

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners

Date: June 3, 2011

Thru: LaDonna Castañuela, Chief Clerk
Mark R. Vickery, P.G., Executive Director

From: John Sadlier, Deputy Director
Office of Compliance and Enforcement

Docket No.: 2010-1526-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 328, Waste Minimization and Recycling
Amendment to 30 TAC §328.66
Rule Project No. 2010-059-328-CE

Background and reason(s) for the rulemaking:

At the Commissioner's Agenda on September 15, 2010, the commissioners requested the executive director's staff to initiate rulemaking to amend 30 TAC §328.66.

Scope of the rulemaking:

The rule amendment will be to §328.66(a)(11) to remove the requirement for applicants of Land Reclamation Projects Using Tires (LRPUT) to publish public notice in counties adjoining the county where the facility is proposed to be located.

A.) Summary of what the rulemaking will do:

This amendment would require notice to be published only in the county in which the facility is to be located.

B.) Scope required by federal regulations or state statutes:

None.

C.) Additional staff recommendations that are not required by federal rule or state statute:

None.

Statutory authority:

Texas Health and Safety Code (THSC), §361.011, Commission's Jurisdiction: Municipal Solid Waste

THSC, §361.024, Rules and Standards

THSC, §361.061, Permits; Solid Waste Facility

THSC, §361.112, Storage, Transportation, and Disposal of Used or Scrap Tires

Effect on the:

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A.) Regulated community:

Applicants for a LRPUR will no longer have to publish public notice in counties adjacent to the county in which the project is located.

B.) Public:

Residents in counties adjacent to the county in which a LRPUR is proposed will not have notice of the project published in their county.

C.) Agency programs:

No impact.

Stakeholder meetings:

It was determined that no stakeholder meeting was necessary for this amendment.

Public comment:

No public comments were received.

Significant changes from proposal:

No changes from proposal.

Potential controversial concerns and legislative interest:

None.

Does this rulemaking affect any current policies or require development of new policies?

No.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

Applicants for LRPURs will continue to be required to publish notice in counties adjacent to the county in which a LRPUR is to be located. The alternative would be to maintain the status quo.

Key points in the adoption rulemaking schedule:

Texas Register proposal publication date: February 11, 2011

Anticipated Texas Register publication date: July 8, 2011

Anticipated effective date: July 14, 2011

Six-month Texas Register filing deadline: August 11, 2011

Agency contacts:

Brooke Jackson, Rule Project Manager, 239-0907, Field Operations Support Division

Steve Shepherd, Staff Attorney, 239-0464

Michael Parrish, Texas Register Coordinator, 239-2548

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Attachments

cc: Chief Clerk, 2 copies
Executive Director's Office
Susana M. Hildebrand, P.E.
Anne Idsal
Curtis Seaton
Ashley Morgan
Office of General Counsel
Brooke Jackson
Michael Parrish