

The Texas Natural Resource Conservation Commission (TNRCC or commission) proposes amendments to §335.13, concerning Recordkeeping and Reporting Procedures Applicable to Generators Shipping Hazardous Waste or Class 1 Waste and Primary Exporters of Hazardous Waste.

#### EXPLANATION OF PROPOSED RULE

The proposed changes will streamline the reporting process for Texas registered generators by deleting duplicate reporting. The proposed rule change will delete from §335.13 the requirement for registered generators shipping waste out-of-state to report that information via the Waste Shipment Summary.

The data will continue to be captured on the Annual Waste Summary. These changes will increase efficiency for processing waste management summary data. These changes will also ensure the submission of more complete and accurate waste management summary data by generators.

The proposed amendment to §335.13 includes an administrative revision to the rule language correcting class 1 waste to Class 1 waste.

The proposed amendment to §335.13(a) clarifies that unregistered generators who ship hazardous or Class 1 waste shall prepare a Waste Shipment Summary (S1) from the manifests.

The proposed amendment to §335.13(b) clarifies that primary exporters who export hazardous waste from or through Texas to a foreign country shall prepare a Waste Shipment Summary (S1) from the manifests.

The proposed amendment to §335.13(c) clarifies that primary exporters who import hazardous or Class 1 waste into or through Texas shall prepare a Foreign Waste Shipment Summary (F1) from the manifests.

The proposed amendment to §335.13(d) reorganizes this information from the original paragraph (b) and adds the requirement and due date for the Foreign Waste Shipment Summary (F1).

The proposed amendment to §335.13(e) is a reference table illustrating the report method based on the generator type, waste type and shipment type.

The proposed amendments to §335.13(f) - (g) adds definitions for “registered generator” and “unregistered generator”.

The proposed new §335.13(h) adds definitions for “primary exporter/importer” to clarify reporting requirements.

The proposed new §335.13(i) - (k) moves this information from the original subsections (a), (c) and (d) and further defines generator as registered/unregistered generator according to the definition. This amendment also adds a cross-reference to §335.76(c), relating to Additional Requirements Applicable to International Shipments.

The proposed new §335.13(l) moves this information from the original subsection (e).

The proposed new §335.13(m) moves this information from the original subsection (f) and changes the internal reference of subsections (c) and (d) to subsections (j) and (k). This amendment also corrects a grammatical error and updates the cross-reference to §335.78, relating to Conditionally Exempt Small Quantity Generators.

The proposed new §335.13(n) moves this information from the original subsection (g) and cross-references 40 CFR §262.51, defining primary exporters, with regard to annual reporting.

#### FISCAL NOTE

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the section as proposed is in effect, there will be fiscal implications as a result of administration or enforcement of the section. The effect on state government will be an estimated savings of \$21,500 in each year of the five-year period relating to the data entry costs of report information proposed to be eliminated. Local governments that are subject to the section as proposed will also realize a small cost savings as a result of elimination of reporting requirements.

#### PUBLIC BENEFIT

Mr. Minick has also determined that for the first five years the section as proposed is in effect, the public benefit anticipated as a result of enforcement of and compliance with the section will be more cost-effective management of information relating to the generation and transportation of industrial solid waste and more complete and accurate reporting of waste management data to the commission and the public. There would be a cost savings for generators who currently report out-of-state shipments on a

monthly basis. Overall, approximately 12,000 generators will potentially benefit by the elimination of this duplicative report. On average, approximately 7,500 records of duplicate information are currently reported monthly by 4,100 registered generators and foreign shippers. There are no economic costs anticipated to any person, including small business, required to comply with the section as proposed.

#### TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated, §2007.043. The following is a summary of that assessment. The specific purpose of the rule amendment is to streamline reporting procedures for Texas registered generators. The rule amendment will substantially advance this specific purpose by deleting the requirement for the Texas registered generators shipping waste out-of-state to report that information via the Waste Shipment Summary, since the data would continue to be captured on the Annual Waste Summary. Promulgation and enforcement of this rule amendment will not affect private real property which is the subject of the rule because the change is only streamlining certain reporting requirements.

#### SUMBITTAL OF COMMENTS

Written comments may be submitted by mail to Bettie Bell, Office of Policy and Regulatory Development, MC-205, P.O. Box 13087, Austin, Texas 78711-3087; or by fax at (512) 239-4808. All comments must be received within 30 days following the date of this publication and should reference Rule Log 96160-335-WS. Comments received by 5:00 p.m. on that date will be considered by the commission prior to any final action on the proposal. For further information, please contact Ray Pizarro, Waste Policy and Regulations Division, (512) 239-2588.

#### STATUTORY AUTHORITY

The amended section is proposed under Texas Water Code §5.103, which provides the commission with the authority to adopt any rules necessary to carry out its powers and duties under the code and other laws of the State of Texas, and to establish and approve all general policy of the commission; and under the Texas Solid Waste Disposal Act (the Act), Texas Health and Safety Code §361.024, which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste.

The amended section implements Health and Safety Code §361.036.

**SUBCHAPTER A : INDUSTRIAL SOLID WASTE AND MUNICIPAL  
HAZARDOUS WASTE IN GENERAL**

**§335.13**

**§335.13. Recordkeeping and Reporting Procedures Applicable to Generators Shipping  
Hazardous Waste or Class 1 Waste and Primary Exporters of Hazardous Waste.**

(a) Unregistered generators who ship hazardous waste or Class 1 waste shall prepare a complete and correct Waste Shipment Summary (S1) from the manifests. [The generator or primary exporter shall retain a copy of each manifest required by §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class 1 Waste and Primary Exporters of Hazardous Waste) for a minimum of three years from the date of shipment by the generator or primary exporter.]

(b) Unregistered generators or out-of-state primary exporters who export hazardous waste from or through Texas to a foreign country, shall prepare a complete and correct Waste Shipment Summary (S1) from the manifests. [Generators or primary exporters who ship to other states, or import shipments from outside the United States through Texas to other states, or export hazardous waste to a foreign country, shall prepare a complete and correct Waste Shipment Summary from the manifests. The Waste Shipment Summary shall be prepared in a form provided or approved by the executive director and submitted to the commission on or before the 25th of each month for shipments originating during the previous month. The generator or primary exporter must keep a copy of each summary for a

period of at least three years from the due date of the summary. A generator or primary exporter required to comply with this subsection shall prepare and submit a Waste Shipment Summary for only those months in which shipments were actually made. Conditionally exempt small quantity generators shipping municipal hazardous waste are not subject to the requirements of this subsection.]

(c) Registered generators or out-of-state primary exporters who import hazardous or Class 1 waste from a foreign country through Texas to another state shall prepare a complete and correct Foreign Waste Shipment Summary (F1) from the manifests. [A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste or class 1 waste.]

(d) The Waste Shipment Summary (S1) and the Foreign Waste Shipment Summary (F1) shall be prepared in a form provided or approved by the executive director and submitted to the executive director on or before the 25th of each month for shipments originating during the previous month. The unregistered generator or in-state/out-of-state primary exporter must keep a copy of each summary for a period of at least three years from the due date of the summary. These generators are required to prepare and submit a Waste Shipment Summary (S1) and/or Foreign Waste Shipment Summary (F1) only for those months in which shipments are actually made. Conditionally exempt small quantity generators shipping municipal hazardous waste are not subject to the requirements of this subsection. [A generator must submit an exception report to the commission if he has not received a copy of the

manifest with the handwritten signatures of the owner or operator of the designated facility within 45 days of the date that the waste was accepted by the initial transporter. Primary exporters of hazardous waste must submit an exception report to the executive director as set forth in §335.76(c) of this title (relating to Additional Requirements Applicable to International Shipments). The exception report must be retained by the generator or primary exporter for at least three years from the date the waste was accepted by the initial transporter and must include:

[ (1) a legible copy of the manifest for which the generator does not have confirmation of delivery; and

[ (2) a copy of a letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste or class 1 waste and the results of those efforts.]

(e) Table illustrating generator, waste type, shipment type and report method. [The periods of record retention required by this section are automatically extended during the course of any unresolved enforcement action regarding the regulated activity.] Figure 1: 30 TAC §335.13(e)

(f) A registered generator is defined as:

(1) An in-state generator who has complied with §335.6 of this title (relating to Notification Requirements), and is assigned a solid waste registration number, or

(2) A Texas parent or a sister company of a twin plant (maquiladora) who imports hazardous waste or Class 1 waste from a foreign country into or through Texas. [The requirements of subsections (c) and (d) of this section do not apply to generators generating hazardous waste or class 1 waste in quantities less than 100 kilograms in a calendar month, or acute hazardous waste in quantities specified in §335.78(e)(1) or (2) of this title (relating to Conditionally Exempt Small Quantity Generators).]

(g) An unregistered generator is defined as an in-state generator who is not a conditionally exempt small quantity generator as defined in §335.78 of this title (relating to Conditionally Exempt Small Quantity Generators), but ships hazardous waste and/or Class 1 waste using a temporary solid waste registration number and a temporary Texas waste code number assigned by the executive director. [Primary exporters of hazardous waste must submit an annual report in accordance with the requirements set out in the regulations contained in 40 Code of Federal Regulations §262.56, which are in effect as of November 8, 1986.]

(h) A primary exporter/importer is defined as:

(1) An in-state generator who imports hazardous waste or Class 1 waste from a foreign country into or through Texas to another state and/or exports hazardous waste to a foreign country.

(2) An out-of-state generator/importer of record who imports hazardous waste or Class 1 waste from a foreign country into or through Texas to another state and/or exports hazardous waste through Texas to a foreign country.

(i) The registered/unregistered generator or primary exporter shall retain a copy of each manifest required by §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class 1 Waste and Primary Exporters of Hazardous Waste) for a minimum of three years from the date of shipment by the registered/unregistered generator or primary exporter.

(j) A registered/unregistered generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste or Class 1 waste.

(k) A registered/unregistered generator must submit an exception report to the executive director if he has not received a copy of the manifest with the handwritten signatures of the owner or operator of the designated facility within 45 days of the date that the waste was accepted by the initial transporter. Primary exporters of hazardous waste subject to §335.76( c) of this title (relating to Additional Requirements Applicable to International Shipments) must submit an exception report to the executive director. The exception report must be retained by the registered/unregistered generator or primary exporter for at least three years from the date the waste was accepted by the initial transporter and must include:

(1) a legible copy of the manifest for which the generator does not have confirmation of delivery; and

(2) a copy of a letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste or Class 1 waste and the results of those efforts.

(l) The periods of record retention required by this section are automatically extended during the course of any unresolved enforcement action regarding the regulated activity.

(m) The requirements of subsections (j) and (k) of this section do not apply to generators who generate hazardous waste or Class 1 waste in quantities less than 100 kilograms in a calendar month, or acute hazardous waste in quantities specified in §335.78 of this title (relating to Conditionally Exempt Small Quantity Generators).

(n) Primary exporters of hazardous waste as defined in 40 Code of Federal Regulations (CFR) §262.51 must submit an annual report in accordance with the requirements set out in the regulations contained in 40 CFR §262.56, which are in effect as of November 8, 1986.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on

Figure 1: 30 TAC §335.13(e)

<b>Generator Type</b>	<b>Waste Type</b>	<b>Shipment Type</b>	<b>Report Method</b>
In-State Registered Generator	Texas Waste	Ship within Texas	Annual Waste Summary (G1)
		Ship out of Texas	Annual Waste Summary (G1)
In-State Unregistered Generator	Texas Waste	Ship within Texas	Waste Shipment Summary (S1)
		Ship out of Texas	Waste Shipment Summary (S1)
In-State Registered Primary Exporter/Importer (TX EPA#)	Maquiladora or Foreign Waste (Import)	Ship through Texas	Foreign Waste Shipment Summary (F1)
		Ship into Texas	Annual Waste Summary (G1)
In-State Unregistered Primary Exporter/Importer (TX EPA#)	Foreign Waste (Import)	Ship through Texas	Foreign Waste Shipment Summary (F1)
		Ship into Texas	No Report Required
Out-of-State Primary Exporter/Importer (Other State EPA #)	Foreign Waste (Import)	Ship through Texas	Foreign Waste Shipment Summary (F1)
		Ship into Texas	No Report Required
	Other State's Domestic Waste (Export)	Ship through Texas	Waste Shipment Summary (S1)