

# **Texas Commission on Environmental Quality**

## **Interoffice Memorandum**

**To:** Commissioners

**Date:** August 31, 2012

**Thru:** Bridget C. Bohac, Chief Clerk  
Zak Covar, Executive Director

**From:** Brent Wade, Deputy Director  
Office of Waste

**Docket No.:** 2012-0196-RUL

**Subject:** Commission Approval of Withdrawal of Proposed Rulemaking  
Chapter 305, Consolidated Permits  
Chapter 324, Used Oil Standards  
Chapter 335, Industrial Solid Waste and Municipal Hazardous Waste  
RCRA Authorization for Federal Rule Clusters XIX - XXI and Financial  
Assurance, Used Oil, and Manifest Revisions  
Rule Project No. 2011-025-335-WS

### **Background and reason(s) for the withdrawal:**

After proposal and prior to adoption of the RCRA Cluster XIX – XXI amendments, revisions were made to the waste manifest portion of the rule package in Chapter 335. The agency did not receive any comments on the initial proposal. The revisions were made to ensure equivalency between Texas manifest rules and Environmental Protection Agency (EPA) rules. These changes did not alter the substance of the manifest requirements. However, the executive director recommends that the commission withdraw the original rule proposal and re-propose the amendments to ensure the public and regulated community have an opportunity to comment on these revisions.

### **Scope of the withdrawal:**

#### **A.) Summary of what the withdrawal will do:**

If the entire rule package is withdrawn and re-proposed, the public and regulated community will have an opportunity to comment on the revisions. This will delay the adoption of all the changes within the rule package for approximately four months.

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

There is no anticipated adverse impact on Texas RCRA authorization. Agency staff will coordinate with EPA staff to explain the reason for the delay. Therefore, delivery of the final authorization package to EPA may be delayed only four months which will likely minimize any concerns.

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

None

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**Statutory authority:**

- Texas Water Code (TWC), §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the TWC or other laws of this state; and
- Texas Health and Safety Code (THSC), Solid Waste Disposal Act, §361.017 and §361.024, which authorize the commission to regulate industrial solid waste and hazardous waste and to adopt rules consistent with the general intent and purposes of the THSC.

**Effect on the:**

**A.) Regulated community:**

The regulated community will have an opportunity to comment on the revisions to the manifest rule. In the approximately four-month delay until adoption, the regulated community will continue under existing regulations. Some of these changes, other than the manifest rule, provide additional flexibility to the regulated community.

**B.) Public:**

Members of the general public will benefit by having an opportunity to comment on the revisions to the manifest rule.

**C.) Agency programs:**

Withdrawing these rules may delay EPA's approval of RCRA Clusters XIX - XXI for a short time.

**Stakeholder meetings:**

No stakeholder meetings have been held.

**Potential controversial concerns and legislative interest:**

There are no controversies associated with this withdrawal.

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

No policy issues are affected.

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

None known.

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**Key points in the withdrawal schedule:**

**Original Proposal Date:** April 11, 2012

**Anticipated withdrawal date:** September 19, 2012

**Anticipated *Texas Register* publication date:** October 5, 2012

**Effective Date:** Immediately upon filing with the Secretary of State

**Agency contacts:**

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**Attachments**

cc: Chief Clerk, 2 copies  
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