

Federal citation	State analog
35. Organobromine Production Waste, [65 FR 14472] March 17, 2000. (Checklist 185).	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 — —
36. Organobromine Production Waste and Petroleum Refining Process Waste; Technical Correction, [65 FR 36365 June 8, 2000. (Checklist 187).	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.

E. What Is the Relationship Between the Resource Conservation and Recovery Act and the Hazardous Waste Combustor MACT? How Does This Affect Delegation of This Standard to Texas Commission on Environmental Quality's Authorization?

In this authorization document, the State of Texas is also seeking authorization for the Post-Closure Permit Requirement and Closure Process, (Checklist 174). On September 30, 1999, the EPA finalized the National Emission Standards for Hazardous Air Pollutants (NESHAP) for three categories 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 the CAA. Even though both statutes give the EPA the authority to regulate these emissions, the 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, the 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 section 3005(c)(3) of RCRA, which requires that each RCRA permit contain the 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 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 RCRA Site-Specific Risk Assessment Policy for Hazardous Waste Combustion Facilities dated June, 2000, for more information.

E. What Decisions Has the EPA Made?

The EPA concludes that Texas' application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, the EPA grants Texas final authorization to operate its hazardous waste program with the changes described in the authorization application. Texas has the responsibility for permitting treatment, storage, and disposal facilities 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.

F. How Do the Revised State Rules Differ From the Federal Rules?

The EPA considers the following state requirement to be more stringent than the federal: 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 approve a variance from an applicable treatment standard. In this authorization, there are no broader in scope provisions. The EPA cannot enforce broader in scope requirements.

G. Who Handles Permits After This Authorization Takes Effect?

The State will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which were 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 Texas is not yet authorized.