

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** January 7, 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 Proposed Rulemaking  
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 executive director 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 proposed 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:**

Re: Docket No. 2010-1526-RUL

**A) Regulated community:** Applicants for a LRPOT 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 the LRPOT 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.

**Potential controversial concerns and legislative interest:**

None.

**Will 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 LRPOTs will continue to be required to publish notice in counties adjacent to the county in which the LRPOT is to be located. The alternative would be to maintain the status quo.

**Key dates in the proposed rulemaking schedule:**

**Anticipated proposal date: January 26, 2011**

**Anticipated Texas Register publication date: February 11, 2011**

**Public hearing date (if any): March 1, 2011**

**Public comment period: February 11 - March 11, 2011**

**Anticipated adoption date: June 22, 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

**Attachments**

cc: Chief Clerk, 2 copies  
Executive Director's Office  
Susana M. Hildebrand, P.E.  
Kevin Patteson  
Curtis Seaton  
Ashley Morgan

Commissioners  
Page 3  
January 7, 2011

Re: Docket No. 2010-1526-RUL

Office of General Counsel  
Brooke Jackson  
Michael Parrish