

TIME RUNNING OUT FOR GRANDFATHERED RISK REDUCTION STANDARD 1 & 2 SITES



Last Chance for RRS 1 or 2 Closures

May 1, 2005, will be the last day to submit Final Reports for Risk Reduction Standard (RRS) 1 or 2 closures under the 1993 Risk Reduction Rules (30 TAC Chapter 335) to the Texas Commission on Environmental Quality (TCEQ).

In anticipation of the May 1 deadline, on March 1, the TCEQ Remediation Division posted a Regulatory Notice in the form of Questions and Answers (Q&A) on its website at: <http://tnrcc.state.tx.us/permitting/trrp.htm> to assist TCEQ staff and program users in completing RRS 1 & 2 projects, or in making the transition to TRRP.

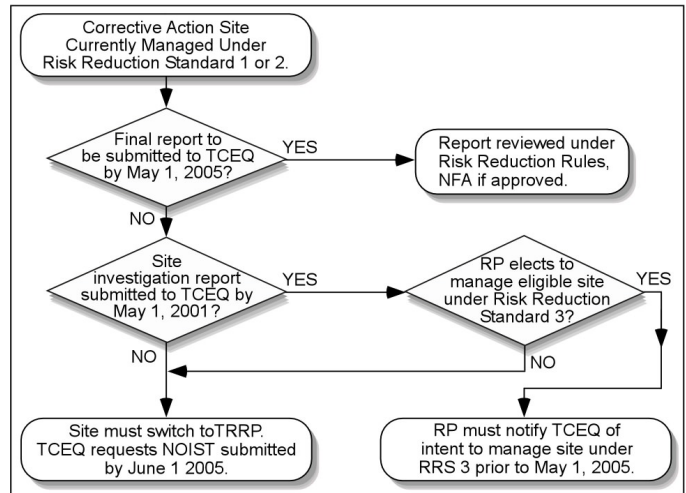
In implementing the Texas Risk Reduction Program (TRRP; 30 TAC Chapter 350), the TCEQ established the so-called "grandfathering" provisions, allowing site investigation and cleanup activities commenced before the May 1, 2000 applicability date of TRRP, to continue under the Risk Reduction Rules subject to certain conditions, including completion of RRS 1 and 2 remedies and submittal of final reports by May 1, 2005.

Applicability and Restrictions

The May 1, 2005, deadline is applicable only to sites pursuing RRS 1 or 2. To be eligible for grandfathering, it was necessary to have provided Notification of Intent (NOI) to pursue RRS 1 or RRS 2, prior to April 30, 2000. Those sites directed by a permit or order to comply with the Risk Reduction Rules are not subject to the deadline. Sites pursuing RRS 3, and sites in corrective action prior to the 1993 Risk Reduction Rules and which were not formally transitioned by means of a Notice of Intent (NOI), are also not affected.

In order to satisfy the May 1, 2005, deadline, the final report must meet the requirements of §335.553(a) and satisfactorily document attainment of RRS 1 or 2. In the event of minor report deficiencies, TCEQ may provide an opportunity to respond to a Notice of Deficiency (NOD) letter, and maintain grandfathered status during the review process.

Limited options remain to switch from RRS 1 or 2 to Risk Reduction Standard 3 **before** May 1, 2005, provided that a complete and approvable final remedial investigation report was submitted to the TCEQ for review by May 1, 2001. The switch to RRS 3 cannot be made after May 1, 2005.



Making the Switch: Entering TRRP

If closure to RRS 1 or 2 cannot be met by May 1, 2005, and the site is not eligible for the switch to RRS 3, the site must be transitioned to TRRP. For all sites making the transition to TRRP, a Notice of Intent to Switch to TRRP (NOIST; Form 10337) must be submitted to the TCEQ by June 1, 2005.

On-going remedial action may continue without interruption, and transitioning sites will enter the TRRP process based on the progress achieved under the Risk Reduction Rules as of May 1, 2005. For example, if a satisfactory site investigation report has been completed, an Affected Property Assessment Report (APAR) need not be submitted.

Under TRRP, applicable cleanup levels, and therefore, the scope of the response action, may change. It will therefore be necessary to determine the critical PCLs and define PCL exceedance zones for sites entering TRRP. Determination of Critical PCLs will facilitate a decision whether to pursue Remedy Standard A or B. Sites formerly pursuing RRS 1 or 2 need not continue under the generally equivalent TRRP Remedy Standard A, if a reassessment of remediation goals and progress suggests Remedy Standard B is more appropriate.

Additional data may be required to meet TRRP requirements and should be submitted on the appropriate APAR worksheets appended to the next TRRP report. TRRP is more specific than the Risk Reduction Rules on the issue of data quality and the level of laboratory QA/QC documentation. Any laboratory analyses performed after switching to TRRP must meet the data quality requirements of TRRP. Historical data will need to be reviewed to ensure that the quality of the data is sufficient for its intended purpose.

Going Forward: TRRP Reporting Requirements

TRRP reporting requirements differ significantly from those under the Risk Reduction Rules. Table 1 indicates the next required submittal under TRRP, based on the last report

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submitted under the Risk Reduction Rules before May 1, 2005. For all transitioning sites, the first TRRP submittal will be the NOIST form, due by June 1, 2005. Deadlines for subsequent

TRRP reports will depend on the progress of the response action, unless some other timeframe was specified previously, (e.g., in a VCP agreement). Assuming no APAR or Response Action Plan (RAP; applicable Remedy Standard B, only) is necessary, a Response Action Effectiveness Report (RAER) will be due by May 1, 2008, if the Response Action is not complete by then.

Table 1. Required Submittals for Sites Transitioning from RRS 1 or 2 to TRRP

Risk Reduction Rules	TRRP Rule
In all cases	NOIST by June 1, 2005, plus...
If the last report submitted before May 1, 2005 was...	The next report due for TRRP is...
Notice that satisfied §335.8(c)(1).	Affected Property Assessment Report (Form 10325/APAR).
For purposes of switching to Remedy Standard A, this notice is equated to the Self-Implementation Notice (Form 10323/SIN).	<u>Option</u> - self-implemented Remedy Standard A: submit APAR and Response Action Completion Report (Form 10328/RACR) together when response action is completed. Figure: 30 TAC §350.3(4).
	<u>Option</u> - work plan for Remedy Standard A or B: submit Response Action Plan (Form 10326/RAP), and APAR if not already submitted.
Assessment report that satisfies §335.8(c)(2) and §335.553(a) - assessment requirements only.	RAP, or RACR if self-implementing, plus additional information if needed (See Q11 of TCEQ A&A).
Status report for remediation activities (optional per program).	Response Action Effectiveness Report (Form 10327/RAER) (See Q9 of TCEQ A&A).

For More Information

The complete Q&A regarding the RRS 1 and 2 grandfathering deadline is available from the TCEQ website at: <http://www.tnrc.state.tx.us/permitting/trrp.htm>

TRRP Guidance and Forms may be found at: www.tnrc.state.tx.us/permitting/remed/techsupp/guidance.htm

Please feel free to contact us at Groundwater Services, Inc. (GSI) with any questions you may have regarding this issue. Visit our website: www.gsi-net.com



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■ *GSI WILL CONTINUE TO PROVIDE periodic updates regarding important regulatory developments in Texas. Should you have any questions regarding these or other upcoming issues, please feel free to contact us at 713-522-6300.*

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About GSI

GROUNDWATER SERVICES, INC., (GSI), is an environmental engineering consulting company located in Houston, Texas, which specializes in the management of environmental risk. Since 1986, GSI, has been providing industry with innovative solutions to soil, groundwater, surface water, and air pollution problems.

G S I R e g u l a t o r y U p d a t e B u l l e t i n

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