

also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of

the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 3, 2005.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

[FR Doc. 05-5407 Filed 3-17-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[R06-OAR-2004-TX-0004; FRL-7886-3]

#### Approval of the Clean Air Act Section 112(l) Program for Hazardous Air Pollutants and Delegation of Authority to the State of Texas

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Texas Commission on Environmental Quality (TCEQ) has submitted requests for receiving delegation of EPA authority for implementation and enforcement of National Emission Standards for Hazardous Air Pollutants (NESHAPs) for all sources. The requests apply to certain NESHAPs promulgated by EPA, as adopted on various dates by TCEQ. The delegation of authority under this notice does not apply to sources located in Indian Country. EPA is providing notice that proposes to approve the delegation of certain NESHAPs to TDEQ.

**DATES:** Written comments must be received on or before April 18, 2005.

**ADDRESSES:** Comments may be mailed to Mr. Jeff Robinson, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the Addresses section of the direct final rule located in the final rules section of the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeff Robinson, Air Permits Section, Multimedia Planning and Permitting Division (6PD-R), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, at (214) 665-6435, or at [robinson.jeffrey@epa.gov](mailto:robinson.jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving TCEQ's request for delegation of authority to implement and enforce certain NESHAPs for all sources (both Part 70 and non-Part 70 sources). TCEQ has adopted certain NESHAPs into Texas' state regulations. In addition, EPA is waiving its notification requirements so sources will only need to send notifications and reports to TCEQ.

The EPA is taking direct final action without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the preamble to the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is published in the Rules section of this **Federal Register**.

**Authority:** 42 U.S.C. 7412.

Dated: March 9, 2005.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. 05-5412 Filed 3-17-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-7886-2]

#### Texas: Final Authorization of State Hazardous Waste Management Program Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The State of Texas has applied for final authorization of certain revisions, identified in Section F in the Supplementary Information, to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these revisions satisfy all the requirements needed to qualify for final authorization, and is proposing to authorize the State's revisions through this action.

**DATES:** This proposed revision is available for public comment for April 18, 2005.

**ADDRESSES:** Submit your comments by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. E-mail: Comments may be sent by electronic mail to [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov).

3. Mail: Send comments to: Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas Texas 75202-2733.

4. Hand Delivery or Courier. Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas Texas 75202-2733.

**Instructions:** Please refer to Docket Number TX-01-05. Do not submit information that you consider to be confidential business information (CBI) or otherwise protected through e-mail. The Federal regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of

encryption, and be free of any defects or viruses.

You can view and copy Texas's application and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following locations: Texas Commission on Environmental Quality (TCEQ), 12100 Park 35, Circle, Austin TX 78753-3087, (512) 239-1121 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

**FOR FURTHER INFORMATION CONTACT:**

Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov), (214) 665-8533, Bruce Jones, Senior Assistant Regional Counsel, Office of Regional Counsel (214) 665-3184 and Darrin Swartz-Larson, RCRA Combustion Team Contact, (214) 665-7115 or submit your questions electronically to [jones.bruced@epa.gov](mailto:jones.bruced@epa.gov) and [swartz-larson.darrin@epa.gov](mailto:swartz-larson.darrin@epa.gov) for more information on the proposed rule to delegate MACT authority to Texas.

**SUPPLEMENTARY INFORMATION:**

**A. Why Are Revisions to State Programs Necessary?**

States which have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask the EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

This is not the first time EPA has taken action on these revisions to Texas' program. On April 15, 2003, EPA published an immediate final rule which covered the same revisions as this Proposal. On June 16, 2003, the revisions of that immediate final rule became effective. EPA discovered that adverse comments were properly filed challenging approval of the immediate final revisions for Texas. Since EPA had

not responded to the comments or properly investigated them prior to finalization of the immediate final rule, EPA was required to withdraw final approval of the immediate final revisions. On July 22, 2003, EPA formally removed the immediate final rule published on April 15, 2003. Significant time has elapsed since EPA removal of the rule, therefore, the Agency is once again publishing these revisions to the Texas program. However, this action is a proposal to take comment on authorizing Texas for the revisions that were removed on July 22, 2003. This will allow the original commenter to resubmit his comments or submit new comments as well as allow other members of the public an opportunity to comment.

In addition, EPA expects to receive adverse comments on these revisions, therefore, publishing as a proposed rule rather than as an immediate final rule conforms with EPA guidance. After the close of the public comment period for today's proposal, EPA will timely publish a document in the **Federal Register** which responds to any comments received and either (a) finalize the proposed decision based on comments, (b) modify the decision and finalize this action, or (c) based on comments, EPA may decide not to finalize this proposal.

The original specific comments raised concerns about public participation in Texas' enforcement program, limits on Federal agencies' ability to comment on certain State actions, whether Texas' regulation of hazardous waste combustors was protective, and whether risk assessments are necessary to ensure protectiveness. EPA specifically requests that any additional comments or information that the public may have on these or other similar related issues be submitted for our consideration on this proposal. In addition, the commenter raised some issues about the interplay between the RCRA rules on emissions from hazardous waste combustors and the Clean Air Act (CAA) rules covering the same emissions. EPA directs the public to the discussion about the interplay between the two rules in Section F of this document. In addition and in a completely separate rulemaking, EPA is also currently proposing to delegate to Texas the authority implementing the CAA rules covering hazardous waste combustors known as the Maximum Achievable Control Technology (MACT) rules. Any specific comments or concerns regarding the delegation to Texas of the MACT rules for combustors in the State of Texas should be

submitted during the public comment period for that proposal.

### **B. What Decisions Have We Made in This Rule?**

EPA concludes that Texas' application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, EPA is proposing to authorize the State's revisions to the Texas hazardous waste program as described in this document. Texas has the responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Texas, including issuing permits, until the State is granted authorization to do so.

### **C. What Is the Effect of Today's Authorization Decision?**

The effect of this decision is that a facility in the State of Texas subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. The State of Texas has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, require monitoring, tests, analyses, or reports; and
- Enforce RCRA requirements and suspend or revoke permits.

This action does not impose additional requirements on the regulated community because the regulations for which the State of Texas is being authorized by today's action are already effective under State law, and are not changed by today's action.

### **D. What Happens if EPA Receives Comments That Oppose This Action?**

EPA believes that, because of the adverse comments received on the original notice in 2003, there will be comments on this proposal as well. If EPA receives comments which oppose this authorization, it will respond to those comments and take the

appropriate final action on the proposal in light of the comments received.

### **E. For What Has the State of Texas Previously Been Authorized?**

Texas received final authorization to implement its Hazardous Waste Management Program on December 12, 1984, effective December 26, 1984 (49 FR 48300). This authorization was clarified in a notice published in the **Federal Register** on March 26, 1985 (50 FR 11858). Texas received final authorization for revisions to its program in notices published in the **Federal Register** on January 31, 1986, effective October 4, 1985 (51 FR 3952); and on December 18, 1986, effective February 17, 1987 (51 FR 45320). EPA authorized the following revisions: March 1, 1990, effective March 15, 1990 (55 FR 7318); on May 24, 1990, effective July 23, 1990 (55 FR 21383); on August 22, 1991, effective October 21, 1991 (56 FR 41626); on October 5, 1992, effective December 4, 1992 (57 FR 45719); on April 11, 1994, effective June 27, 1994, (59 FR 16987); on April 12, 1994, effective June 27, 1994 (59 FR 17273); On September 12, 1997, effective November 26, 1997 (62 FR 47947); and on August 18, 1999 effective October 18, 1999 (64 FR 44836) and July 13, 2000; effective September 11, 2000 (65 FR 43246). EPA incorporated by reference the State of Texas Base Program and additional program revisions in RCRA Clusters III and IV into the CFR on September 14, 1999 (64 FR 49673); effective November 15, 1999. On March 28, 2002, Texas submitted a final complete program revision application, seeking authorization of its program revision in accordance with 40 CFR 271.21.

In 1991, Texas Senate Bill 2 created the Texas Natural Resource 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. House Bill 2912, Article 18, of the 77th Texas Legislature, 2001, changed the name of the TNRCC to the Texas Commission on Environmental Quality (TCEQ) and directed the TNRCC to adopt a timetable for phasing in the change of the agency's name. The TNRCC decided to make the change of the agency's name to TCEQ effective September 1, 2002. The change of name became effective September 1, 2002, and the legislative history of the name change is documented in the Attorney General Statement. The TCEQ may perform any act for which it was authorized as either TNRCC or TWC.

Therefore, references to TCEQ are references to TWC and to its successor, TNRCC. For further legislative history on the name-change (*See*, Act of June 15, 2001, 77th Leg. R. S., Ch 965, Section 18.01, 2001 Tex. Gen. Laws 1985).

The TCEQ has primary responsibility for administration of laws and regulations concerning hazardous waste, under the Texas Solid Waste Disposal Act (codified in Chapter 361 of the Texas Health & Safety Code). The TCEQ is authorized to administer the RCRA program. However, the Railroad Commission (RRC) has jurisdiction over the discharge, storage, handling, transportation, reclamation, or disposal of waste materials (both hazardous and non hazardous) that result from the activities associated with the exploration, development, or production of oil or gas or geothermal resources and other activities regulated by the RRC. *See* Tex. Water Code Ann. Section 26.131 and Ch. 27 (Vernon 2000). A list of activities that generate wastes that are subject to the jurisdiction of the RRC is found at 16 Tex. Admin. Code Section 3.8(a)(30) and at 30 Tex. Admin. Code § 335.1. Such wastes are termed "oil and gas wastes." The TCEQ has responsibility to administer the RCRA program; however, hazardous wastes generated at natural gas or natural gas liquids processing plants or reservoir pressure maintenance or repressurizing plants are subject to the jurisdiction of the TCEQ until the RRC is authorized by EPA to administer those wastes under RCRA. When the RRC is authorized by EPA to administer the RCRA program for these wastes, jurisdiction over such hazardous wastes will transfer from the TCEQ to the RRC. The EPA has designated the TCEQ as the lead agency to coordinate RCRA activities between the two agencies. The EPA is responsible for the regulation of any hazardous waste for which TCEQ has not been previously authorized.

Further clarification of the jurisdiction between the TCEQ and the RRC can be found in a separate document. This document, a Memorandum of Understanding (MOU), became effective on May 31, 1998. The MOU clarified the jurisdictional boundaries between the agencies for the management and regulation of waste associated with exploration, development, production and refining of oil and gas. The MOU has been adopted by rule, which is an adoption by reference of the RRC's rule, and describes the division of responsibilities as well as the procedures for coordination between the two agencies.

See TCEQ's rule 30 Tex. Admin. Code Section 7.117 and RRC's rule at 16 Tex. Admin. Code Section 3.30.

The TCEQ has the rules necessary to implement RCRA Clusters VII through X revisions to the Federal Hazardous Waste Program promulgated from July 1, 1995, to June 30, 2000. The TCEQ authority to incorporate Federal rules by reference can be found at Texas Government Code Annotated Section 311.027 (Vernon 1998), and adoption of the hazardous waste rules in general are pursuant to the following statutory provisions: (1) Tex. Water Code Ann. Section 5.103 (Vernon 2000), effective September 1995, as amended (TCEQ's authority to adopt any rules necessary to carry out its powers and duties); (2) Tex. Health & Safety Code Ann. Section 361.024 (Vernon 2001), effective September 1, 1995, as amended (authority to adopt rules necessary to "establish minimum standards of operation for the management and control of solid waste"); and (3) Tex. Health & Safety Code Ann. Section 361.078 (Vernon 2001), effective September 1, 1989 (specifically recognizing TCEQ's authority to adopt hazardous waste rules and to issue and enforce permits to the extent necessary to receive and maintain RCRA authorization). The TCEQ partially

adopted the Hazardous Remediation Waste Management Requirements (HWIR-Media). The following are the Federal rules: 40 CFR 260.10, 261.4(g) through 261.4(g)(2)(ii), 264.1(j)(3)(i) through 264.1(j)(3), 264.554 through 264.554(m), 265.1(b), 268.2(c), 268.50(g) and 270.42 Appendix I. The HWIR-Media rule is an optional rule; States can partially adopt the rule if it has in place another mechanism to address those hazardous wastes. The TCEQ did not adopt 40 CFR 270.11(d)(1)–(3), 270.68, 270.73(a), 270.79, 270.80(a)–(f), 270.85(a)–(c), 270.95, 270.100, 270.105, 270.110 introduction through 270.110(i), 270.115, 270.120, 270.125, 270.130(a)–(b), 270.135 introduction through 270.135(c), 270.140 introduction through 270.140(c), 270.145(a) introduction through 270.145(d)(3), 270.150(a)–(g), 270.155(a) introduction through 270.155(b), 270.160 introduction through 270.160(c), 270.165, 270.170, 270.175(a) introduction through 270.175(c), 270.180(a)–(b), 270.185, 270.190(a)–(d), 270.195, 270.200, 270.205, 270.210 introduction through 270.210(b), 270.215(a), 270.215(a)–(d), 270.220(a)–(b), 270.225, and 270.230(a) through 270.230(e)(2). Therefore, the Federal rules listed in this document that the State did not adopt are not part of the

authorized program. However, the TCEQ has an Office of Remediation which is responsible for the cleanup of releases of hazardous waste and pollutants so that threats to human health and the environment are controlled or eliminated. The TCEQ rules which address the Remedial Action Plan requirement of the HWIR-media rule are covered in the Texas Risk Reduction Program rules at 30 Tex. Admin. Code Ch. 350 and 30 Tex. Admin. Code Section 350.75. The Texas Risk Reduction Rules are not part of Texas' authorized Federal RCRA program.

**F. What Changes Are We Authorizing With Today's Action?**

On March 28, 2002, the State of Texas submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CAR 271.21. Texas' revisions consist of regulations which specifically govern Federal Hazardous Waste promulgated from July 1, 1995, to June 30, 2000 (RCRA Clusters VII through X). Texas' requirements are included in a chart with this document. The EPA is now proposing certain revisions to the Texas Hazardous Waste Program. The proposed revisions are:

| Description of Federal requirement (include checklist #, if relevant)  | Federal Register date and page (and/or RCRA statutory authority) | Analogous State authority   |
|--|--|---|
| 1. Criteria for Classification of Solid Waste Disposal Facilities and Practices; Identification and Listing of Hazardous Waste; Requirements for Authorization of State Hazardous Waste Programs. (Checklist 153). | 61 FR 34252 July 01, 1996 .....                                  | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.78(f)(3)(A)–G and (g)(3)(A)–(G), effective October 19, 1998. |

| Description of Federal requirement (include checklist #, if relevant)  | Federal Register date and page (and/or RCRA statutory authority)  | Analogous State authority   |
|--|---|---|
| 2. Hazardous Waste Treatment; Storage and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments and Containers. (Checklists 154, 154.1, 154.2, 154.3, 154.4, 154.5, and 154.6). | 61 FR 59931 November 25, 1996; 59 FR 62896 December 6, 1994; 60 FR 26828 May 19, 1995; 60 FR 50426 September 29, 1995; 60 FR 56952 November 13, 1995; 61 FR 4903; 61 FR 28508 June 5, 1996. | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.061 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.31, effective November 15, 2001, as amended; Section 335.24(e), and, effective April 4, 1999, as amended, Sections 335.69(f)(2), 335.69(a)(1)(A)–(B), effective November 15, 2001, as amended; and 305.50(4)(A), effective November 18, 2001. Sections 335.152(a)(1), 335.152(a)(4), 335.152(a)(7)–(9), 335.152(a)(16)–(19), effective November 18, 2001; 335.111(a), effective November 15, 2001; 335.112(a)(1), 335.112(a)(4), 335.112(a)(8)–(10), 335.112(a)(19)–(21), 335.112(a)(24), effective November 18, 2001; 305.122(a), effective November 15, 2001, as amended.   |
| 3. Land Disposal Restrictions Phase III-Emergency Extension of the K088 Capacity Variance. (Checklist 155).  | 62 FR 1992 January 14, 1997 .....   | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.341(c), effective April 30, 2000.  |
| 4. Military Munitions Rule; Hazardous Waste Identification and Management Explosives Emergencies; Manifest Exemptions for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties. (Checklist 156).                           | 62 FR 6622 February 12, 1997 ....   | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.061 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.061 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1, and 335.61, effective April 12, 2001, as amended; Sections 335.10 (h), effective May 20, 1999, 335.91 (f), and (g), 335.41(d)(2), effective April 12, 2001, as amended, 335.271, 335.272, effective April 12, 2001, as amended; 335.152(a)(4), 335.152(a)(20), 335.112(a)(4), 335.112(a)(22), effective November 18, 2001, as amended and 305.69(j) effective April 12, 2001, as amended. |

| Description of Federal requirement (include checklist #, if relevant)  | Federal Register date and page (and/or RCRA statutory authority) | Analogous State authority  |
|--|--|--|
| 5. Land Disposal Restrictions—Phase IV: Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions From RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions. (Checklist 157). | 62 FR 25998 May 12, 1997 .....                                   | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.431, effective April 30, 2000, as amended; 30 Texas Administrative Code Section 335.1 (definition of solid waste), effective May 30, 2001, as amended; 335.17(a)(9)–(12), and 335.24(c)(2), effective April 4, 1999 as amended. The State law is more stringent than the Federal rule because the State does not have provisions equivalent to 40 CFR 268.(a)(10) regarding tolling agreements. State law has no provision equivalent to 40 CFR 268.44(a), under which EPA may assure a variance from an applicable treatment standard. |
| 6. Hazardous Waste Management System; Testing and Monitoring Activities. (Checklist 158).  | 62 FR 32452 June 13, 1997 .....                                  | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.31, effective October 19, 1998; Sections 335.152(a)(17)–(18), 335.152(a)(22)(E), 335.112(a)(19)–(20), effective April 12, 2001; 335.221(a)(15), 335.221(17)–(18), effective April 4, 1999 and 335.221(a), effective April 4, 1999.  |
| 7. Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions. (Checklist 159).  | 62 FR 32974 June 17, 1997 .....                                  | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.003 (Vernon 2001), effective September 1, 1991, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, 30 Texas Administrative Code Section 335.1 (def of Hazardous waste), effective January 26, 1994, as amended and Section 335.29, effective April 4, 1999.  |
| 8. Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance. (Checklist 160).   | 62 FR 37694 July 14, 1997 .....                                  | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.431(c), effective April 30, 2000.   |

| Description of Federal requirement (include checklist #, if relevant)  | Federal Register date and page (and/or RCRA statutory authority) | Analogous State authority  |
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| 9. Second Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes From Carbamate Production. (Checklist 161). | 62 FR 45568 August 28, 1997 .....                                | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.431(c), effective April 30, 2000.   |
| 10. Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendments. (Checklist 163).                     | 62 FR 64636 December 8, 1997 ..                                  | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.152(a)(1), 335.152(a)(4), 335.152(a)(17)–(19); 335.112(a)(1), 335.112(a)(4), 335.112(a)(19)–(21), 335.112(a)(24), effective November 18, 2001, as amended; 305.50(4)(A), effective March 21, 2000.   |
| 11. Kraft Mill Steam Stripper Condensate Exclusion. (Checklist 164).   | 63 FR 18504 April 15, 1998 .....                                 | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1 (definition of solid waste) (A)(iv), effective November 15, 2001.   |
| 12. Recycled Used Oil Management Standards; Technical Correction and Clarification. (Checklist 166).   | 63 FR 24963 May 6, 1998 .....                                    | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Chapter 371, effective September 1, 1991, as amended; 30 Texas Administrative Code Section 355.78(j), effective October 19, 1998; Section 335.24(c)(4)(A)–(C), effective April 14, 1999; Sections 324.1, 324.3, 324.6, 324.11–14, effective August 8, 1999. |
| 13. Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes. (Checklist 167 A).                                   | 63 FR 28556 May 26, 1998 .....                                   | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1 (definition of a hazardous waste), effective January 26, 1994, as amended; Section 335.1 (A)(iv) (definition of solid waste), effective May 30, 2001, as amended; Section 335.431(c), effective November 15, 2001.                                    |

| Description of Federal requirement (include checklist #, if relevant)                             | Federal Register date and page (and/or RCRA statutory authority) | Analogous State authority   |
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| 14. Land Disposal Phase IV—Hazardous Soils Treatment Standards and Exclusions. (Checklist 167 B). | 63 FR 28556 May 26, 1998 .....                                   | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.69(f)(4)(C), effective March 18, 2001; Section 335.431(c), effective November 15, 2001. State law has no provision equivalent to 40 CFR 268.44(a), under which EPA may assure a variance from an applicable treatment standard.        |
| 15. Land Disposal Restrictions Phase IV—Corrections. (Checklist 167 C).                           | 63 FR 28556 May 26, 1998 .....                                   | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.431(c), effective November 15, 2001 and Section 335.431, effective April 30, 2000, as amended. State law has no provision equivalent to 40 CFR 268.44(a), under which EPA may assure a variance from an applicable treatment standard. |
| 16. Mineral Processing Secondary Material Exclusion. (Checklist 167 D).                           | 63 FR 28556 May 26, 1998 .....                                   | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1 (definition of solid waste), effective May 30, 2001.   |
| 17. Bevill Exclusion Revision and Clarification. (Checklist 167 E).                               | 63 FR 28556 May 26, 1998 .....                                   | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1 (definition of solid waste) (A)(iv), effective May 30, 2001 as amended; 335.1 (definition of a hazardous waste, effective January 26, 1994, as amended.  |
| 18. Exclusion of Recycled Wood Preserving Wastewater. (Checklist 167 F).                          | 63 FR 28556 May 26, 1998 .....                                   | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1 (definition of solid waste) (A)(iv), effective May 30, 2001 as amended; 335.1 (definition of a hazardous waste, effective January 26, 1994, as amended.  |



| Description of Federal requirement (include checklist #, if relevant)   | Federal Register date and page (and/or RCRA statutory authority) | Analogous State authority  |
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| 19. Hazardous Waste Combustors Revised Standards. (Checklist 168).  | 63 FR 33782 June 19, 1998 .....                                  | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1 (definition of solid waste)(A)(iv), effective May 30, 2001; Sections 305.69(i), 305.69(k), effective April 12, 2001; 305.51(a)(8), effective December 5, 1999.   |
| 20. Petroleum Refining Process (Checklist 169 & 169.1).   | 63 FR 42110 August 6, 1998; 63 FR 54356 October 9, 1998.         | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.003; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1 (definition of hazardous waste) effective January 26, 1994, as amended, 335.1(129)(A)(iv) (def. of a solid waste), effective May 30, 2001, as amended; 335.431, effective April 30, 2000, as amended. |
| 21. Land Disposal Restrictions Phase IV—Zinc Micro-nutrient Fertilizers, Administrative Stay. (Checklist 170).  | 63 FR 46332 August 31, 1998 .....                                | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.431, effective November 15, 2001.   |
| 22. Emergency Revision of Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Waste from Carbamate Production. (Checklist 171). | 63 FR 47409 September 4, 1998                                    | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.431(c) effective November 15, 2001.   |
| 23. Land Disposal Restrictions Phase IV—Extension of Compliance Date for Characteristic Slags. (Checklist 172).                                       | 63 FR 48124 September 9, 1998                                    | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.431, effective November 15, 2001, as amended.   |

| Description of Federal requirement (include checklist #, if relevant)   | Federal Register date and page (and/or RCRA statutory authority) | Analogous State authority   |
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| 24. Land Disposal Restrictions—Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088). (Checklist 173). | 63 FR 51254 September 24, 1998                                   | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.431(c), effective November 15, 2001.   |
| 25. Hazardous Remediation Waste Management Requirements (HWIR-Media). (Checklist 175).  | 63 FR 65874 November 30, 1998                                    | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.003 (Vernon 2001), effective September 1, 1991, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1 (definition of a hazardous waste), effective January 26, 1994, as amended; Sections 335.1 (definition of staging pile), and 335.111(a), effective November 15, 2001; 335.431, effective November 15, 2001; and 335.152(a)(14), effective November 18, 2001. |
| 26. Universal Waste Rule—Technical Amendments. (Checklist 176).   | 63 FR 71225 December 24, 1998                                    | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.261(b)(16)(D), effective April 30, 2000; Section 335.251, effective October 19, 1998.  |
| 27. Organic Air Emission Standards: Clarification and Technical Amendments. (Checklist 177).                                    | 64 FR 3382 January 21, 1999 .....                                | Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.69(a)(1)(A)–(B) effective March 18, 2001; 335.152(a)(17), (19), and (21), effective November 18, 2001.  |
| 28. Petroleum Refining Process Wastes—Leachate Exemption. (Checklist 178).  | 64 FR 6806 February 11, 1999 ....                                | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.003 (Vernon 2001), September 1, 1991, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1 (definition of a hazardous waste), effective January 26, 1994 as amended.   |

| Description of Federal requirement (include checklist #, if relevant)  | Federal Register date and page (and/or RCRA statutory authority)  | Analogous State authority   |
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| 29. Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards. (Checklist 179).  | 64 FR 25408 May 11, 1999 .....                                    | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.003 (Vernon 2001), effective September 1, 1991, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1 (definition of a hazardous waste), effective January 26, 1994, as amended; Section 335.1 (definition of solid waste), effective May 30, 2001; Section 335.431(c), effective November 15, 2001; and Section 335.69(f)(4)(C), effective March 18, 2001.   |
| 30. Guideline for Establishing Test Procedures for the Analysis of Oil and Grease and Non-Polar Material Under the Clean Water Act and Resource Conservation and Recovery Act. (Checklist 180).  | 64 FR 26315 June 14, 1999 .....                                   | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.31, effective November 15, 2001.   |
| 31. Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps. (Checklist 181).  | 64 FR 36466 July 6, 1999 .....                                    | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1 (definition of universal waste), effective May 30, 2001; Section 335.2(1), effective April 30, 2000; Section 335.41(j), effective April 12, 2001; Section 335.151(b), effective February 22, 1994; Sections 335.261(a)–(b), effective April 30, 2000; and Section 335.431(b)(3), effective November 15, 2001.  |
| 32. NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, Miscellaneous Units, and Secondary Lead Smelters; Clarification of BIF Requirements Technical Correction to Fast-track Rule (MACT Rule). (Checklists 182 & 182.1). | 64 FR 52827 September 30, 1999;<br>64 FR 63209 November 19, 1999. | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended.<br>30 Texas Administrative Code Sections 335.1 (129)(A)(iv) (def. of solid waste), effective November 15, 2001, 335.12001(a)(13), 335.112(a)(14), effective November 18, 2001; Section 305.50(4)(A), effective March 21, 2000; Section 305.175, effective November 15, 2001; Section 335.152(a)(14), effective November 18, 2001; Sections 305.69(i), effective November 15, 2001; Sections 335.1 (definitions), 335.221(a), 335.221(a)(1), 305.50(4)(A), 305.571(b), and 335.222(a)(c), effective November 15, 2001. |

| Description of Federal requirement (include checklist #, if relevant)  | Federal Register date and page (and/or RCRA statutory authority) | Analogous State authority   |
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| 33. Land Disposal Restrictions Phase IV—Technical Corrections. (Checklist 183).                              | 64 FR 56469 October 20, 1999 ....                                | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1 (definition of a hazardous waste), effective January 26, 1994, as amended; Section 335.431(c) effective November 15, 2001. |
| 34. Waste Water Treatment Sludges from Metal Finishing Industry; 180-day Accumulation time. (Checklist 184). | 65 FR 12378 March 8, 2000 .....                                  | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.69(j)–(l) effective March 18, 2001.  |
| 35. Organobromine Production Waste. (Checklist 185).   | 65 FR 14472 March 17, 2000 .....                                 | Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1 (definition of a hazardous waste), effective January 26, 1994, as amended; Section 335.431(c) effective November 15, 2001. |

### G. What Is the Relationship Between the Resource Conservation and Recovery Act and the Hazardous Waste Combustor MACT?

In this authorization document, the State of Texas is also seeking authorization for the Hazardous Waste Combustors Revised Standards (Checklist 168). On September 30, 1999, EPA finalized the National Emission Standards for Hazardous Air Pollutants (NESHAP) for three categories of hazardous waste combustors (HWCs): incinerators, cement kilns, and light-weight aggregate kilns (64 FR 52828). The EPA promulgated this rule under joint authority of the Clean Air Act (CAA) and RCRA. Before this rule went into effect, the air emissions from these three types of HWCs were primarily regulated under the authority of RCRA (see 40 CFR parts 264, 265, 266, and 270). However, with the release of the final HWC NESHAP (see 40 CFR part 63, subpart EEE), the air emissions from these sources are now regulated under RCRA and CAA. Even though both

statutes give EPA the authority to regulate these emissions, EPA has determined that having emissions standards and permitting requirements in both sets of implementing regulations would be duplicative. For this reason, using the authority provided by section 1006(b) of RCRA, EPA deferred the RCRA requirements for HWC emission controls to the CAA requirements of 40 CFR part 63, subpart EEE.

Therefore, with today's authorization of the State of Texas for the RCRA provisions of the September 30, 1999, HWC NESHAP rule, the RCRA waste management standards for air emissions from these units will no longer apply after the facility has demonstrated compliance with 40 CFR part 63, subpart EEE. One notable exception concerns the RCRA Omnibus provision in section 3005(c)(3) of RCRA, which requires each RCRA permit to contain terms and conditions necessary to protect human health and the environment. Under this provision of RCRA, if a regulatory authority

determines that more stringent conditions than the HWC NESHAP are necessary to protect human health and the environment for a particular facility, then the regulatory authority may impose those conditions in the facility's RCRA permit. (See the HWC MACT rule preamble discussion on the interrelationship of the MACT rule with the RCRA Omnibus provision and site specific risk assessment at 64 FR 52828, pages 52839–52843, September 30, 1999, and the RCRA Site-Specific Risk Assessment Policy for Hazardous Waste Combustion Facilities, dated June, 2000, for more information).

### H. Where Are the Revised State Rules Different From the Federal Rules?

The State law is more stringent than the Federal rule because the State does not have provisions equivalent to 40 CFR 268.44(a)(10) regarding tolling agreements. Also, the State law has no provision equivalent to 40 CFR 268.44(a), under which EPA may approve a variance from an applicable

treatment standard. In this authorization, there are no broader in-scope provisions. Broader-in-scope requirements are not part of the authorized program and EPA cannot enforce them.

#### **I. Who Handles Permits After the Authorization Takes Effect?**

The State of Texas will issue and administer permits for all the provisions for which it is authorized. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. Upon authorization of the State program, EPA will suspend issuance of Federal permits for hazardous waste treatment, storage, and disposal facilities for which the State is receiving authorization. EPA will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which State of Texas is not yet authorized.

#### **J. When Will This Approval Take Effect?**

EPA, after the close of the public comment period, will review and respond to comments it receives and then will subsequently publish a final action that responds to the comments and may either finalize the proposal without change, modify the proposal based on comments, or announce a decision not to finalize the proposal.

#### **K. How Does Today's Action Affect Indian Country in Texas?**

Texas is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect in Indian Country.

#### **L. What Is Codification and Is EPA Codifying Texas' Hazardous Waste Program as Authorized in This Rule?**

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart SS for this authorization of Texas' program changes until a later date. EPA is not codifying the State of Texas' statutes or regulations in this program revision.

#### **M. Statutory and Executive Order Reviews**

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the

National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### **List of Subjects in 40 CFR Part 271**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous material transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This proposed 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 10, 2005.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. 05-5410 Filed 3-17-05; 8:45 am]

**BILLING CODE 6560-50-P**

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Parts 15 and 73**

[ET Docket No. 05-24; FCC 05-17]

#### **DTV Tuner Requirements**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to adjust the schedule by which new broadcast television receivers are required to include the capability to tune digital television (DTV) signals. The Commission request comment on whether there is need to revise the implementation schedule of the DTV tuner requirement for receivers with screen sizes 25 to 36 inches and, if so, how that schedule should be revised to achieve our goal that all new television