

---

## IV. CREATING A REGULATORY CROSSWALK

---

### OVERVIEW

Developing the regulatory crosswalk is the most time-consuming aspect of the codification process. This chapter explains the rationale behind this process and discusses, in a step-by-step manner, how to develop the regulatory crosswalk. Specifically, this chapter is composed of the following four sections:

- A. Purpose and structure of the regulatory crosswalk.
- B. Developing the preliminary crosswalk.
- C. Identifying authorized language and classifying each section/paragraph as
  - 1) authorized,
  - 2) procedural/enforcement,
  - 3) broader in scope, or
  - 4) unauthorized.
- D. Potential problems and issues in developing the regulatory crosswalk and possible solutions.

### A. PURPOSE AND STRUCTURE OF THE REGULATORY CROSSWALK

<b>KEY CONCEPTS</b>
---------------------

- |  |
|--|
| <ul style="list-style-type: none"><li>• The Regulatory Crosswalk is an organized approach for classifying each section/paragraph of State regulations so that this information can be easily checked and entered into the codification <u>Federal Register</u> notice.</li><li>• There are many ways of organizing a regulatory crosswalk, but the crosswalk should meet the seven minimum requirements listed in this section.</li><li>• Use Exhibit IV-1 as an example of a possible regulatory crosswalk structure.</li></ul> |
|--|

### PURPOSE

The regulatory crosswalk is an organized approach for classifying each section/paragraph of a State's regulations so that the authorized program can be accurately identified and each section/paragraph can be cited at the appropriate place in the codification Federal Register notice. There are many ways of organizing a regulatory crosswalk, but the most important fact to remember is that the crosswalk needs to clearly present the regulatory information for input into the codification Federal Register notice. This section presents the minimum requirements for developing the regulatory crosswalk, and presents an example of how this crosswalk may be structured.

**MINIMUM  
REQUIREMENTS**

A regulatory crosswalk should be designed to meet at least the following requirements:

- P It must account for each section/paragraph in the State's hazardous waste regulations.
- P It must clearly classify each section/paragraph into one of the following four categories which correspond to specific portions of the Federal Register notice: 1) authorized, 2) procedural/enforcement , 3) broader in scope, and 4) unauthorized. It is important that this information be clearly displayed and organized, because a State's regulations are often several hundred or a thousand pages long. A clearly organized crosswalk makes it easier to condense the regulatory information into a form that can be easily and accurately transferred into the codification notice.
- P It should document what version (i.e., date) of each section/paragraph of State code the State is authorized for and why.
- P It should document what "redlining" (crossing out of unauthorized provisions) needs to be done.
- P It should document what Federal rules and State amendments, if any, are not authorized by EPA and therefore need to be excluded from the codification.
- P It should be understandable and concise, so that the Office of Regional Counsel (ORC) representative can easily review the information presented in the crosswalk.
- P It should be easy to update so that once the crosswalk is developed it can be utilized as the starting point for updating the State's codification.

**POSSIBLE  
STRUCTURE**

Exhibit IV-1 below, presents a possible structure or format for developing a regulatory crosswalk. This approach will be explained in detail to illustrate why the requirements listed above are necessary and to demonstrate how these requirements can be incorporated into a crosswalk. It is strongly recommended that the regulatory crosswalk be developed in WordPerfect Tables (or some other word processing software providing this capability) because of the flexibility this word processing feature allows. WordPerfect tables can be easily revised or updated and rows or columns can be readily added. The crosswalk shown below was developed in WordPerfect Tables.

WORD PROCESSING

**Exhibit IV-1. Possible Structure for a Regulatory Crosswalk**

[1] State citation	[2] Date <sup>1</sup>	[3] Checklist	[4] Description/ RCRA analogous citation	Classification Columns			
				[5] Authorized: Approved and incorporated by reference 272. __1(b)(1)	Not Incorporated by Reference		
					[6] Authorized: Procedural or enforcement provisions 272. __1(b)(2)	[7] Broader in Scope provisions 272. __1(b)(3)	[8] Unauthorized or Extra provisions:  Omit from codification

<sup>1</sup>Amendment or effective date of most recent authorization.

**WHAT A ROW REPRESENTS**

Sample pages from completed regulatory crosswalks, using the above structure, are shown in Exhibits IV-2 and VI-3. Typically, there will be a row in the regulatory crosswalk for each section/paragraph in the official State regulations used for the codification. What a row represents depends on the smallest subdivision of code that can be classified into one of the four categories (e.g., authorized, procedural/enforcement, etc.) listed above. Sometimes a row will represent several sections (e.g., §281.6 through §281.16 as shown in Exhibit IV-2), a section (e.g., §281.4 in Exhibit IV-2) or one or more paragraphs within a section (e.g., §281.3(a)&(b), §281.3(c) in Exhibit IV-2)). Each of the eight columns shown above in Exhibit IV-1 is briefly discussed below.

Column 1

**State citation**  
-----  
Specifies the State citation in a manner that represents the smallest division that can be classified into one of the four categories, as explained above.

Column 2

**Date**  
-----  
Documents the amendment or effective date of the most recent authorized version of each citation.

Exhibit IV-2. Example Regulatory Crosswalk Using Texas Regulations

State citation	Effective Date of Authorized Version	Checklist	Description/RCEA analogous citation	Authorized: Approved and incorporated by reference (b)(1)	Not Incorporated by Reference		
					Authorized: Procedural or enforcement provisions (b)(2)	Broader in Scope (b)(3)	Unauthorized or extra provisions: Omit from codification
<b>CHAPTER 281</b>							
281.1	5/28/86	Base	Processing of permit applications.		X		
281.2 intro and 281.2(1)-(9)	5/28/86	Base, amended in 1987	Applicability of Chapter 281.		X		
281.2(10)	NA		Applications for municipal solid waste permits; added in 1993 and not part of a checklist.				X
281.3(a)&(b)	5/28/86	Base	Initial review of permit applications; in base, no change.		X		
281.3(c)	5/28/86	6	270.70(b); a conforming change was made in 1993 to change a statutory reference to "Texas Health and Safety Code, Chapter 361".	X			
281.4	NA		Applications for the use of State Water.				X
281.5	5/28/86	Base, amended 1987	Application for Wastewater Discharge, Underground Injection, <b>Municipal Solid Waste</b> , Hazardous Waste, and Industrial Solid Waste Management Permits; amended in 1993 to include <b>municipal solid waste</b>		X		
281.6-281.16	NA		Applications for other types of permits (not applicable to hazardous waste).				X
281.17(a)-(c)	NA		Notice of Receipt of Application and Declaration of Administrative Completeness (State Water Portions).				X
281.17(d)-(f)	5/28/86	Base	Notice of Receipt of Application and Declaration of Administrative Completeness (Other Applications; Notice Requirements; Notice of Application and Draft Permit); amended in 1993.		X		

Exhibit IV-3. Example Regulatory Crosswalk using Oregon Regulations

State citation	Effective Date of Authorized Version	Checklist	Description/RCRA analogous citation	Authorized: Approved and incorporated by reference (b)(1)	Not Incorporated by Reference		
					Authorized: Procedural or enforcement provisions (b)(2)	Broader in Scope (b)(3)	Unauthorized or extra provisions Omit from codification
340-100-003 (1)	7/25/85	Base	§260.2; in base, no change.	X			
340-100-003 (2)	7/25/85	Base, <b>AI</b> , AG (p.5)	§260.2(a); amended in 1991; the only change from the base version was that "459.460" was changed to "466.090(2)" to accommodate renumbering of the statutes. This change is acceptable.	X			
340-100-003 (3)	7/25/85	Base	§260.2(b); in base, no change.	X			
340-100-004	7/25/85	Base, IA	Provides a listing of the "Divisions" in the code; this section was in the base, but was amended in 1991; minor changes were made to the title for Division 104. However, "268" was added to the introduction and Division 120 (addressing PCBs) was added to the list. They should be redlined.	X, redline "268" and the Division 120 listing			
340-100-005	6/11/87	<b>AI</b> , <b>AG(p.4-11)</b>	Entire section cited in 1990 authorization notice for availability of information; no changes since 1987.	X			
340-100-010	7/25/95	Base, Base AG (p.3,3, (2)(z) only)	Definitions in addition to those of 260.10; amended in 1991 to change statute references to take into account renumbering the statutes. The format for referencing sections within Chapter 340 was also changed. These changes are acceptable and can be included in the IBR.	X			
340-100-011 (1)	7/25/85	Base	References; in base, amended in 1991 to add reference to Division "120". This change needs to be redlined. Other 1991 changes are minor and include adding "OAR Chapter 40" before "Divisions" and using the abbreviation for Code of Federal Regulations. These changes are inconsequential.	X, redline "and 120" in introductory paragraph			

## Column 3

**Checklist**

Documents whether the indicated provision was (1) included in the base program regulations and therefore likely authorized as part of the base authorization, (2) cited on a base program or revision checklist for which the State is authorized, (3) cited in an authorization notice or (4) cited in an Attorney General's statement supporting that authorization notice. Effectively, this column documents the authorization history of each provision. Several conventions are used in this column, including:

- P** **Base** means that the provision was included in the base program regulations, but did not appear on one of the base program checklists. Because the early base authorization notices do not give specific citations of what was authorized, the assumption made is that the provision was considered as part of the base program because it existed at the time the State's regulations were authorized and was not specifically excluded in the base program authorization notice.
- P** **A non-bolded checklist number** means that the provision appeared on a checklist but was not specifically cited in an authorization notice. Because the checklists are a supplement to the Attorney General's Statement, one can assume that the cited provisions are likely part of the authorized program.
- P** **A bolded checklist number** means that the provision was cited in a Federal Register authorization notice for the rule addressed by the cited checklist.
- P** **"AG (page #)"** indicates the provision was cited on the specified page in an Attorney General's statement. The cited Attorney General's Statement is specified (e.g., Base AG(p.3.3) or 11/1/91 AG(p.5)), so that this information can be easily traced if needed.
- P** Sometimes a **statement such as "amended in 1987"** will follow any of the above conventions. This means that while the provision was in the base, cited on checklist, appeared in an authorization notice, or was referenced in an Attorney General's Statement, the provision has been amended since the authorization that addressed the listed checklist or Attorney General's Statement.
- P** **A blank** implies that the provision was not in base program regulations nor was it cited on an authorized checklist, in an authorization notice, or in an Attorney General's Statement supporting and authorization.

The implications of each of the above for actually classifying each provision is discussed in Sections B and C of this chapter.

## Column 4

**Description/RCRA analogous citation**

Identifies the analogous RCRA provision, if there is one, and is used to present the analysis of the provision in terms of its authorization status. If any language needs to be redlined, it is specified. If a change that is not authorized has been made which cannot be easily redlined, the associated State amendment(s) that need to be excluded from the codification are also specified.

## Column 5

**Authorized: Approved and Incorporated by Reference 272. 1(b)(1)**

Is the first of the four columns used to classify a provision. An "X" in this column indicates that the citation is part of the authorized program and addresses provisions that are regulatory in nature. These provisions will be incorporated by reference at subsection (b)(1) of the State's Part 272 entry in the codification Federal Register notice. These provisions are potentially subject to the redlining and exclusion of unauthorized State amendments as documented in Column 4. Notes can be included in this column, as shown in Exhibit IV-3, as to whether redlining or exclusions are needed.

## Column 6

**Authorized: Procedural or Enforcement Provisions 272. 1(b)(2)**

Is the second of the classification columns. An "X" in this column indicates that, while the listed provisions are part of the authorized program, they are procedural or enforcement in nature. Therefore, they are not incorporated by reference in the codification Federal Register notice because EPA relies on Federal rather than State authorities for such provisions. The provisions will be listed at subsection (b)(2) of the State's Part 272 entry in the codification Federal Register notice.

## Column 7

**Broader in Scope 272. 1(b)(3)**

Is the third of the classification columns. An "X" in this column indicates that the provisions are "broader in scope" and are not part of the authorized program. These provisions are not included in the codification incorporation by reference, but such provisions will be listed at subsection (b)(3) of the State's Part 272 entry in the codification Federal Register notice.

## Column 8

**Unauthorized or Extra Provisions: Omit from Codification**

Is the last of the classification columns. An "X" in this column indicates that the provision is either unauthorized or it was promulgated under authority other than the State's analog to RCRA (e.g., the State's analog to CERCLA or CWA). These provisions are omitted entirely from the codification notice.

**Exhibit IV-2: Alternative Structure for a Regulatory Crosswalk**

State Regulations	Federal Analog (___ CFR Unless otherwise specified)	Effective Date of State's Authorized Regulations	Effective Date of authorization	Checklist/ Authorization Basis	Description/Basis for Classification	Authorized:  Approved and IBR 272.____ (b)(1)	Not Incorporated by Reference		
							Authorized: Procedural or enforcement provisions not IBR 272.____ (b)(2)	Broader in Scope 272.____ (b)(3)	Unauthorized or Extra provisions: Omit from codification

**ALTERNATIVE STRUCTURE**

Exhibit IV-2 is an example of an alternative structure for a regulatory crosswalk. This structure has been used by several Regions, and contains ten columns instead of eight as in Exhibit IV-1. The second column in this crosswalk contains the Federal analog. By separating this from the Description/Basis for Classification column, the first two columns can be reversed and the crosswalk transferred to a spreadsheet program. The rows can then be sorted by the Federal analog and this can be used as a cross-reference to the standard regulatory crosswalk. This “reverse crosswalk” easily identifies missing analogs and duplicates to Federal provisions and has been found to be helpful in both enforcement and oversight situations. Sections B-E apply to Exhibit IV-2, except the Federal analog is placed in the new Column 2 instead of the Description/Basis for Classification column, and the effective date of the State's authorized regulations is added in the new Column 3.

**B. DEVELOPING A PRELIMINARY CROSSWALK**

**KEY CONCEPTS**

- A preliminary crosswalk walk provides an initial structure so that when the regulations are examined on a section-by-section basis the focus can be on classifying each section/paragraph of State regulations.
- The approach for developing a preliminary crosswalk will differ depending on the size of the State's regulations.

**TWO STEP DEVELOPMENT**

Because so many different sources of data (e.g., checklists, different versions of the regulations, Federal Register notices, and AG statements) are used to develop the regulatory crosswalk, it is strongly recommended that the regulatory crosswalk be developed in two steps.



STEP 1:  
PRELIMINARY  
CROSSWALK

**P** The first step is to develop a **preliminary crosswalk** to provide the initial structure for the crosswalk. At this step, the focus will be on completing Columns 1, 2 and 3 and the Federal citation in Column 4 of the regulatory crosswalk table, as described in *Section IV.A*, using the authorization Federal Register notices, the revision checklists and the AG Statements.

STEP 2:  
CLASSIFYING  
EACH SECTION/  
PARAGRAPH

**P** The second step is to focus on **classifying** each section/paragraph in the State's regulations in Columns 5, 6, 7 or 8 as described in the previous section, as well as providing a brief rationale in Column 4 for this classification. Any redlining or exclusions of unauthorized State amendments are also documented in Column 4.

**ONE APPROACH  
FOR A  
PRELIMINARY  
CROSSWALK**

There are several approaches that can be used to develop a preliminary crosswalk. **One approach** is to set up the table format that will be used for the crosswalk and then go quickly through the regulations, outlining them section by section by entering the State citations in Column 1. This first approach is appropriate if the State's regulations are not lengthy or if the State incorporates the Federal regulations by reference. After entering the State citations, information from the State's authorization notices, authorized checklists and supporting Attorney General's Statements is used to complete Column 3 and the Federal citation portion of Column 4.

**A SECOND  
APPROACH  
FOR A  
PRELIMINARY  
CROSSWALK**

A **second approach**, which is probably more efficient particularly if the State's regulations are lengthy, is the use the State's authorization Federal Regulation notices, authorized checklists and supporting Attorney General's Statements to build the preliminary crosswalk. Each State citation provided in the authorization notice is first entered in Column 1 on the crosswalk. If the effective date or amendment date of the authorized State provision is given, you may want to enter this in the crosswalk in Column 2. The information from the authorization checklists is entered next. Most of this information will have been covered by the authorization notices; the checklist information tends to supplement it or uncover incorrect citations in the authorization notices. The base program checklists and the recent requirement checklists typically add the most new information, because the specific provisions authorized through these checklists were usually not included in the early authorization notices. Finally, the Attorney General's Statement information should be entered.

**CONTENT OF  
PRELIMINARY  
CROSSWALK**

Once this preliminary step is finished for the second approach, the crosswalk contains only authorized provisions, together with the checklists that authorized the provision and the analogous Federal citation. Note that not all authorized State provisions are necessarily included on the crosswalk at this point, particularly if the State regulations differ from the Federal regulations. There are likely State provisions that were authorized as part of the base program, but did not appear on a checklist because there was not a direct Federal counterpart. Such provisions are considered

authorized because the entire State's hazardous waste program would have been authorized at that time. Sometimes all or part of the recent requirement checklists will be included in the authorization, but not specifically stated in the authorization notices. The provisions on these checklists should also be considered authorized, provided you can substantiate either through StATS, the Regional files or the State's files that the State is authorized for these provisions.

**C. IDENTIFYING AUTHORIZED LANGUAGE AND CLASSIFYING EACH SECTION/PARAGRAPH OF CODE**

**KEY CONCEPTS**

- Evaluate the State regulations on a section-by-section basis.
- Classify each section/paragraph as authorized, procedural/enforcement, broader in scope or unauthorized.
- Use Exhibit IV-4 to help with the six step determination process needed to make this classification.

**SECTION-BY-SECTION EVALUATION**

After the preliminary crosswalk has been developed, the next step in creating the regulatory crosswalk is to go through the State's regulations **section-by-section** to:

- P** Ensure that all provisions (sections/paragraphs) in the State's regulations are accounted for on the crosswalk;
- P** Classify each section/paragraph as either authorized, procedural/enforcement, broader-in-scope, or unauthorized; and
- P** Determine if portions of an authorized section/paragraph need to be redlined or if any Federal rules or State amendments associated with that section/paragraph need to be excluded from the codification.

There is no other way to accomplish the first item except to go through the State's regulations **page by page**; however, you can accomplish items 2 and 3 at the same time, entering the appropriate information into the crosswalk as you proceed through the State's regulations.

**FOUR CLASSIFICATION CATEGORIES**

As discussed above there are **four categories** into which a section/paragraph of code can be classified:

- P authorized,
- P procedural/enforcement,
- P broader in scope, and
- P unauthorized.

**SIX  
DETERMINATIONS  
OR STEPS**

Because this classification is probably the most complicated process to explain, a step-by-step explanation is outlined in Exhibit IV-4. This exhibit is an overall flow diagram of the series of **six determinations or steps** that need to be made in order to properly classify each section of code. Each of the six determinations is discussed in detail below. Note that the six-step classification process described below and in Exhibit IV-4 refers to the **four classification columns** in the example crosswalk presented in Section A of this chapter. Most of the references to these columns are self-explanatory except for references to the "authorized" column. This refers to column 4 of the example crosswalk which is labeled "Authorized: Approved and Incorporated by Reference (b)(1)." Note, that the six-step process can be used either for (1) codification consisting of only a State's authorized base program, or (2) a codification consisting of a State's authorized base program along with one or more program revision authorizations.

**WHAT IS NEEDED  
TO BEGIN**

Before you begin the step-by-step process of classifying the State's regulations, you should be sure that you have a copy of the following:

- P The official version of the State's regulations,
- P The base program regulations and the version of the regulations submitted with each subsequent final authorization package, and
- P Each authorization Federal Register notice for the State.

Also, before you begin the classification process you should read through the State's authorization notices to see if there are any sections/paragraphs which were indicated as being broader in scope. If there were, you can classify them as broader in scope on the regulatory crosswalk without completing the classification process described below for these sections/paragraphs.

 **Step 1**

**Determine whether a Section/Paragraph of Regulations Appears to be Authorized**

**PURPOSE OF STEP**

The purpose of this step is to identify those sections/paragraphs that have either been

- P cited in a base program or program revision authorization material (i.e., FR notices, checklists, AG Statements), or
- P in existence at the time of the State's base or recent requirements authorization but were not specifically cited in the authorization FR notice at that time.

**DOES CITATION MEET CRITERIA?**

If a section/paragraph **does not meet either of these criteria**, then it is **unauthorized** and should be classified as such. If it **meets one of these criteria**, then it **may be authorized**, but it must be further assessed as per Steps 2 through 6 of Exhibit IV-4 before this determination can be made.

**HAS IT BEEN CITED?**

You must first ascertain whether the section/paragraph **has been cited** in an authorization Federal Register notice, on an authorized checklist, or in an Attorney General's statement supporting a final authorization. This information should already be in the preliminary crosswalk (see Section B above). If the preliminary crosswalk indicates that the section/paragraph has been cited in one of these sources, move on to Step 3, as shown in Exhibit IV-4, to determine whether it is broader in scope.

ACTION IF "YES"

ACTION IF "NO"

If the section/paragraph **has not been cited** in any of the above sources, determine whether it was in the regulations at the time of the base program or recent requirements authorization by looking at the amendatory history usually found at the end of each section. Usually one of three situations (a, b or c) will arise:

*NOT IN BASE REGULATIONS*

- a. **The amendatory history shows that the section/paragraph was not in the regulations at the time of the base authorization.** Because this section/paragraph was not cited in an authorization notice, on an authorized checklist, or in a supporting Attorney General's Statement, it can be considered unauthorized. Section 305.107 from the Texas regulations, of which you can only see the last portion in Exhibit IV-5, is an example of this situation. This section was added to be effective on November 7, 1991 and has not been cited in an authorization notice, on an authorized checklist or in a supporting Attorney General's Statement. Therefore, it has not been authorized and should be excluded from the codification IBR. When you identify such a provision, an "X" should be placed in the "unauthorized" column of the crosswalk and you should move on to the next section/paragraph of State regulations.

*IN BASE  
REGULATIONS,  
NO  
AMENDMENTS*

- b. **The amendatory history shows that the section/paragraph was in the regulations at the time of the base or recent requirements authorization, and it has not been amended since.** In this case, the section/paragraph should be considered further, unless it was specifically excluded from the base or recent requirements authorization. Section 305.123 from the Texas regulations, shown in Exhibit IV-5, is an example of this situation. The paragraph in small print labeled "source" provides the amendatory history. The regulations submitted with the base authorization were dated June 19, 1986; thus, any section which was added on or before this date would have been examined as part of the base program. Section 305.123 first became effective June 19, 1986; thus, it was part of the base program and likely was authorized at that time. The next step in assessing a provision like Section 305.123 is to move on to Step 2, below, which will assess further whether the section is part of the authorized program.

*IN BASE  
REGULATIONS  
BUT  
AMENDED*

- c. **The amendatory history shows that the section/paragraph was in the regulations at the time of the base program and it was subsequently amended, but these amendments were not cited in an authorization notice, on an authorized checklist or in a supporting Attorney General's Statement.** Such a section/paragraph should be considered authorized, but it must be assessed to determine what has changed since the base authorization. There are two options:
- the changes must be either **redlined**, or
  - the State **amendment** which introduced these changes must be **excluded**.

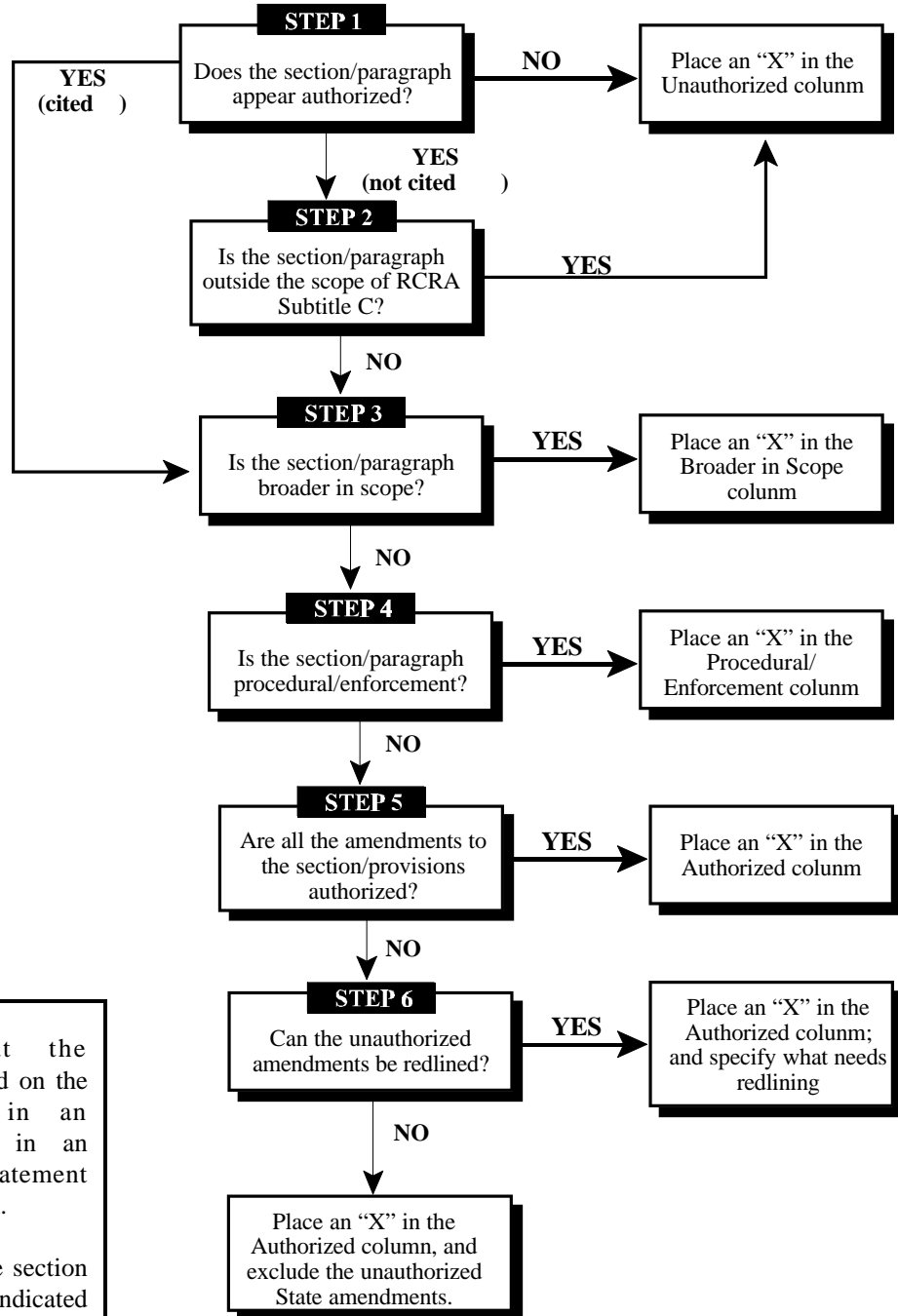
The procedure for making this assessment is given in Steps 5 and 6, below. Section 305.122, shown in Exhibit IV-5 and discussed in the following example box, illustrates this situation.

**Example**

*EXAMPLE  
ILLUSTRATING  
ACTION TAKEN  
WHERE  
PROVISIONS  
WERE IN  
BASE  
REGULATIONS  
BUT AMENDED*

**S**ection 305.122, shown in Exhibit IV 5, was part of the base authorization because the first date in the amendatory history is June 19, 1986; however, the section's history indicates that it was amended to be effective on October 8, 1990 and again to be effective on November 23, 1993. The supporting information already in the preliminary crosswalk indicates that these changes have not been authorized for this section. Thus, the base program version of this section will need to be compared to this section in the official version of the State's regulations and the changes redlined or the October 8, 1990 and the November 23, 1993 amendments excluded. As discussed in Example 1 for Step 6, below, a comparison with the base regulations indicates that 305.122(b)&(c) were the only requirements in the original base regulations. The rest of this section was added later. §305.122(b)&(c) are word-for-word the same as §305.122(a)&(b) in the base regulations. Thus, §305.122(a)&(d) need to be redlined and indicated on the crosswalk as "unauthorized". §305.122(b)&(c) must be assessed further to see if they are outside the scope of the RCRA Subtitle C regulations, broader in scope, or procedural/enforcement as per Steps 2, 3 and 4 below.

### EXHIBIT IV-4. CLASSIFICATION OF STATE REGULATIONS



“cited” implies that the section/paragraph was cited on the authorized checklist, in an authorization article or in an Attorney General’s Statement supporting an authorization.

“not cited” implies that the section was not cited in the sources indicated above, but was in the code at the time of the base or recent requirements authorization.

## Exhibit IV-5. Example Page from Texas Regulations

**CONSOLIDATED PERMITS**

(§ 305.107 continued)

facility is to be located or, if no newspaper is published in the county, in a newspaper of general circulation in the county. The applicant shall provide an affidavit to the commission which certifies that notice was provided as required by this section. Acceptance of such an affidavit by the commission shall create a rebuttable presumption that the applicant has complied with this section.

(1) The published notice may not be smaller than 96.8 square centimeters or 15 square inches with the shortest dimension at least 7.6 centimeters or three inches and shall contain, at a minimum, the following information:

- (A) the permit application number;
- (B) the applicant's name;
- (C) the proposed location of the facility; and
- (D) the location and availability of copies of the permit application.

(2) The applicant must pay the costs of the required notice.

**Source:** The provisions of this 305.107 adopted to be effective November 7, 1991, 16 TexReg 6051.

**Cross References:** This Section cited in 30 TAC 305.101, (relating to Notice of Hearing); 30 TAC 305.102, (relating to Notice by Publication); 30 TAC 330.236, (relating to Assessment of Corrective Measures).

SUBCHAPTER F. PERMIT  
CHARACTERISTICS AND  
CONDITIONS

**§ 305.121. Applicability**

The provisions of this subchapter establish the characteristics and standards for permits issued for injection wells, waste discharge, and solid waste management, including sewage sludge.

**Source:** The provisions of this 305.121 adopted to be effective June 19, 1986, 11 TexReg 2597; amended to be effective October 8, 1990, 15 TexReg 5492.

**Cross References:** This Section cited in 30 TAC 305.151, (relating to Applicability).

**§ 305.122. Characteristics of Permits**

(a) Compliance with a Resource Conservation and Recovery Act (RCRA) permit during its term constitutes compliance, for purposes of enforcement, with Subtitle C of RCRA except for those requirements not included in the permit which:

- (1) become effective by statute;
- (2) are promulgated under Title 40 Code of Federal Regulations Part 268 restricting the placement of hazardous wastes in or on the land; or

**30 TAC 305.123**

(3) are promulgated under Title 40 Code of Federal Regulations Part 264, regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response through the Class I permit modifications procedures of Title 40 Code of Federal Regulations 270.42 (concerning permit modification at the request of the permittee).

(b) A permit issued within the scope of this subchapter does not convey any property rights of any sort, nor any exclusive privilege, and does not become a vested right in the permittee.

(c) The issuance of a permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of state or local law or regulations.

(d) Except for any toxic effluent standards and prohibitions imposed under Clean Water Act (CWA), 307, and standards for sewage sludge use or disposal under CWA, 405(d), compliance with a Texas pollutant discharge elimination system (TPDES) permit during its term constitutes compliance, for purposes of enforcement, with the CWA, 301, 302, 306, 307, 318, 403, and 405; however, a TPDES permit may be amended or revoked during its term for cause as set forth in 305.62 and 305.66 of this title (relating to Amendment; and Permit Denial, Revocation, and Suspension).

**Source:** The provisions of this 305.122 adopted to be effective June 19, 1986, 11 TexReg 2597; amended to be effective October 8, 1990, 15 TexReg 5492; amended to be effective November 23, 1993, 18 TexReg 8215.

**Cross References:** This Section cited in 30 TAC 305.151, (relating to Applicability); 30 TAC 305.401, (relating to Compliance Plan); 30 TAC 312.11, (relating to Permits).

**§ 305.123. Reservation in Granting Permit**

Every permit is subject to further orders and rules of the commission. In accordance with the procedures for amendments and orders, the commission may incorporate into permits already granted any condition, restriction, limitation, or provision reasonably necessary for the administration and enforcement of Texas Water Code, Chapters 26, 27, and 28, and the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7.

**Source:** The provisions of this 305.123 adopted to be effective June 19, 1986, 11 TexReg 2597.

**Cross References:** This Section cited in 30 TAC 305.151, (relating to Applicability); 30 TAC 305.401, (relating to Compliance Plan); 30 TAC 312.11, (relating to Permits).



**Step 2****HOW TO  
DETERMINE****ACTION  
RELATIVE TO  
CROSSWALK****Determine whether Section is Outside the Scope of the RCRA Regulations**

Certain sections of the State's regulations may have been in the regulations at the time of the base program authorization or the recent requirements authorization, but they may address **topics outside the scope of RCRA Subtitle C**. These provisions are not considered part of the authorized program and should **not be codified**. Some examples of such provisions include those addressing remediation; the State analog to the Superfund program; underground injection well requirements with no analog in 40 CFR Parts 260-266, 268, 270, 273 and 279; non-hazardous solid waste; State NPDES permits; the State air program beyond 40 CFR 264 Subparts AA and BB, 40 CFR 265 Subparts AA and BB, and 40 CFR 266 Subpart H; and household hazardous waste programs. If a section meets these criteria, it should be classified as "unauthorized" and you should move on to the next section of the State regulations. If the section does not meet these criteria, you should move on to Step 3 below.

**Step 3****USE OF  
AUTHORIZATION  
NOTICES****GUIDANCE IN  
APPENDIX D****TWO TYPES  
OF BIS  
PROVISIONS****Determine whether the Section/Paragraph is Broader in Scope**

As was indicated in the introduction to this six-step classification process, **authorization notices** can sometimes provide information on broader in scope provisions, although such sections are not consistently listed in authorization notices. Thus, if none of the authorization notices for a State lists any broader in scope provisions, you should not assume that the State does not have any broader in scope provisions. For this reason, each section which has made it to this step of the classification process needs to be assessed to determine if it is broader in scope. There are **two sets of guidance** documents that address identifying broader in scope provisions. Copies of these guidance materials may be found in Appendix D.

A **broader in scope** provision is one that either:

- P regulates more entities or wastes than the Federal regulations, or
- P adds an aspect to a State's regulations for which there is no Federal counterpart in the RCRA regulations.

EXAMPLES OF  
FIRST TYPE

Examples of the **first type** of broader-in-scope statutory provision include:

- P "State only" hazardous wastes, and
- P provisions that have fewer waste or facility exemptions or exclusions than the Federal regulations.

Such provisions are most commonly found in the sections of State regulations addressing the hazardous waste lists, exclusions from the hazardous waste regulations, recycled wastes, and conditionally exempt small quantity generators.

EXAMPLES OF  
SECOND TYPE

Examples of the **second type** of broader-in-scope provision include:

- P waste fees,
- P permits or licenses for transporters,
- P controls of traffic outside of hazardous waste facility or specification of transport routes to the facility, and
- P requirements for environmental impact statement or approval by a siting board as part of the permit issuance process.

ACTIONS  
RELATIVE  
TO CROSSWALK

Relative to the **regulatory crosswalk**,

- P **if the section/paragraph you are examining is broader in scope**, classify it as such on the regulatory crosswalk and go to the next section/paragraph of State regulations;
- P **if the section/paragraph is not broader in scope** go to Step 4 which addresses determining if the section is procedural/enforcement.

MORE  
STRINGENT  
PROVISIONS

Note that authorized **more stringent** State provisions are enforceable by EPA and, therefore, should be included in the State provisions to be incorporated by reference. The guidance materials in Appendix D also address the identification of more stringent provisions.

 **Step 4**

**Determine whether Section should be Classified as Procedural/Enforcement**

USE OF  
CONSOLIDATED  
CHECKLISTS

The first step in determining whether a section/paragraph of the State regulations is procedural/enforcement is to look at **Consolidated Checklist C9** and determine whether the Federal analog is indicated on that checklist as being procedural. (Procedural provisions are indicated with an "@" on that checklist.) The following approach provides a systematic way of correctly classifying the State provision as procedural/enforcement:

IN CHECKLIST C9  
AS PROCEDURAL

- **If the section's Federal analog is indicated as being procedural on Consolidated Checklist C9**, then mark it as "procedural/enforcement" on the regulatory crosswalk and move on to the next section of State code.

IN ANOTHER  
CONSOLIDATED  
CHECKLIST

- **If the State provision has a Federal analog which is not listed as procedural, or the State provision has an analog on a consolidated checklist other than C9**, then you can assume that the section/paragraph is neither a procedural nor an enforcement section and go on to Step 5 to determine if it needs to be redlined.

NOT IN A  
CONSOLIDATED  
CHECKLIST

- **If the section does not have a direct analog on one of the consolidated checklists**, then examine the **procedural provisions** in Consolidated Checklist C9 to get an idea of the types of requirements that are considered procedural. In general, they include provisions addressing public notice, public hearings and appeals. Many of the required portions of Part 124 are considered procedural. Some States will adopt other portions of Part 124; often these requirements are procedural in nature. Sections which should be classified as "**enforcement**" address such things as civil penalties, criminal penalties, enforcement procedures, court proceedings, and enforcement proceedings. There are some exercises in Chapter X to provide additional guidance in classifying regulations as procedural/enforcement. If a section meets these criteria, then classify it as procedural/enforcement and move on to the next section of State regulations. Otherwise, go on to Step 5 to determine whether the amendments to the section/paragraph have been authorized.

#### **MIXTURE OF PROVISIONS**

Sometimes a section will be **only partly procedural/enforcement**. In these instances it is best to break the section into its smallest citable components (e.g., paragraphs or subparagraphs) and try to classify them. If even these contain a mixture of procedural/enforcement requirements and nonprocedural/nonenforcement requirements, the best approach is to determine which type of provision makes up the greatest share of the paragraph/subparagraph and classify it accordingly.

#### **UNCLEAR HOW TO CLASSIFY**

There may also be certain **instances when it is unclear** how the section/paragraph should be classified. In these cases the ORC representative on the codification team should be able to provide some insight as to the appropriate classification. **When in doubt**, it is best to assume that the section/paragraph should be incorporated by reference in the codification notice. In this situation, you should go on to Step 5 to determine if the section/paragraph contains any unauthorized amendments.

**Step 5****HOW TO  
DETERMINE****ACTIONS  
RELATIVE TO  
CROSSWALK****Determine Whether all the Amendments to the Section/Paragraph are Authorized**

To determine whether all the amendments to the section of regulations you are examining are authorized, you must compare the amendment date or effective date of the authorized version of each State provision listed on the preliminary crosswalk with the dates of the amendments listed in the section's amendatory history. Note that some Regions include the amendment date for each State citation in the authorization notice, while others include the date of the State regulations associated with each authorization notice. In these cases, the date of the State regulations is the appropriate date that should be compared to the dates in the section's amendatory history. If no dates are given in the authorization notice for the State regulations or individual citations, there may be a date on the State regulations submitted with the final package for the authorization. If so, this date should be used.

- P** **If all of the amendment dates are before the date of the authorized provision,** you can usually assume that all amendments have been authorized. The section/paragraph should be classified as authorized on the regulatory crosswalk and you should move on to the next section/paragraph of the State regulations.
- P** **If any of the amendment dates are after the date of the most recent authorized version,** then the section/paragraph must be examined further to see if redlining or exclusion of unauthorized State amendments is needed in accordance with Step 6 below.

**Step 6****HOW TO  
DETERMINE****EXAMPLES OF  
WHERE REDLINING  
CAN BE USED****ACTIONS RELATIVE  
TO CROSSWALK****Determine Whether the Unauthorized Amendments can be Redlined**

To determine whether the unauthorized State amendments can be redlined, the most recent authorized version of the section/paragraph must be compared to the version in the official regulations. It is in this comparison that the versions of the State regulations submitted with each final authorization package are primarily used. The differences found in this comparison **can be redlined** if removing the differences leaves the wording of the section/paragraph the same as the authorized version.

Below are two examples of sections/paragraphs that **can be redlined**. The first shows a situation where entire paragraphs within the section are new and need to be redlined. In the other, only a sentence needs redlining. For both examples, the paragraphs should be classified as authorized and a notation made on the crosswalk as to what needs to be redlined. In the example crosswalk discussed in Section A of this chapter, the redlining information would be placed in Column 4 and briefly noted in the Column 5 where the paragraph is classified as authorized.

REDLINING  
OF ENTIRE  
PARAGRAPH

Example 1

The first example of the use of redlining is based on examination of Section 305.122 from the Texas Industrial Solid Waste and Municipal Hazardous Waste Regulations. The authorized version of 305.122 is the base program version, effective June 19, 1986. However, this section in the official version of the State regulations had been amended two times after its last authorization. In comparing the authorized version to the official version as shown in Exhibit IV-6, it was found that the wording of the original two paragraphs making up §305.122 had not changed, but they had been renumbered from §305.122(a)&(b) to §305.122(b)&(c). New paragraphs §305.122(a)&(d) (underlined) had been added. Both of these new paragraphs can be redlined and the provisions will be the same as in the authorized version of this section. The numbering on the regulatory crosswalk should stay the same as in the official version in case there are internal references in other paragraphs of the State's regulations.

REDLINING OF  
PHRASE/  
SENTENCE

Example 2

A second example of a section/paragraph which can be redlined is shown in Exhibit IV-7. The version on the left is the authorized version of §335.6(d) and the version on the right is the most recent version in the State's official regulations. The underlined portion in the official version is where the two sections of regulations differ. The underlined sentence can be redlined and the remaining regulations are the same as the authorized version.

**EXAMPLE OF  
WHERE  
REDLINING  
CANNOT BE USED**

The next example illustrates a situation where **redlining cannot** be used. In this case, the unauthorized amendments must be excluded using §272. \_\_1(b)(4) or (b)(5) of the Codification Federal Register Notice. Details of how to accomplish this are included in Chapters V and VI.

Exhibit IV-6. Example Showing Previously Authorized and Updated Versions of Texas Code

**CONSOLIDATED PERMITS**

Authorized Version of § 305.122

**§ 305.122. Characteristics of Permits**

(a) A permit issued within the scope of this subchapter does not convey any property rights of any sort, nor any exclusive privilege, and does not become a vested right in the permittee.

(b) The issuance of a permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of state or local law or regulations.

**Source:** The provisions of this 305.122 adopted to be effective June 19, 1986, 11 TexReg 2597.

§ 305.122 from the Official version of the State code

**§ 305.122. Characteristics of Permits**

(a) Compliance with a Resource Conservation and Recovery Act (RCRA) permit during its term constitutes compliance, for purposes of enforcement, with Subtitle C of RCRA except for those requirements not included in the permit which:

(1) become effective by statute;

(2) are promulgated under Title 40 Code of Federal Regulations Part 268 restricting the placement of hazardous wastes in or on the land; or

(3) are promulgated under Title 40 Code of Federal Regulations Part 264, regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response through the Class I permit modifications procedures of Title 40 Code of Federal Regulations 270.42 (concerning permit modification at the request of the permittee).

(b) A permit issued within the scope of this subchapter does not convey any property rights of any sort, nor any exclusive privilege, and does not become a vested right in the permittee.

(c) The issuance of a permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of state or local law or regulations.

(d) Except for any toxic effluent standards and prohibitions imposed under Clean Water Act (CWA), 307, and standards for sewage sludge use or disposal under CWA, 405(d), compliance with a Texas pollutant discharge elimination system (TPDES) permit during its term constitutes compliance, for purposes of enforcement, with the CWA, 301, 302, 306, 307, 318, 403, and 405; however, a TPDES permit may be amended or revoked during its term for cause as set forth in 305.62 and 305.66 of this title (relating to Amendment; and Permit Denial, Revocation, and Suspension).

**Source:** The provisions of this 305.122 adopted to be effective June 19, 1986, 11 TexReg 2597; amended to be effective October 8, 1990, 15 TexReg 5492; amended to be effective November 23, 1993, 18 TexReg 8215.

**Cross References:** This Section cited in 30 TAC 305.151, (relating to Applicability); 30 TAC 305.401, (relating to Compliance Plan); 30 TAC 312.11. (relating to Permits).

Source: Texas Administrative Code, Title 31, 1992 and Title 30, 1994

## Exhibit IV-7. Example of Code Which Can be Redlined

**INDUSTRIAL & MUNICIPAL WASTE**

Authorized Version of § 335.6

(d) Persons generating more than 100 kilograms but less than 1,000 kilograms of hazardous municipal waste in any given calendar month shall notify the executive director of such activity on forms provided by the executive director. Such person shall also submit to the executive director upon request such information as may be reasonably required to enable the executive director to determine whether the storage, processing, or disposal of such waste is compliant with the terms of these sections. Notifications submitted pursuant to this section shall be in addition to any information provided on any permit application required by §335.2 of this title (relating to Permit Required), or any reports required by §335.9 of this title (relating to Shipping and Reporting Procedures Applicable to Generators), § 335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste), and § 335.13 of this title (relating to Recordkeeping and Reporting Procedures Applicable to Generators Shipping Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste).

§ 335.6(d) from the official version of the State code

(d) Persons generating more than 100 kilograms but less than 1,000 kilograms of hazardous municipal waste in any given calendar month shall notify the executive director of such activity on forms provided by the executive director. Such person shall also submit to the executive director upon request such information as may be reasonably required to enable the executive director to determine whether the storage, processing, or disposal of such waste is compliant with the terms of these sections. Notifications submitted pursuant to this section shall be in addition to any information provided on any permit application required by §335.2 of this title (relating to Permit Required), or any reports required by §335.9 of this title (relating to Shipping and Reporting Procedures Applicable to Generators), § 335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste), and § 335.13 of this title (relating to Recordkeeping and Reporting Procedures Applicable to Generators Shipping Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste). Any person who provides notification pursuant to this subsection shall have the continuing obligation to immediately document any changes or additional information with respect to such notification and within 90 days of the occurrence of any such change or of becoming aware of such new information provide written notice to the executive director of any such changes or additional information to that reported previously.

Source: Texas Administrative Code, Title 31, 1992 and Title 30, 1994

Example	
DETERMINATION	<p><b>E</b>xhibit IV-8 shows an example of a paragraph of regulations (§335.10(b)(22)) that cannot be redlined. The authorized version is on the left and is effective July 7, 1988. The version from the State's official regulations is shown on the right and it reflects a November 27, 1992 amendment which completely rewrote this paragraph. The first sentence in each version is almost the same except for the last word which is "state" in the authorized version and "generator" in the official version. The authorized version goes on to address conditionally exempt small quantity generators. These provisions have been removed from the official version.</p>
EXCLUSION FROM CODIFICATION	<p>To essentially move the official version of §335.10(b)(22) "back in time" to the authorized version, the November 27, 1992 amendment to §335.10(b)(22) must be excluded from the codification of this paragraph. This exclusion is accomplished in section (b)(4) or (b)(5) of the State's entry in Part 272 of a State's codification notice, and is discussed in detail in Chapters V &amp; VI.</p>
ACTION RELATIVE TO CROSSWALK	<p>Relative to the regulatory crosswalk, §335.10(b)(22) should be designated as authorized but it should be noted on the crosswalk that the November 27, 1992 amendment (17 <u>TexReg</u> 8010) needs to be excluded from the codification of this paragraph. In the example crosswalk discussed in Section A of this chapter, the exclusion information would be placed in Column 4 and briefly noted in Column 5 where the paragraph is classified as authorized.</p>

**UNAUTHORIZED ADOPTION BY REFERENCE OF FEDERAL RULES**

A variation of not being able to redline an unauthorized State amendment is the situation where a State, in the most recently authorized version of its regulations, adopts by reference more Federal rules than the State is actually authorized for. This is acceptable in authorization, because the authorization notice specifies the Federal rules for which the State is actually authorized. In codification, this is a problem because this version of the regulations must be incorporated by reference into the Federal regulations. Neither redlining nor exclusion of unauthorized State amendments will change this version so that only the authorized Federal rules are included. In this case, the solution is to exclude the unauthorized Federal rules from the codification. An example of how to approach this situation in the codification notice is given in Chapter V.



**D. POTENTIAL PROBLEMS AND ISSUES UNCOVERED IN DEVELOPING THE REGULATORY CROSSWALK**

**KEY CONCEPTS**

- If there is an extensive lag between adoption and authorization, either use an older version of the State regulations that can be certified as "official" or authorize the State for more provisions to reduce this lag.
- Use an authorization update prior to codification to take care of unauthorized State amendments that are both consequential and necessary to adequately reflect the State's program.
- Contact the State compiling the regulation or use regulations' amendatory history and State Register (or similar entity) copies of unauthorized amendments to piece together the base program regulation if they have been lost.
- Contact the State or search the indices of the State Register if the regulations' amendatory history is not available.

**INTRODUCTION**

Development of the regulatory crosswalk **provides an opportunity** to examine a State's regulations as a whole rather than in a piece by piece fashion which is characteristic of revision reviews. This process can uncover issues and problems which were not previously apparent. This section discusses some of the commonly uncovered issues and also examines some of the problems often encountered in developing a statutory crosswalk. Each problem statement below is followed by a discussion of potential solutions.

**LAG BETWEEN ADOPTION AND AUTHORIZATION**

**1. Extensive Lag Between Adoption and Authorization**

Both redlining and the exclusion of unauthorized State amendments can be used to compensate for a lag between adoption and authorization. However, there comes a point (i.e., where almost every section must be either redlined or an amendment excluded) that these methods become impractical and really are no longer solutions. In such cases, there are only two courses of action available:

- P The first approach is to find an older version of the State's regulations which is or was recognized by the State as an official version. Region 10 used this approach in developing a codification package for Washington. The most recent official version of the State regulations contained extensive changes to almost every section of the regulations, most of which had not yet been authorized by EPA. It was found that the State Register had older versions of the State's regulations which they would certify as being official. The version closest to the authorized program was the one finally used in the codification package.
- P The second approach should be used if an older official version of the regulations is not available. The first step is to obtain the official version that is currently available with the appropriate signatures and verification.

Next, work with the State to bring the authorized program closer to that found in the official version. Once this has been accomplished, use the official version of the regulations obtained earlier to develop the codification package.

**CHANGES NOT  
ASSOCIATED WITH  
CHECKLISTS**

**2. The State has made Changes that are Not Associated with a Checklist**

The solution to this problem depends on the types of changes the State has made. Thus, the first step is to determine the nature of the changes by comparing the official version of the State regulations with the most recent authorized version of each section showing such changes. Corrections of typographical errors and legitimate conforming changes are acceptable and can be included in the codification. However, other types of changes need to be handled by redlining, exclusion of unauthorized State amendments or by inclusion in an authorization update. The first two approaches and their use were discussed under Step 6 in the previous section.

An authorization update should be used if 1) the change is consequential, and 2) the change needs to be included in the codification to adequately reflect the State's program. One example involves a State that had base program authorization for Part 264 and decided to incorporate that part by reference. In the authorization notice addressing this change, all of the subsections addressing the incorporation by reference of the Part 264 subparts were included, but not the subsection addressing the substitution of terms because one subsection did not appear on the consolidated checklist for that part. In order for the codification to be complete, this unauthorized subsection should be included. Thus, it would need to be included in an authorization update published at the same time as, or just before, the codification.

**LACK OF BASE  
PROGRAM  
CHECKLISTS**

**3. Base Program Checklists not available**

Sometimes files from the base authorization are incomplete because of the length of time since that authorization. If the base program checklists are missing, the information in them can be obtained indirectly by using the amendatory history found at the end of each section of the regulations. If the initial date given in the amendatory history is before the base authorization, that section was likely in the base program. Determining the Federal analog can be accomplished by determining the topic of the section and using an electronic search or the table of contents for each Part of the Federal code. This process is, of course, time consuming.

**LACK OF  
BASE PROGRAM  
CODE**

**4. Base Program Code not in Regional or State files**

If the base program regulations are missing from the Regional and State files, first contact the State Office that compiles the State regulations. Sometimes this State Office will have a copy of earlier versions of the State's regulations. If a copy of the base program regulations cannot be obtained from the State Office, then the best approach is to use the amendatory history to determine the dates and citations of amendments to the State's code. Copies of these amendments can be obtained from

the State Register or the State Office that compiles the State's regulations. These State Register notices can be used to reconstruct the base program regulations.

**LACK OF  
AMENDATORY  
HISTORY**

**5. Amendatory History is not available**

Sometimes a State will keep track of the amendments to its regulations and may have this information available, if it is not included in the State regulations. Another alternative is to search the indices of the State Register for changes to the State's regulations, starting with the year the State's base program was authorized and ending with the year of the most recent authorization. In order to determine the sections of regulations that were affected by these amendments, it is necessary to obtain the notices associated with these changes. The versions of the regulations submitted with each authorization package can supplement these notices when reconstructing the amendatory history. Another possible source of the amendatory history is the State office that compiles the State regulations.

**E. EXERCISES**

**PURPOSE**

The following two exercises are designed to reinforce the topics presented in Chapter IV and provide hands-on experience in completing specific tasks encountered during the development of the regulatory crosswalk.

EXERCISE IV-1      Developing the preliminary regulatory crosswalk.

EXERCISE IV-2      Classifying a State's regulatory provisions into one of the categories, (1) authorized, (2) procedural/enforcement, (3) broader in scope, or (4) extra/unauthorized provision.

**ANSWERS**

The answers to these exercises are in Appendix L, pages L-9 and L-10.

**EXERCISE  
IV-1**

Developing a Preliminary Regulatory Crosswalk.

**PURPOSE**

- Provide experience in developing the preliminary regulatory crosswalk.

**WORKBOOK  
REFERENCE**

Chapter IV, Sections A and B.

**BACKGROUND  
MATERIALS  
PROVIDED**

- P Internet Website StATS Report for Louisiana
- P Three authorization Federal Register notices corresponding to the StATS Report information
- P Portions of Louisiana Base Program Checklist IVB
- P Copies of Louisiana Revision Checklists 12, 24, 26, 27, 36 and 37. (Revision Checklist 28 was missing from the State files)
- P Copies of the Attorney General's Statement entries for Revision Checklists 12, 24, 26, 27, 36 and 37

*(See Appendix K-4 for Background Materials.)*

**ASSUMPTIONS**

This exercise assumes that you have read Workbook Chapter IV and that you have already:

- P Set up a Regional Codification Team,
- P Determined that StATS Report accurately represents the authorization status of Louisiana,
- P Gathered and organized the background materials, and
- P Obtained an official version of Louisiana's regulations.

**INSTRUCTIONS**

On the next page is an empty regulatory crosswalk that will be used to complete this exercise. Note that the State citations have already been provided on this crosswalk to limit the information you need to find in the provided background materials. Normally, this information would be entered in the crosswalk as you proceed through the background material with the WordPerfect Tables feature allowing you to insert each State citation in the proper order.

In the regulatory crosswalk on the next page, fill out Columns 2 and 3 and the Federal analog entry for Column 4 using the background materials provided in Appendix K-4 of this workbook. Note that you should consider the provided revision checklists (including Revision Checklist 28) as a guide to narrow the number of checklists you need to look up in the provided Federal Register notices and Attorney General Statement information.

**ANSWER**

See Appendix L, page L-9.

**EXERCISE IV-1. DEVELOPING A PRELIMINARY REGULATORY CROSSWALK**

(1) State citation	(2) Date (Effective)	(3) Checklist	(4) Description/RCRA analogous citation	(5) Authorized: Approved and incorporated by reference 272. 1(b)(1)	Not Incorporated by Reference		
					(6) Authorized: Procedural or enforcement provisions not IBR 272. 1(b)(2)	(7) Broader in Scope 272. 1(b)(3)	(8) Other Unauthorized or Extra provisions: Omit from codification
4383.A							
4383.B							
4383.C							
4385							
4387.A							
4387.B							
4389.A-D							
4391-							
4397							
...							
4411							
4413							
4417							
4419							
4421							

**EXERCISE  
IV-2**

Classifying State Regulatory Provisions.

**PURPOSE**

- Provide experience in classifying regulations into one of the following categories:
  - P authorized,
  - P procedural/enforcement,
  - P broader in scope, or
  - P unauthorized.

**WORKBOOK  
REFERENCE**

Chapter IV, Section C; Chapter IV, Sections A and B may also be helpful.

**BACKGROUND  
MATERIALS  
PROVIDED**

- P StATS Report 25 for Texas
- P Portions of Consolidated, Checklist C9, and
- P Several dated versions, including the official one, of each of the sections/paragraphs that you need to classify. These materials are organized by section/paragraph.

*(See Appendix K-5 for Background materials.)*

**ASSUMPTIONS**

This exercise assumes that you have read Workbook Chapter IV of this workbook and that you have already:

- P Completed a preliminary regulatory crosswalk.

**INSTRUCTIONS**

On the next page is a regulatory crosswalk with the preliminary information filled in for 9 sections or paragraphs of Texas code. Use this information combined with the background material provided for this exercise in Appendix K-5 of this workbook to classify these sections/paragraphs.

☞ Note that the base program checklists are not available for this State. To determine if a section/paragraph was in the base program, you must use the amendatory history provided in the Official version of each section/paragraph. The publication date of the first Texas base program authorization is December 26, 1984. The entire program with major revisions, including restructuring and renumbering was authorized again on December 18, 1986. The provided StATS Report 25 does not indicate this program change because this report is not designed to report reauthorizations. The 1986 reauthorization of the base program was uncovered by examining the Texas authorization notices.

**ANSWER**

See Appendix L, page L-10.

**EXERCISE IV-2. CLASSIFYING STATE REGULATORY PROVISIONS**

(1) State Citation	(2) Date	(3) Checklist	(4) Description/RCRA analogous citation	(5) Authorized: Approved and incorporated by reference by 272.1(b)(1)	Not Incorporated by Reference		
					(6) Authorized: Procedural or enforcement provisions not IBR 272.1(b)(2)	(7) Broader in Scope 272.1(b)(3)	(8) Unauthorized or Extra provisions: Omit from codification
305.127(1)(B)(i)	October, 1990	70	270.50(a)				
305.127(4)(A)	June, 1986	170	270.32(b)(2)				
335.28(2)							
335.45(b)	September, 1986	AG(base), 10(AG)					
335.111(a)	July, 1987	10	265.1(a); was excluded from base authorization, but was finally authorized as per CL 10.				
335.111(b)	July, 1987	10, 14	265.1(d)&(d)(1)(i)-(v)				
335.111(c)	November, 1993	78H	265.1(e)				
335.224(7)	July, 1992	85	266.103(c)(3)(i)				
335.321							