14, 1987, as amended, Title 30 TAC Sec. 335.29(4), effective November 20, 1996, as amended.</p>
<p>26. Wood Preserving; Revisions to Listings and Technical Requirements, (57 FR 61492–61505) December 24, 1992. (Checklist 120).</p>	<p>Safety Code (THSC) Annotated Secs. 361.003(34), 361.024 (Vernon 1992 and Supplement 1996), effective September 1, 1995, as amended; TSWDA and THSC Sec. 361.078 (Vernon 1992), Title 30 Texas Administrative Code (TAC) Chapter Sec. 335.1, March 1, 1996, as amended, Sec. 335.1 effective July 14, 1987, Title 30 TAC Secs. 335.152(a)(15), 335.112(a)(18), effective November 23, 1993.</p>

Federal citation	State analog
28. Recycled Used Oil Management Standards, (57 FR 41566) September 10, 1992, (58 FR 26420) May 3, 1993, (58 FR 33341) June 17, 1993, (59 FR 10550) March 4, 1994. (Checklists 112, 122, 122.1 and 130).	Texas Used Oil Collection, Management, and Recycling Act, Chapter 371, THSC (Vernon Supp 1992), effective September 1, 1995, as amended (H&SC); Title 30 TAC Chapter 324, Secs. 324.1 through 324.21, effective March 6, 1996, Secs. 335.6(j), 335.41(g), 335.78(j), 335.221(b)(1), 335.504(1), 335.504(4), Secs. 324.1, 324.2, 324.3, and 324.4, effective March 6, 1996. 30 TAC Secs. 335.1 definition of "used oil", 335.24(b) & (c), effective March 1, 1996. The Texas Used Oil Collection, Management, and Recycling Act in 30 TAC Chapter 324 Subchapter A are more stringent than the federal program for management of used oil. THSC Sec. 371.041(b)(4) expressly prohibits the intentional application of used oil to roads or land for dust suppression without exception. The Code allows Do-it-Yourself Used Oil Collection center that is also a used oil generator to commingle household DIY oil with the used oil it generates. The code also requires a DIY used oil collection center to register biennially and report annually the amount of household used oil collected.
30. Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated, (58 FR 29860-29887) May 24, 1993. (Checklist 124).	TSWDA, THSC, Secs. 361.024, 361.064 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC, Sec. 361.078 (Vernon 1992), effective September 1, 1989; Title 30 TAC Secs. 335.41(d)(1) effective March 6, 1996, as amended, 335.431(c) (1) effective March 22, 1995, and Title 30 TAC Sec. 305.69(i), B, effective February 26, 1996, as amended.
32. Testing and Monitoring Activities, (58 FR 46040-46051), August 31, 1993. (Checklist 126).	Tex. Water Code Ann. Sec. 5.103 (Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA Chapter 361, Sec. 361.024, THSC (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA Chapter 361 Sec. 361.078 THSC (Vernon 1992), effective September 1, 1989; TSWDA Chapter 361, Sec. 361.003, THSC (Vernon 1992), effective September 1, 1991, as amended; Title 30 TAC Sec. 335.1 effective January 26, 1994, as amended; Secs. 335.31, 335.29(2)-(3), 335.152(a)(8), 335.175(c), 335.112(a)(9), 335.125(d), 305.150, 305.172(2)(A)(iii)-(iv), 305.572 (introductory paragraph) 305.572(2), effective November 20, 1996, as amended, Secs. 335.431(c)(1), (3), effective March 22, 1995, and 305.50(A), effective November 23, 1993.
34. Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection, (59 FR 458-469) January 4, 1994. (Checklist 128).	Tex. Water Code Ann. Sec. 5.103 (Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA, Chapter 361, Sec. 361.024, THSC (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended; TSWDA, Chapter 361, Sec. 361.078 THSC (Vernon 1992) effective September 1, 1989; Title 30 TAC Secs. 335.29(5) and 335.31, effective November 20, 1996.
35. Recordkeeping Instructions; Technical Amendment, (59 FR 13891-13893) March 24, 1994. (Checklist 131).	Tex. Water Code Ann. Sec. 5.103 (Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA, Chapter 361, Sec. 361.024, THSC (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended; TSWDA Chapter 361, Sec. 361.078, THSC (Vernon 1992), effective September 1, 1989; Title 30 TAC Secs. 335.152 (20)(A), and 335.112(a)(22)(A), effective November 20, 1996.
36. Wood Surface Protection; Correction, (59 FR 28484) June 2, 1994. (Checklist 132).	Tex. Water Code Ann. Sec. 5.103 (Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA, Chapter 361, Sec. 361.024, THSC (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended; TSWDA, Chapter 361, Sec. 361.078 THSC (Vernon 1992) effective September 1, 1989; Title 30 TAC Sec. 335.31, effective November 20, 1996.
37. Letter of Credit Revision, (59 FR 29958-29960) June 10, 1994. (Checklist 133).	Tex. Water Code Ann. Sec. 5.103 (Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA Chapter 361, Sec. 361.024 THSC (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended; TSWDA Chapter 361, Sec. 361.078 THSC (Vernon 1992), effective September 1, 1989; Title 30 TAC Sec. 335.152(a)(6), effective November 20, 1996.
38. Correction of Beryllium Powder (P015) Listing, (59 FR 31551-31552) June 20, 1994. (Checklist 134).	Tex. Water Code Ann. Sec. 5.103 (Vernon & Supp. 1996), effective September 1995, as amended; TSWDA, Chapter 361, Sec. 361.024, THSC (Vernon 1992 & Supp. 1996), effective September 1995, as amended; TSWDA, Chapter 361, Sec. 361.0 THSC (Vernon 1992) effective September 1989; Title 30 TAC Sec. 335.1, effective January 26, 1994, as amended; Sec. 335.29(5), effective November 20, 1996; and 335.431(c)(1), effective March 22, 1995, as amended.
39. Revision of Conditional Exemption for Small Scale Treatability Studies (59 FR 8362-8366), February 18, 1994. (Checklist 129).	Title 30 Texas Administrative Code (TAC) Chapter 335 Sec. 335.2(g) as amended effective November 20, 1996.

III. Incorporation By Reference

A. Background

Effective December 3, 1997 (62 FR 49163), EPA incorporated by reference Texas' then authorized hazardous waste program. Effective November 26, 1997 (62 FR 47947), EPA granted authorization to Texas for additional program revisions. In this document, EPA is incorporating the currently authorized State hazardous waste program in Texas RCRA Clusters II through IV.

The EPA provides notice of its approval of State programs in 40 CFR part 272 and incorporates by reference therein the State statutes and regulations that are part of the authorized State program under RCRA. This effort will provide clearer notice to the public of the scope of the authorized program in Texas. Such notice is particularly important in light of HSWA, PL 98-616. Revisions to State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. Because HSWA extensively amended RCRA, State programs must be modified to reflect those amendments. By incorporating by reference the authorized Texas program and by amending the CFR whenever a new or different set of requirements is authorized in Texas, the status of Federally approved requirements of the Texas program will be readily discernible.

The Agency will only enforce those provisions of the Texas Hazardous Waste Program for which authorization approval has been granted by EPA.

B. Texas Authorized Hazardous Waste Program

The EPA is revising the incorporation by reference of the Texas authorized hazardous waste program in subpart SS of 40 CFR part 272. The State statutes and regulations are incorporated by reference at 40 CFR 272.2201(b)(1) and the Memorandum of Agreement, the Attorney General's Statement and the Program Description are referenced at §§ 272.2201(b)(5), (b)(6) and (b)(7), respectively.

The Agency retains the authority under sections 3007, 3008, 3013 and 7003 of RCRA to undertake enforcement actions in authorized States. With respect to such an enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and the Federal Administrative Procedure Act rather than the authorized State analogues to these requirements.

Therefore, the Agency does not intend to incorporate by reference for purposes

of enforcement such particular, authorized Texas enforcement authorities. Section 272.2201(b)(2) of 40 CFR lists those authorized Texas authorities that are part of the authorized program but are not incorporated by reference.

The public also needs to be aware that some provisions of the State's Hazardous Waste Program are not part of the federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C, 40 CFR 271.1(i);

(2) Unauthorized amendments to authorized State provisions.

State provisions which are "broader in scope" than the Federal program are not incorporated by reference for purposes of enforcement in 40 CFR part 272. Section 272.2201(b)(3) of 40 CFR lists for reference and clarity the Texas statutory and regulatory provisions which are "broader in scope" than the Federal program and which are not, therefore, part of the authorized program being incorporated by reference. "Broader in scope" provisions will not be enforced by EPA; the State, however, will continue to enforce such provisions.

Since EPA cannot enforce a State's requirements which have not been reviewed and approved according to the Agency's authorization standards, it is important that EPA clarify any limitations on the scope of a State's approved hazardous waste program. Thus, in those instances where a State has made unauthorized amendments to previously authorized sections of State code, EPA will provide this clarification by: (1) incorporating by reference the relevant State legal authorities according to the requirements of the Office of Federal Register; and (2) subsequently identifying in § 272.2201(b)(4) any requirements which while adopted and incorporated by reference, are not authorized by EPA, and therefore are not federally enforceable. Thus, notwithstanding the language in the Texas hazardous waste regulations incorporated by reference at § 272.2201(b)(1), EPA would only enforce the State provisions that are actually authorized by EPA. For the convenience of the regulated community, the actual State regulatory text authorized by EPA for the citations listed at § 272.2201(b)(4) is compiled as a separate document, Addendum to the EPA-Approved Texas Regulatory and Statutory Requirements Applicable to the Hazardous Waste Management Program, December, 1997. This

document is available from EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. With respect to HSWA requirements for which the State has not yet been authorized, EPA will continue to enforce the Federal HSWA standards until the State receives specific HSWA authorization from EPA.

C. HSWA Provisions

As noted above, the Agency is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are immediately effective in Texas and other States. Section 3006(g) of RCRA provides that any requirement or prohibition of HSWA (including implementing regulations) takes effect in authorized States at the same time that it takes effect in non-authorized States. Thus, EPA has immediate authority to implement a HSWA requirement or prohibition once it is effective.

A HSWA requirement or prohibition supercedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985).

Because of the vast number of HSWA statutory and regulatory requirements taking effect over the next few years, EPA expects that many previously authorized and incorporated by reference State provisions will be affected. The States are required to revise their programs to adopt the HSWA requirements and prohibitions by the deadlines set forth in 40 CFR 271.21, and then to seek authorization for those revisions pursuant to 40 CFR part 271. The EPA expects that the States will be modifying their programs substantially and repeatedly. Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR part 272 incorporation by reference. In the interim, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. This will be particularly true as more State program revisions to adopt HSWA provisions are authorized.

IV. Regulatory Requirements

A. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of \$100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Texas program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because

UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate hazardous waste treatment, storage or disposal facilities (TSDFs), they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

B. Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. The EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does

not require a regulatory flexibility analysis.

C. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

D. Compliance With Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Executive Order 12866.

E. Compliance With E.O. 12875-Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, the EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1 (a) of E.O. 12875 do not apply to this rule.

F. Compliance With E.O. 13045—Protection of Children From Environmental Health Risk and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any rule that: (1) the OMB determines is "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

G. Compliance with E.O. 13084—Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This rule is not subject to E.O. 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. Texas is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA

implements in the Indian country within the State.

H. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 272

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority

This document 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: June 24, 1999

Jerry Clifford,

Deputy Regional Administrator, Region 6.

For the reasons set forth in the preamble, 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for part 272 continues to read as follows:

Authority: Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Subpart SS is amended by revising § 272.2201 to read as follows:

§ 272.2201 Texas State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted Texas final authorization for Base program effective on December 26, 1984. Subsequent program revision applications were approved effective on October 4, 1985, February 17, 1987, March 15, 1990, July 23, 1990, October 21, 1991, December 4, 1992, June 27, 1994, November 26, 1997, December 3, 1997, and November 15, 1999.

(b) State statutes and regulations.

(1) The Texas statutes and regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(i) The EPA Approved Texas Statutory Requirements Applicable to the Hazardous Waste Management Program, December 1997.

(ii) The EPA Approved Texas Regulatory Requirements Applicable to the Hazardous Waste Management Program, December 1997.

(2) The following statutes and regulations concerning State procedures and enforcement, although not incorporated by reference, are part of the authorized State program:

(i) Texas Health and Safety Code (THSC) Annotated, (Vernon, 1992), effective September 1, 1991: Chapter 361, The Texas Solid Waste Disposal Act, sections 361.002, 361.017 (except 361.017(d)&(e)), 361.024(b)-(d), 361.033, 361.036, 361.037(a), 361.063(b), 361.063(e)-(g), 361.063(i), 361.063(k)&(l), 361.066(b), 361.078, 361.080(a), 361.082(b), 361.082(c) (except second sentence), 361.082(e), 361.084(c) (except the phrase "or evidence of * * * waste management"), 361.085(a)-(d), 361.088(b), 361.089(g), 361.090, 361.095(b)-(f), 361.096, 361.097, 361.098(a) (except the phrase "Except as provided in subsections (b) and (c)."), 361.099(a), 361.100, 361.101, 361.103 through 361.108, 361.109(a), 361.221 (except 361.221(c)&(e)), 361.222 (except 361.222(d)-(u)), 361.223(c), 361.227, 361.301, 361.303, 361.321(b),

361.321(c) (except the phrase "Except as provided by section 361.322(a)"), and 361.321(d); Chapter 371, Texas Oil Collection, Management, and Recycling Act, sections 371.043(a)&(b), 371.044(b) and 371.045.

(ii) Texas Health and Safety Code (THSC) Annotated, (Vernon, 1997 Supplement), effective September 1, 1996: Chapter 361, The Texas Solid Waste Disposal Act, sections 361.016, 361.017(d)&(e), 361.018, 361.024(a), 361.024(e), 361.032, 361.061, 361.063(a), 361.063(c), 361.063(d), 361.063(j), 361.063(h), 361.064, 361.067, 361.068(a), 361.069 (except last sentence), 361.079, 361.083, 361.084 (except 361.084(c)), 361.085(e)-(j), 361.088(a)&(c), 361.089(a)-(f), 361.102(a) (except the phrase "Except as provided by subsections (b) and (c)"), 361.223(a)&(b), 361.224(a)&(b), 361.225, 361.226, 361.228, 361.229, 361.301, 361.303, 361.321(a), and 361.321(e) (except the phrase "Except as provided by section 361.322(e)"); Chapter 371, Texas Oil Collection, Management, and Recycling Act, sections 371.0025(b)&(c), 371.003 (introductory paragraph), 371.024(a), 371.024(c)&(d), 371.026(a)&(b), 371.028, 371.041(b)-(d), 371.042, 371.043(c)&(d), and 371.044(a).

(iii) Texas Water Code (TWC), Texas Codes Annotated (Vernon, 1992), effective September 1, 1985, as amended: Chapter 5, sections 5.103, 5.104, 5.105; Chapter 26, section 26.011; and Chapter 27, section 27.019.

(iv) Texas Administrative Code (TAC), Title 30, Environmental Quality, 1994, as amended, effective through January 1,

1994: Chapter 305, sections 305.98 and 305.99.

(v) Texas Administrative Code (TAC), Title 30, Environmental Quality, 1997, as amended, effective through January 1, 1997: Chapter 281, sections 281.1 (except the clause "except as provided by * * * Prioritization Process"), 281.2 (introductory paragraph), 281.2(4), 281.3(a)&(b), 281.5, 281.17(d)-(f), 281.18(a), 281.19, 281.20, 281.21 (except 281.21(e)), 281.22(a)&(b), 268.23 281.24; Chapter 305, sections 305.29(b)&(c), 305.64(d)&(f), 305.66(c), 305.66(e)-(l), 305.91 through 305.95, 305.97, 305.100, 305.101 (except 305.101(c)), 305.102, 305.103, 305.105, 305.123, 305.125(1)&(3), 305.125(20), 305.127(1)(B)(i), 305.127(4)(A)&(C), 305.127(6), 305.401 (except 305.401(c)); Chapter 324, sections, 324.17 through 324.20; and Chapter 335, sections 335.2(b), 335.206, 335.391 through 335.393.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) Texas Health and Safety Code (THSC) Annotated, (Vernon 1992), effective September 1, 1991: Chapter 361, The Texas Solid Waste Disposal Act, sections 361.131 through 361.140; Chapter 371, Texas Oil Collection, Management, and Recycling Act, sections 371.021, 371.022, 371.024(e), 371.025, and 371.026(c).

(ii) Texas Health and Safety Code (THSC) Annotated, (Vernon 1997 Supplement), effective September 1, 1996: Chapter 361, The Texas Solid

Waste Disposal Act, sections 361.131 through 361.140; Chapter 371, Texas Oil Collection, Management, and Recycling Act, sections 371.021, 371.022, 371.024(e), 371.0245, 371.0246, 371.025, and 371.026(c).

(iii) Texas Administrative Code (TAC), Title 30, Environmental Quality, 1997, as amended, effective through January 1, 1997: Chapter 305, sections 305.27 (as it pertains to solid waste), 305.53, 305.64(b)(4); and Chapter 335, sections 335.321 through 335.332 and Appendices I and II.

(4) Unauthorized State Amendments. The following authorized provisions of the Texas regulations include amendments published in the Texas Register that are not approved by EPA. Such unauthorized amendments are not part of the State's authorized program and are, therefore, not Federally enforceable. Thus, notwithstanding the language in the Texas hazardous waste regulations incorporated by reference at § 272.2201(b)(1), EPA will only enforce the authorized State provisions with the effective dates indicated in the following table. The actual State regulatory text authorized by EPA for the listed provisions is available as a separate document, Addendum to the EPA-Approved Texas Regulatory and Statutory Requirements Applicable to the Hazardous Waste Management Program, December, 1997. Copies of the document can be obtained from U.S. EPA Region 6, Grants and Authorization Section, RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202.

State provision	Effective date of authorized provision	Unauthorized state amendments	
		Texas Register reference	Effective date
335.2(c)	11/7/91	18 TexReg 2799	5/12/93
		18 TexReg 8218	11/23/93
335.6(a)	7/29/92	18 TexReg 2799	5/12/93
335.6(c) introductory paragraph	7/29/92	17 TexReg 8010	11/27/92
		20 TexReg 2709	4/24/95
		20 TexReg 3722	5/30/95
		21 TexReg 1425	3/1/96
		21 TexReg 2400	3/6/96
335.6(g)	7/29/92	18 TexReg 3814	6/28/93
335.10(b)(22)	7/27/88	17 TexReg 8010	11/27/92
335.24(b) introductory paragraph	3/1/96	21 TexReg 10983	11/20/96
335.24(c) introductory paragraph	3/1/96	21 TexReg 10983	11/20/96
335.41(c)	9/1/86	18 TexReg 8218	11/23/93
335.45(b)	9/1/86	17 TexReg 5017	7/29/92
335.204(a)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(b)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(b)(6)	5/28/86	16 TexReg 6065	11/7/91
335.204(c)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(d)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(e)(6)	5/28/86	16 TexReg 6065	11/7/91

(5) Memorandum of Agreement. The Memorandum of Agreement between EPA Region VI and the Texas Natural Resource Conservation Commission (TNRCC), signed by the EPA Regional Administrator on July 24, 1997, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) Statement of Legal Authority. "Attorney General's Statement for Final Authorization", signed by the Attorney General of Texas on May 22, 1984 and revisions, supplements and addenda to that Statement dated November 21, 1986, July 21, 1988, December 4, 1989, April 11, 1990, July 31, 1991, February 25, 1992, November 30, 1992, March 8, 1993, January 7, 1994, August 9, 1996, October 16, 1996, as amended February 7, 1997, and March 11, 1997, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) Program Description. The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

3. Appendix A to part 272, State Requirements, is amended by revising the listing for "Texas" to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Texas

The statutory provisions include:

Texas Health and Safety Code (THSC) Annotated, (Vernon 1992), effective September 1, 1991: Chapter 361, The Texas Solid Waste Disposal Act, sections 361.003 (introductory paragraph), 361.003(1), 361.082(a), 361.082(f), 361.086, 361.087, 361.093, 361.095(a), 361.099(b), and 361.110; Chapter 371, The Texas Oil Collection, Management, and Recycling Act, section 371.041(a).

Texas Health and Safety Code (THSC) Annotated, (Vernon 1997 Supplement), effective September 1, 1996: Chapter 361, The Texas Solid Waste Disposal Act, sections 361.003 except (3), (4), (19), (27), (35) and (39), 361.066(a), and 361.094; Chapter 371, The Texas Oil Collection, Management, and Recycling Act, sections 371.003, 371.024(b), and 371.026(d).

Copies of the Texas statutes that are incorporated by reference are available from West Publishing Company, 610 Opperman Drive, P. O. Box 64526, St. Paul, Minnesota 55164-0526.

The regulatory provisions include:

Texas Administrative Code (TAC), Title 30, Environmental Quality, 1994, as amended,

effective through January 1, 1994: Chapter 305, section 305.50(4); Chapter 335, sections 335.6(d) (except last sentence), 335.6(e), 335.9(b), 335.10(a) (introductory paragraph), 335.10(a)(1), 335.10(b)(5)&(8), 335.13(c)&(d), 335.13(g), 335.15 (introductory paragraph), 335.23(2), 335.24(e), 335.71, 335.214(a).

Texas Administrative Code (TAC), Title 30, Environmental Quality, 1997, as amended, effective through January 1, 1997: Chapter 20, section 20.15; Chapter 281, section 281.3(c); Chapter 305, 305.1(a), 305.2 (except the definitions for "by-pass," "Class I sludge management facility," "component," "continuous discharge," "CWA," "daily average concentration," "daily average flow," "direct discharge," "discharge monitoring report," "effluent limitation," "Environmental Protection Agency," "facility mailing list," "functionally equivalent component," "indirect discharger," "injection well permit," "National Pollution Discharge Elimination System," "new discharger," "new source," "outfall," "primary industry category," "process wastewater," "publicly owned treatment works," "recommencing discharger," "regional administrator," "schedule of compliance," "severe property damage," "sewage sludge," "Texas pollution discharge elimination system," "toxic pollutant," "treatment works treating domestic sewage," "variance," and "wetlands"), 305.29(a)&(d), 305.41, 305.42, 305.43(b), 305.44, 305.45, 305.47, 305.50 (introductory paragraph), 305.50(1), 305.50(2) (except the paragraph beginning "Also to be submitted are listings * * * to the end of the subsection), 305.50(3), 305.50(5)-(8), 305.50(13)&(14), 305.51, 305.61, 305.62(a) (except the phrase "§ 305.70 of this title * * * Solid Waste Class I Modifications" in the first sentence and the fifth sentence "If the permittee requests a modification of a municipal solid waste permit * * * Solid Waste Class I Modifications."), 305.62(b)-(h), 305.63 (introductory paragraph), 305.63(1)&(2), 305.63(3) (except the last sentence), 305.63(4)-(6), 305.64(a), 305.64(b) (except 305.64(b)(4)&(5)), 305.64(c), 305.64(e), 305.64(g), 305.66(a) (except 305.66(a)(7)&(8)), 305.67, 305.69 (except 305.69(i) A.8-A.10), 305.121, 305.122(a)-(c), 305.124, 305.125 (except 305.125(1), (3), and (20)), 305.127 (introductory paragraph), 305.127(1)(B)(iii), 305.127(1)(E)&(F), 305.127(2)&(3), 305.127(4)(B), 305.127(5)(C), 305.128, 305.141 through 305.145, 305.146 (introductory paragraph), 305.146(1), 305.150, 305.171 through 305.174, 305.181 through 305.184, 305.191 through 305.194, 305.401(c), 305.571, 305.572 (except the date "September 5, 1991" in the (introductory paragraph)), 305.573; Chapter 324, sections, 324.1 through 324.4, 324.6, 324.7, 324.11 through 324.16, 324.21; Chapter 335, sections 335.1 (introductory paragraph), 335.1 (except the definitions for "activities associated with the exploration, development, and protection of oil or gas, or geothermal resources," "class 1 wastes," "class 2 wastes," "class 3 wastes," "commercial hazardous waste facility," "contaminant," "contaminated medium/media," "control," "decontaminate," "essentially insoluble," "hazardous industrial waste," "hazardous substance,"

"industrial solid waste," "Petroleum substance," "remediation," "remove," "shipment," "spill," and "treatment"), 335.2(a), 335.2(c)-(g), 335.2(i)&(j), 335.4, 335.5, 335.6(a)-(c), 335.6(f)-(j), 335.7, 335.8(a)(3)&(4), 335.9 (except 335.9(b)), 335.10(a)(3) (except the phrase "unless the generator is identified in paragraph (2) of this section"), 335.10(a)(4), 335.10(a)(6), 335.10(b) (except 335.10(b)(5)&(8)), 335.10(c) (except the phrase "the United States customs official,"), 335.10(d)-(f), 335.11 (except 335.11(d)), 335.12 (except 335.12(a)(5)), 335.13(a), 335.13(e)&(f), 335.14, 335.15(1), 335.17, 335.18, 335.19, 335.20 through 335.22, 335.23 (except 335.23(2)), 335.24(a)-(d), 335.24(f), 335.29, 335.30, 335.31, 335.41(a)-(h), 335.43 through 335.45, 335.47 (except the second sentence in 335.47(c)(3)), 335.61(a)-(e), 335.63 through 335.68, 335.69(a)-(h), 335.70, 335.73, 335.74, 335.76, 335.77, 335.78 (except 335.78(d)(2)), 335.91 through 335.94, 335.111, 335.112 (except 335.112(a)(17)), 335.113, 335.114(a), 335.115 through 335.123, 335.124 (except second sentence in 335.124(e)), 335.125 through 335.127, 335.151 through 335.153, 335.154(a), 335.155 through 335.178, 335.201(a) (except 335.201(a)(3)), 335.201(c), 335.202 (except the definitions for "active geologic processes," "area subject to active shoreline erosion," "areas of direct drainage," "commercial hazardous waste management facility," "critical habitat of an endangered species," "erosion," "public water system," and "residence"), 335.203, 335.204(a) (introductory paragraph), 335.204(a)(1)-(5), 335.204(b)(1)-(6), 335.204(c)(1)-(5), 335.204(d)(1)-(5), 335.204(e) (introductory paragraph), 335.204(e)(1) (introductory paragraph) (except the phrase "Except as * * * (B) of this paragraph," and the word "event" at the end of the paragraph), 335.204(e)(2)-(7), 335.204(f), 335.205(a)&(b), 335.205(i), 335.211 through 335.213, 335.214(b), 335.221 through 335.226, 335.241, 335.251, 335.361 through 335.367, 335.431, and 335.504.

Copies of the Texas regulations that are incorporated by reference are available from West Publishing Company, 610 Opperman Drive, P. O. Box 64526, St. Paul, Minnesota 55164-0526.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99-1706; MM Docket No. 99-98; RM-9483]

Radio Broadcasting Services; Judsonia, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 237A to Judsonia, Arkansas, as that