



Texas Risk Reduction Rules to Be Re-Proposed

Revised Draft TRRP Rules

In May 1998, the Texas Natural Resource Conservation Commission (TNRCC) issued proposed rules for the Texas Risk Reduction Program (TRRP), defining corrective action standards for all programs under the jurisdiction of the TNRCC Office of Waste Management. Public comments received on the proposed rules cited significant concerns, prompting the agency to formally withdraw the proposal on August 26, 1998. At present, the agency is conferring with various stakeholder groups and intends to repropose a revised draft rule package by first quarter 1999. This bulletin reviews the proposed revisions to the May 1998 draft TRRP rules and identifies key issues still under discussion.



TNRCC

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Overview of New Rules

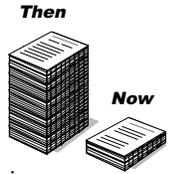
As with the current Risk Reduction Rules (30 TAC Chapter 335 Subchapter S), the proposed TRRP rules will not “trigger” a corrective action. Rather, the rules will dictate the site assessment and remediation program to be implemented once the need for corrective action has been triggered by some other regulatory requirement (e.g., RCRA unit release, UST release, etc.). The TRRP is intended to “harmonize” corrective action standards for all programs, establishing uniform soil and groundwater cleanup standards for UST sites, industrial and hazardous waste facilities, spill cleanups, and state superfund sites. In each case, the TRRP rules will not be retroactive, but will “grandfather” previously approved remedial action plans unless the responsible person elects to use the new standards.



Under the TRRP, remedial actions will be required for affected soil and groundwater which contain site contaminants in excess of applicable *Protective Concentration Levels* (PCLs). For a given site, applicable PCLs are a function of i) the *remedy standard* selected by the responsible person (unrestricted vs. restricted future use), ii) the current land use of the affected property (residential vs. commercial/industrial), iii) the applicable groundwater resource classification for any impacted water-bearing units, and iv) the presence or absence of any potential ecological impacts. The draft TRRP rules address site assessment procedures, derivation of generic or site-specific PCL values, and the response objectives (performance-based criteria) to be achieved by the remedial action effort.

What’s In. What’s Out.

The May 1998 proposed rules (30 TAC Chapter 350) codified the risk management guidelines outlined in the “Conceptual Guide to the Texas Risk Reduction Program” issued in December 1996. Compared to the existing Risk Reduction Rules, the proposed TRRP rules provide greater flexibility in terms of site-specific cleanup standards, performance-based remedy standards, and practical guidelines for management of free-phase contaminants. In addition, the paperwork burden is reduced by deletion of Baseline Risk Assessments and Corrective Measure Study reports.



However, reviewers of the May 1998 draft were very concerned regarding the length and complexity of the rule package and the prescriptive requirements regarding site assessments and PCL calculation procedures. To provide a more workable and cost-effective process for management of corrective action sites, an August 27th working draft for the new proposed TRRP rule includes the following significant changes to the prior proposed rules:

- **Condensed Format:** The revised draft is roughly 50% the length of the May 1998 version. Tier 2 PCL calculations and other details have been relegated to guidance.
- **Simpler Site Assessment Guidelines:** Prescriptive language regarding statistical procedures and laboratory QA/QC documentation has been largely reduced or removed.
- **PCL Calculation Process:** Procedures for PCL calculations, including exposure pathways, points of exposure, and modeling methods, have been simplified.
- **Sampling and Statistical Analyses Plan:** Advance submittal and review of sampling plans is no longer required.
- **Ecological Screening Criteria:** The Tier 1 screening criteria to assess the need for ecological assessment have been expanded to include an exemption for sites less than 1 acre, subject to certain restrictions.
- **Facility Operating Area:** Under certain circumstances, for sites located within the active on-site operating area of a manufacturing facility, certain cleanup actions subject to TRRP may be deferred during the active life of the facility.
- **Default Background Metals:** If desired, median values for naturally-occurring metals concentrations in Texas soils may be used as default background values in place of site-specific measurements.

Key Issues Under Consideration



Additional technical comments provided by various parties which are still under review and discussion by the TNRCC include the following:

- **Assessment Levels:** On-site assessment levels should be matched to PCLs so as not to require delineation beyond applicable cleanup limit. Also, assessment levels for ecological concerns are unclear.
- **Facility Operating Areas (FOA):** Prerequisites for FOA are overly prescriptive, and the scope of this TRRP exemption is unclear.
- **Background Concentrations:** Statistical procedures for comparison to soil background concentrations are impractical and will result in frequent “false positive” indications of soil contamination.

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- **Treatment of Non-Detects:** Requirement that non-detected constituents be assumed to be present at sample quantitation limits (SQL) will require remediation for "phantom" contaminants never detected at site.
- **Groundwater/Surface Water Dilution:** Requirement that potential dilution be ignored for plumes that have not yet reached surface water will trigger remediation at sites where no measurable impact is likely to occur.
- **Assumed Exposure Areas:** Default soil exposure areas required for use of statistics (1/8 acre residential, 5 acre commercial/industrial) are too conservative and are inconsistent with PCL calculation methods. Associated deed notice is impractical.
- **Tier I Limits:** Tier 1 limits need to be revised to serve as useful screening levels. Baseline assumptions must be reviewed.

The TNRCC is currently evaluating these issues to define appropriate modifications, if any, to the draft TRRP rules. A new proposed rule is expected to be published in December 1998 or January 1999, with a final rule package released in April - May 1999. A TNRCC ecological risk assessment guide, updating the draft guidance document issued in November 1996, is scheduled for release in this same timeframe.

◆ *GSI WILL CONTINUE TO PROVIDE regulatory updates as this rule-making effort proceeds. Should you have any questions regarding these or other upcoming rule modifications, please feel free to contact us at (713) 522-6300.*

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GSI Regulatory Update Bulletin

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