

## **SUBCHAPTER L : COMPLIANCE PLAN**

### **§305.401**

**Effective August 8, 1999**

#### **§305.401. Compliance Plan.**

(a) In order to administer the groundwater protection requirements relating to compliance monitoring and corrective action for facilities that store, process or dispose of hazardous waste in surface impoundments, waste piles, land treatment units, or landfills, and the requirements of §335.167 of this title (relating to Corrective Action for Solid Waste Management Units), the commission shall establish a compliance plan.

(b) The following rules pertaining to application, and notice and hearing shall be applicable in proceedings to establish the plan: §39.3 of this title (relating to Purpose); §39.5 of this title (relating to General Provisions); §39.7 of this title (relating to Mailing Lists); §39.11 of this title (relating to Text of Public Notice); §39.13 of this title (relating to Mailed Notice); §39.17 of this title (relating to Notice of Minor Amendment); §39.21 of this title (relating to Notice of Commission Meeting to Evaluate a Hearing Request on an Application); §39.23 of this title (relating to Notice of Hearing Held by SOAH, Including Hearing on Hearing Requests); §39.25 of this title (relating to Notice of Contested Enforcement Case Hearing); §39.103 of this title (relating to Application for Industrial or Hazardous Waste Facility Permit); §39.105 of this title (relating to Application for a Class 1 Modification of an Industrial Solid Waste, Hazardous Waste, or Municipal Solid Waste Permit); §39.107 of this title (relating to Application for a Class 2 Modification of an Industrial or Hazardous Waste Permit); §39.109 of this title (relating to Application for a Class 3 Modification of an Industrial or Hazardous Waste Permit); §50.13 of this title (relating to Action on Application); §50.15 of this title (relating to Scope of Proceedings); §50.17 of this title (relating to Commission Actions); §55.21 of this title (relating to Requests for Contested Case Hearings, Public Comment); Chapter 281 of this title (relating to Applications Processing); §305.43 of this title (relating to Who Applies); §305.44 of this title (relating to Signatories to Applications); §305.47 of this title (relating to Retention of Application Data); §305.50 of this title (relating to Additional Requirements for an Application for a Solid Waste Permit); §305.53 of this title (relating to Application Fees); §305.122-§305.124 of this title (relating to Characteristics of Permits; Reservation in Granting Permit; and Acceptance of Permit, Effect); and §305.128 of this title (relating to Signatories to Reports).

(c) Any investigation report to establish compliance monitoring or corrective action shall contain the information specified in the regulations contained in 40 Code of Federal Regulations §270.14(c)(7) and (8) which are in effect as of September 9, 1987. The executive director may authorize, in writing, in advance the submittal of a proposed permit schedule for the submittal of an engineering feasibility plan as set forth in the regulations contained in 40 Code of Federal Regulations §270.14(c)(7) which are in effect as of September 9, 1987. The executive director may also authorize, in writing, prior to the submittal of a complete permit application, the submittal of a schedule for the information required in the regulations contained in 40 Code of Federal Regulations §270.14(c)(8)(iii) and (iv) as set forth in the regulations contained in 40 Code of Federal Regulations §270.14(c)(8)(v) which are in effect as of September 9, 1987. The executive director may request information necessary to determine the appropriateness and extent of corrective action required by §335.167 of this title (relating to Corrective

Action for Solid Waste Management Units).

(d) The executive director shall prepare a draft compliance plan unless the executive director recommends not to approve the plan. The draft compliance plan shall be available for public review, and notice that the executive director has prepared such a plan will be given pursuant to §305.100 of this title (relating to Notice of Application). The draft compliance plan shall be filed with the commission to be included in its consideration of the approval of a compliance plan.

(e) The executive director shall prepare a technical summary which sets forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft compliance plan. The executive director shall send this summary together with the draft compliance plan to the applicant and, on request, to any other person. The summary shall include the following information, where applicable:

(1) a brief description of the type of facility or activity which is the subject of the draft compliance plan;

(2) the type and quantity of wastes, fluids, or pollutants which are being managed at the facility;

(3) a brief summary of the basis for the conditions of the draft compliance plan, including references to applicable statutory or regulatory provisions;

(4) a description of the procedures for reaching a final decision on the draft compliance plan, including procedures whereby the public may participate in the final decision; and

(5) the name and telephone number of a person in the Commission to contact for additional information.

(f) The plan may be amended:

(1) when the corrective action program specified in the plan under §335.165 of this title (relating to Compliance Monitoring Program) has not brought the regulated unit into compliance with the groundwater protection standard within a reasonable time; or

(2) when the plan requires a compliance monitoring program under §335.165 of this title (relating to Compliance Monitoring Program), but monitoring data collected prior to permit issuance indicate that the facility is exceeding the groundwater protection standard. The sections of this chapter pertaining to major amendments shall be applicable to the foregoing amendments to the compliance plan.

(g) Whenever a facility is subject to permitting under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, and is further required under §335.156 through §335.167 of this title (relating to Applicability of Groundwater Monitoring and Response; Required Programs; Groundwater Protection Standard; Hazardous Constituents; Concentration Limits; Point of Compliance; Compliance Period; General Groundwater Monitoring Requirements; Detection Monitoring Program; Compliance Monitoring Program; Corrective Action Program; and Corrective Action for Solid Waste

Management Units) to conduct compliance monitoring or corrective action, processing of the permit application for the facility and the establishment of the compliance plan shall be consolidated in one proceeding.

(h) Nothing herein shall be construed to be inconsistent with the commission's authority under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7 §8 and §8b.

Adopted July 14, 1999

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