

The commission proposes amendments to §335.6, concerning Notification Requirements, §335.9, concerning Recordkeeping and Annual Reporting Procedures Applicable to Generators, and §335.15, concerning Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities.

#### EXPLANATION OF PROPOSED RULES

The proposed changes will mandate that Large Quantity Generators and Receivers use electronic software provided by the executive director for the submittal of notification and reporting data, **unless the executive director has granted a written request to use paper forms or an alternative method.** The proposed rule modifications will not substantively change the notification or reporting requirements for Large Quantity Generators or Receivers, but will streamline notification and reporting procedures, increasing the accuracy and timeliness of the Annual Waste Summary, Monthly Waste Receipt Summary, and Notice of Registration data through built-in checks in the electronic software. These changes will also result in savings from data entry outsourcing of the reporting data.

The proposed amendments to §335.6 (a)-(c) add language to require registered Large Quantity Generators to use electronic notification software provided by the executive director. Subsections (a), (b), and (g) delete language which requires information to be submitted to the executive director in duplicate form. This amendment also corrects grammatical errors within this section.

The proposed amendments to §335.6(a) and (h) will allow recyclers of industrial and hazardous waste to commence new recycling operations as soon as they receive confirmation from the agency, without

having to wait the full 90 days, as it is currently stated in these subsections. The agency recommends this change in order to allow the regulated community to benefit from the agency's streamlined review process.

The proposed amendments to §335.9(a)(2) add language to mandate that the Large Quantity Generators submit the Annual Waste Summary report by using software provided by the executive director. This amendment also clarifies historical agency interpretation of the rule and corrects grammatical errors within this section.

The proposed amendments to §335.15(2) add language to mandate that Receivers submit the Monthly Waste Receipt Summary report by using software provided by the executive director. To conform with federal regulations, §335.15(3) is amended to change the requirements in this section to pertain only to **unmanifested** hazardous waste. The amendment to this section also corrects grammatical errors.

#### FISCAL NOTE

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for each year of the first five-year period the proposed sections are in effect, there will be fiscal implications as a result of administration or enforcement of the sections. The effect on state government will be a reduction in cost associated with the elimination of manual data entry requirements and database correction and reconciliation. There are no significant effects anticipated for units of local government, except for those local governments that may qualify as large quantity waste handlers subject to the provisions of

the proposed rules. These costs to larger units of local government would be similar to those for private entities and are not anticipated to represent significant fiscal impacts.

#### PUBLIC BENEFIT

Mr. Minick has also determined that for each year of the first five years the proposed sections are in effect, the public benefit anticipated as a result of enforcement of and compliance with the sections will be more cost-effective regulation of industrial solid waste and hazardous waste management, more complete and accurate reporting of waste management activities, and improved public access to waste management information. The costs of complying with the proposed rules for affected facilities would be limited to the costs of acquisition of computer equipment compatible with the available reporting program and potential training and start-up costs. These costs are not anticipated to exceed \$3,000 initially for most affected facilities. Recurring annual costs are not anticipated to be significant. There are no significant economic costs anticipated for small businesses.

#### TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for these rules under Texas Government Code §2007.043. The following is a summary of that assessment. The proposed rule amendments will modify reporting procedures for the Large Quantity Generators and Receivers, will conform **unmanifested** hazardous waste reporting requirements to federal regulations, and will shorten the waiting period between notification of intent to recycle and commencement of recycling activities. Promulgation and enforcement of the rule amendments will not affect private real property.

#### COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The executive director has reviewed the proposed rulemaking and found that the rules are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11, relating to Actions and Rules Subject to the Coastal Management Program, nor will the rules affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11. Therefore, the proposed rules are not subject to the Coastal Management Program.

#### SUBMITTAL OF COMMENTS

Written comments may be mailed to Lisa Martin, Texas Natural Resource Conservation Commission, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rules Tracking Log Number 97102-335-WS. Comments must be received by 5:00 p.m., 30 days from the date of publication of this proposal in the *Texas Register*. For further information, please contact Ray Pizarro, Waste Policy and Regulations Division, (512) 239-2588.

#### STATUTORY AUTHORITY

The amendments are proposed under the Texas Health and Safety Code, Solid Waste Disposal Act (the Act), §361.017 and §361.024, which authorizes the commission to adopt 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.

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

**§§335.6, 335.9, 335.15**

**§335.6. Notification Requirements.**

(a) Any [A] person who intends to store, process, or dispose of industrial solid waste without a permit, as authorized by §335.2(d), (e), (f), or (h) of this title (relating to Permit Required) or §335.24 of this title (relating to Requirements for Recyclable Materials and Nonhazardous [Non-hazardous] Recyclable Materials), shall notify the executive director in writing or using electronic notification software provided by the executive director, that storage, processing, or disposal activities are planned, at least 90 days prior to engaging in such activities. Recycling operations may commence 90 days after the initial notification of the intent to recycle, or upon receipt of confirmation that the executive director has reviewed the information found in this section. The executive director may require submission of information necessary [Such person shall submit to the executive director upon request such information as may reasonably be required to enable the executive director] to determine whether [such] storage, processing, or disposal is compliant with the terms of this chapter. Required [Such] information may include, but is not limited to, information concerning waste composition, waste management methods, facility engineering plans and specifications, or the geology where the facility is located. [Any information provided under this subsection shall be submitted to the executive director in duplicate form.] Any registered generator who generates 1,000 kilograms or more of hazardous waste in any calendar month, must meet the requirements of this subsection by electronic notification using software

provided by the executive director unless the executive director has granted a written request to use paper forms or an alternative notification method or the software does not have features capable of meeting the requirements.

(b) Any person who stores, processes, or disposes of municipal hazardous waste or industrial solid waste shall have the continuing obligation to immediately provide [written] notice to the executive director in writing or using electronic notification software provided by the executive director, of any changes or additional information concerning waste composition, waste management methods, facility engineering plans and specifications, or [and] the geology where the facility is located to that reported in subsection (a) of this section, authorized in any permit, or stated in any application filed with the commission. [Any information provided under this subsection shall be submitted to the executive director in duplicate form.] Any registered generator who generates 1,000 kilograms or more of hazardous waste in any calendar month, must meet the requirements of this subsection by electronic notification using software provided by the executive director unless the executive director has granted a written request to use paper forms or an alternative notification method or the software does not have features capable of meeting the requirements.

(c) Any person who generates hazardous waste in a quantity greater than the limits specified in §335.78 of this title (relating to Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators) in any [a] calendar month or greater than 100 kilograms in any [a] calendar month of industrial [non-hazardous] Class 1 waste shall notify the executive director of such activity [on forms furnished or approved by the executive director.] using electronic notification

software or paper forms provided by the executive director. Any registered generator who generates 1,000 kilograms or more of hazardous waste in any calendar month, must meet the requirements of this subsection by electronic notification using software provided by the executive director unless the executive director has granted a written request to use paper forms or an alternative notification method or the software does not have features capable of meeting the requirements. The executive director may require submission of information necessary [Such person shall also submit to the executive director upon request such information as may reasonably be required to enable the executive director] to determine whether the storage, processing, or disposal is compliant with the terms of this chapter. Notifications submitted pursuant to this section shall be in addition to information provided in any permit applications required by §335.2 of this title (relating to Permit Required), or any reports required by §335.9 of this title (relating to Recordkeeping and Annual Reporting Procedures Applicable to Generators), §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), and §335.13 of this title (relating to Recordkeeping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class 1 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 such change or of becoming aware of such additional information, provide [written] notice to the executive director in writing or using electronic notification software provided by the executive director, of any such changes or additional information [,] to that reported previously. Any registered generator who generates 1,000 kilograms or more of hazardous waste in any calendar month, must meet the requirements of this subsection by electronic notification using software provided by the

executive director unless the executive director has granted a written request to use paper forms or an alternative notification method or the software does not have features capable of meeting the requirements. If waste is recycled on-site or managed pursuant to §335.2(d) of this title (relating to Permit Required), the generator must also comply with the notification requirements specified in subsection (h) of this section. The information submitted pursuant to the notification requirements of this subchapter and to the additional requirements of §335.503 of this title (relating to Waste Classification and Waste Coding Required) shall include, but is not limited to:

(1) - (5) (No change.)

(d) Any person who transports hazardous [waste] or Class 1 waste shall notify the executive director of such activity on forms furnished or approved by the executive director, except:

(1) industrial generators who [that] generate less than 100 kilograms of [non-hazardous] Class 1 waste per month and less than the quantity limits of hazardous waste specified in §335.78 of this title (relating to Special Requirements for Hazardous Waste Generated By Conditionally Exempt Small Quantity Generators) and who only transport their own waste; and

(2) municipal generators who [that] generate less than the quantity limits of hazardous waste specified in §335.78 of this title and who only transport their own waste;

(e) - (f) (No change.)

(g) Any [A] person who stores, processes, or disposes of industrial solid waste or municipal hazardous waste shall notify the executive director in writing of any activity of facility expansion not authorized by permit, at least 90 days prior to conducting such activity. Such person shall submit to the executive director upon request such information as may reasonably be required to enable the executive director to determine whether such activity is compliant with this chapter. [Any information provided under this subsection shall be submitted to the executive director in duplicate form.]

(h) Any person who conducts or intends to conduct the recycling of industrial solid waste or municipal hazardous waste as defined in §335.24 of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials) or Subchapter H of this chapter (relating to Standards for the Management of Specific Wastes and Specific Types of Facilities) and who is required to notify under §334.24 of this title or Subchapter H of this chapter must submit in writing to the executive director, at a minimum, the following information: the type(s) of industrial solid waste or municipal hazardous waste to be recycled, the method of storage prior to recycling, and the nature of the recycling activity. New recycling activities require such notification a minimum of 90 days prior to engaging in such activities. Recycling operations may commence 90 days after the initial notification of the intent to recycle, or upon receipt of confirmation that the executive director has reviewed the information found in this section. Persons engaged in recycling of industrial solid waste or municipal hazardous waste prior to the effective date of this section shall submit such notification within 60 days of the effective date of this subsection.

(i) - (j) (No change.)

**§335.9. Recordkeeping and Annual Reporting Procedures Applicable to Generators.**

(a) Except with regard to nonhazardous recyclable materials regulated pursuant to §335.24(h) of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials), each generator of hazardous [waste] or industrial solid waste shall comply with the following.

(1) The generator shall keep records of all hazardous [waste] and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of on-site or shipped off-site for storage, processing, or disposal and which, at a minimum, includes the information described in subparagraphs (A) - (G) of this paragraph. These records may be maintained in any format, provided they are retrievable and easy to copy. The required records must be sufficiently detailed and complete to support any contentions or claims made by the generator with respect to:

(A) - (G) (No change.)

(2) The generator shall submit to the executive director [Texas Natural Resource Conservation Commission] on or before January 25 of each year a complete and correct Annual Waste Summary detailing the management of each hazardous [waste] and Class 1 waste generated on-site [on site] during the previous calendar year. The Annual Waste Summary shall also include the management of any hazardous or Class 1 waste generated in another calendar year, but managed in the reporting calendar year. [The annual waste summary shall be submitted in a form provided or approved by the executive director.] Upon written request by the generator, the executive director may authorize an

extension to the report due date. The Annual Waste Summary shall be submitted using electronic software or paper forms provided or approved by the executive director. Any registered generator who generates 1,000 kilograms or more of hazardous waste in any calendar month, must submit the Annual Waste Summary using software provided by the executive director unless the executive director has granted a written request to use paper forms or an alternative reporting method.

(3) Generators are not required to submit the information required in paragraph (1) of this subsection if they certify on the annual summary that all of the following conditions have been met:

(A) - (B) (No change.)

(C) a total of less than 1,200 kilograms of hazardous waste, and a total of less than 1,200 kilograms of Class 1 [nonhazardous] waste (2,400 kilograms or less of hazardous waste plus Class 1 [nonhazardous] waste combined) was generated during the year.

(4) (No change.)

(b) A generator who ships his hazardous waste off-site must also report [include] the information specified in §335.71 of this title (relating to Biennial Reporting). Any generator who stores, processes, or disposes of hazardous waste on-site shall also submit an annual report in accordance with the requirements of §335.114 of this title (relating to Reporting Requirements).

**§335.15. Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities.**

This section applies to owners and operators who [that] receive hazardous [waste] or Class 1 waste from off-site sources or who have notified that they intend to receive hazardous [waste] or Class 1 waste from off-site sources.

(1) (No change.)

(2) Except as provided in paragraph (6) of this section or as provided in §335.24(h) of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials), the owner or operator shall prepare a complete and correct Monthly Waste Receipt Summary for all manifested and unmanifested hazardous [waste] or Class 1 waste shipments received. The Monthly Waste Receipt Summary shall be submitted electronically, using software provided by the executive director. Upon written request by the receiver, authorization may be given by the executive director to use paper forms or an alternative reporting method. [prepared in a form provided or approved by the executive director and] The Monthly Waste Receipt Summary shall be submitted to the executive director [Texas Natural Resource Conservation Commission] on or before the 25th of each month for wastes or manifests received during the previous month. (The appropriate abbreviations for method of storage, processing, and disposal of waste and for units of measure may be found on the form or accompanying instructions.) Any [An] owner or operator of a storage, processing, or disposal facility

required to comply with this subsection shall prepare and submit a Monthly Waste Receipt Summary [in] each month even if no waste was received.

(3) The owner or operator shall submit a report on forms provided or approved by the executive director summarizing the types and volumes of any hazardous waste [or Class 1 waste] received without manifests, or, in the case of shipments by rail or water (bulk shipments), without shipping papers. This report shall be submitted within 15 days of receiving the waste, regardless of quantity, and shall include the following information:

(A) the EPA identification number [(applicable to hazardous waste only)], name, and address of the facility;

(B) (No change.)

(C) the EPA identification number [(applicable to hazardous waste only)], name, and address of the generator and the transporter, if available;

(D) a description and the quantity of each hazardous waste [or Class 1 waste] the facility received which was not accompanied by a manifest;

(E) the method of storage, processing, or disposal for each hazardous waste [or Class 1 waste];

(F) - (G) (No change.)

(4) (No change.)

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

(6) (No change.)

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 July 9, 1997.