

**SUBCHAPTER O: REGIONAL AND LOCAL SOLID WASTE MANAGEMENT PLANNING
AND FINANCIAL ASSISTANCE GENERAL PROVISIONS**

**§§330.631, 330.633, 330.635, 330.637, 330.639, 330.641, 330.643, 330.645, 330.647, 330.649
Effective March 27, 2006**

§330.631. Purpose and Scope.

(a) Contents. The contents of regional and local solid waste management plans are specified in Texas Health and Safety Code, §363.064.

(b) Purpose. The sections in this subchapter are intended for use in the development of a guidance document to assist in the implementation of regional and local solid waste management plans. These sections provide the recommended content of regional and local solid waste management plans and guidance documents, provide for coordination with other programs and public participation, establish criteria for regional and local plan submission and approval, and set out criteria for financial assistance to councils of governments and local governments.

(c) Scope.

(1) General. A regional or local solid waste management plan shall conform to the requirements of Texas Health and Safety Code, §363.064, and provide the general structure to implement a regional or local program.

(2) Planning process. A regional or local solid waste management plan shall be the result of a planning process related to proper management of solid waste in the planning area under consideration. The process shall include identification of concerns and collection and evaluation of data necessary to provide a written public statement of goals and objectives, and a general statement of the actions recommended to accomplish those goals and objectives.

(3) Geographic area. A regional solid waste management plan shall consider the entire area within an identified planning region and provide an overview of the solid waste management situation throughout the region. A local solid waste management plan shall consider all of the area within the jurisdiction of one or more local governments, but shall not include an entire planning region.

(d) Regional and local solid waste management plans pending upon the effective date of the comprehensive rule revisions to this chapter as adopted in 2006 (2006 Revisions) are subject to the 2006 Revisions.

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§330.633. Definitions of Terms and Abbreviations.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) **Advisory council**--The Municipal Solid Waste Management and Resource Recovery Advisory Council.

(2) **City**--An incorporated city or town in the state.

(3) **Closed municipal solid waste landfill unit**--A discrete area of land or an excavation that has received only municipal solid waste or municipal solid waste combined with other solid wastes, including, but not limited to, construction/demolition waste, commercial solid waste, nonhazardous sludge, conditionally exempt small-quantity generator hazardous waste, and industrial solid waste, and the area of land is not a land application unit, surface impoundment, injection well, or waste pile as those terms are defined by 40 Code of Federal Regulations §257.2.

(4) **Council of governments**--A regional planning commission created under Local Government Code, Chapter 391.

(5) **Governing body**--The city council, commissioners court, board of directors, trustees, or similar body charged by law with governing a public agency.

(6) **Inactive facility**--A facility that no longer receives solid waste.

(7) **Planning fund**--The municipal solid waste management planning fund created in the state treasury by the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act (Texas Health and Safety Code, Chapter 363).

(8) **Planning period**--The period of time that an adopted solid waste management plan is designed to remain effective.

(9) **Planning region**--A region of the state identified by the governor as an appropriate region for municipal solid waste planning.

(10) **Private operator**--A person, other than a government or governmental subdivision or agency, engaged in some aspect of operating a solid waste management system. The term includes any entity other than a government or governmental subdivision or agency, owned and operated by investment of private capital.

(11) **Property**--Land, structures, interests in land, air rights, water rights, and rights that accompany interests in land, structures, water rights, and air rights and includes easements, rights of way, uses, leases, incorporeal hereditaments, legal and equitable estates, interest, or rights such as terms for years and liens.

(12) **Public agency**--A city, county, district, or authority created and operating under the Texas Constitution, Article III, §52(b)(1) or (2), or Article XVI, §59, or a combination of two or more of these governmental entities acting under an interlocal agreement and having the authority under state laws to own and operate a solid waste management system.

(13) **Regional or local solid waste management plan**--A plan adopted by a council of governments or local government under authority of the Municipal Solid Waste Management, Resource Recovery, and Conservation Act (Texas Health and Safety Code, Chapter 363).

(14) **Regional Solid Waste Grants Program**--The program established to utilize funds dedicated under Texas Health and Safety Code, §361.014, for local and regional solid waste projects and to update and maintain regional solid waste management plans.

(15) **Resolution**--A resolution, order, ordinance, or other action of a governing body.

(16) **Solid waste management**--The systematic control of any or all of the following activities:

- (A) generation;
- (B) source separation;
- (C) collection;
- (D) handling;
- (E) storage;
- (F) transportation;
- (G) processing;
- (H) treatment;
- (I) resource recovery; or
- (J) disposal of solid waste.

(17) **Solid waste management system**--Any plant, composting process plant, incinerator, sanitary landfill, transfer station, or other works and equipment acquired, installed, or operated for the purpose of collecting, handling, storing, processing, recovering material or energy, or disposing of solid waste and includes sites for these works and equipment.

(18) **Solid waste resource recovery system**--Any real property, buildings, structures, plants, works, facilities, equipment, pipelines, machinery, vehicles, vessels, rolling stock, licenses, or franchises used or useful in connection with the processing of solid waste to extract, recover, reclaim, salvage, reduce, concentrate, or convert to energy or useful matter or resources, whatever their form, including electricity, steam, or other forms of energy, and fertilizer, glass, or other forms of material and resources, from such solid waste, and includes any real property, buildings, structures, plants, works, facilities, pipelines, machinery, vehicles, vessels, rolling stock, licenses, or franchises used or useful in:

- (A) the transportation, receipt, storage, transfer, and handling of solid waste;
 - (B) the preparation, separation, or processing of solid waste for reuse;
 - (C) the handling and transportation of recovered matter, resources, or energy;
- and
- (D) the handling, transportation, and disposal of any nonrecoverable solid waste residue.

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§330.635. Regional and Local Solid Waste Management Plan Requirements.

(a) Regional solid waste management plans. A regional plan identifies the overriding concerns, goals, objectives, and recommended actions for solid waste management over a long-range period for the entire planning region. The details to implement a regional plan are provided in a Regional Solid Waste Management Implementation Plan Guideline that is approved by the executive director. A Regional Solid Waste Management Plan Implementation Guideline is a separate document. The requirements for the guidance document are found in §330.643 of this title (relating to Regional and Local Solid Waste Management Implementation Plan Guideline Requirements).

(1) Geographic scope. The geographic scope of the regional planning process shall be the entire planning region designated by the governor.

(2) Plan content. A regional plan shall be the result of a planning process related to the proper management of solid waste in the planning region. The process shall include identification of overriding concerns and collection and evaluation of the data necessary to provide a written public statement of goals and objectives and actions recommended to accomplish those goals and objectives. The regional plan shall include:

- (A) a statement of regional goals and objectives;
- (B) a description and assessment of efforts to minimize, reuse, and recycle waste, as follows:

- (i) include a brief description and an assessment of current efforts in the region to minimize municipal solid waste (MSW), including sludge, and efforts to reuse or recycle waste;

- (ii) establish a recycling rate goal appropriate to the region;

- (iii) list any recommendations for encouraging and achieving a greater degree of waste minimization and waste reuse or recycling in the geographic area covered by the plan;

(iv) include a description and assessment of existing or proposed community programs for the collection of household hazardous waste;

(v) recommend composting programs for yard waste and related organic wastes that may include:

(I) creation and use of community composting centers;

(II) adoption of the "Don't Bag It" program for lawn clippings developed by the Texas Agricultural Extension Service; and

(III) development and promotion of education programs on home composting, community composting, and the separation of yard waste for use as mulch; and

(vi) include a public education/outreach component in the solid waste program; and

(C) a commitment to the following, regarding the management of MSW facilities:

(i) encouraging cooperative efforts between local governments in the siting of landfills for the disposal of solid waste;

(ii) assessing the need for new waste disposal capacity;

(iii) considering the need to transport waste between municipalities, from a municipality to an area in the jurisdiction of a county, or between counties, particularly if a technically suitable site for a landfill does not exist in a particular area;

(iv) allowing a local government to justify the need for a landfill in its jurisdiction to dispose of the solid waste generated in the jurisdiction of another local government that does not have a technically suitable site for a landfill in its jurisdiction;

(v) completing and maintaining an inventory of MSW landfill units in accordance with Texas Health and Safety Code, §363.0635. One copy of the inventory shall be provided to the commission and to the chief planning official of each municipality and county in which a unit is located; and

(vi) developing a guidance document to review MSW registration and permit applications to determine conformance with the goals and objectives outlined in *Volume II: Regional Solid Waste Management Plan Implementation Guidelines* as referenced in §330.643 of this title.

(b) Local plans. A local plan addresses overriding short and long-range concerns and actions related to solid waste management within the jurisdiction of one or more local governments and may be developed regardless of whether a regional plan has been developed that will affect the local planning

area. The details to implement a local plan are provided in a Regional Solid Waste Management Implementation Plan Guideline that is approved by the executive director. A Regional Solid Waste Management Plan Implementation Guideline is a separate document. The requirements for the guidance document are found in §330.643 of this title.

(1) Geographic scope. The geographic scope of the local planning process shall be the jurisdiction of one or more local governments with common concerns or needs, but shall not include the entire planning region.

(2) Plan content. A local plan shall be the result of a planning process that is related to the proper management of solid waste in the local planning area. The process shall include identification of concerns and collection and evaluation of the data necessary to provide a written public statement of goals and objectives and the actions recommended to accomplish those goals and objectives. The local plan shall include:

(A) a statement of local goals and objectives;

(B) a description and assessment of efforts to minimize, reuse, and recycle waste, as follows:

(i) include a brief description and an assessment of current efforts in the region to minimize MSW, including sludge, and efforts to reuse or recycle waste;

(ii) establish a recycling rate goal appropriate to the region;

(iii) list any recommendations for encouraging and achieving a greater degree of waste minimization and waste reuse or recycling in the geographic area covered by the plan;

(iv) include a description and assessment of existing or proposed community programs for the collection of household hazardous waste;

(v) recommend composting programs for yard waste and related organic wastes that may include:

(I) creation and use of community composting centers;

(II) adoption of the "Don't Bag It" program for lawn clippings developed by the Texas Agricultural Extension Service; and

(III) development and promotion of education programs on home composting, community composting, and the separation of yard waste for use as mulch; and

(vi) include a public education/outreach component in the solid waste program; and

(C) commitment to the following, regarding the management of MSW facilities:

(i) encouraging cooperative efforts between local governments in the siting of landfills for the disposal of solid waste;

(ii) assessing the need for new waste disposal capacity;

(iii) considering the need to transport waste between municipalities, from a municipality to an area in the jurisdiction of a county, or between counties, particularly if a technically suitable site for a landfill does not exist in a particular area; and

(iv) allowing a local government to justify the need for a landfill in its jurisdiction to dispose of the solid waste generated in the jurisdiction of another local government that does not have a technically suitable site for a landfill in its jurisdiction.

(3) Special considerations or restrictions. The local plan shall not prohibit, in fact or by effect, importation or exportation of waste from one political jurisdiction to another.

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§330.637. Coordination with Other Programs.

(a) All solid waste plans shall be consistent with provisions established by federal, state, and local programs that affect solid waste management and shall consider programs and requirements from:

(1) federal jurisdiction - United States Environmental Protection Agency;

(2) state jurisdiction:

(A) Texas Commission on Environmental Quality;

(B) Railroad Commission of Texas; and

(C) other state agencies; and

(3) substate jurisdiction:

(A) regional planning agencies;

(B) special districts or authorities;

(C) counties; and

(D) cities.

(b) All solid waste management plans shall consider other programs and responsibilities with the aim of avoiding duplication of effort and gaps in program coverage.

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§330.639. Public Participation Requirements for Solid Waste Plans.

(a) Advisory committee. An advisory committee shall provide input, review, and comment during development of regional and local plans. The local council of governments shall have procedures for the appointment of committee members who represent a broad range of interests, including a representative of the Texas Commission on Environmental Quality, public officials, private operators, citizen groups, and interested individuals.

(b) Governmental review. Local governments affected by regional plans shall be given opportunities for review and comment on relevant portions of the plan, including adequate notice of public meetings conducted on the plans. Local plans shall be submitted to appropriate regional planning agencies for review and comment.

(c) Public meeting. A public meeting shall be held prior to the adoption of a regional or local plan for the purpose of receiving comment from interested parties.

(d) Notice and availability. The governing body of the responsible entity shall make available to interested persons at locations of convenience planning reports and documents. Notice of availability of documents and of public meetings shall be advertised in newspapers of general circulation in the area affected by the plan. The governing body of the responsible entity shall provide proper notice a minimum of 15 days in advance of the meeting. The notice shall include the meeting time, location, and subjects to be discussed.

(e) Plan approval. Local and regional solid waste management plans shall be approved by the governing body of the responsible entity before being submitted for approval by the commission.

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§330.641. Procedures for Regional and Local Plan Submission, Approval, and Distribution.

(a) Prior to the submission of a plan, the plan shall be adopted by the council of governments or local government(s) in accordance with applicable administrative procedures. Local governments shall coordinate with the appropriate council of governments and ensure that a local plan is consistent with any regional solid waste management plan in effect for the region encompassing the jurisdiction of the local government, if a regional plan has been approved by the commission.

(b) Within 90 days after a regional or local plan has been submitted, the executive director will tentatively determine if the plan conforms to this subchapter. The executive director will communicate this determination to the agency that submitted the plan. If the plan is not in conformance, a notice of deficiency will be provided to the planning agency within 30 days of the tentative disapproval. The executive director has authority to disapprove any plan that has deficiencies. Plans not approved will

not be considered by the commission until the executive director determines that the deficiencies have been corrected, unless the council of governments or local government submits a request for appeal to the commission. In order for a plan to be considered under such circumstances, the appeal must be in writing and submitted to the commission within 30 days following the day the council of governments or local government receives notification of tentative plan disapproval by the executive director.

(c) If the executive director tentatively determines a regional or local plan meets the requirements of this subchapter and should be approved, the executive director will submit the plan to the commission for adoption in accordance with the Administrative Procedure Act, Texas Government Code, Chapter 2001. If approved, the executive director will notify the planning agency of the commission's approval. The commission's evaluation of a regional or local plan will include whether the plan reflects consideration of the preference of municipal solid waste management methods under Texas Health and Safety Code, §361.022. In the event the plan is not approved, the commission will state the plan's deficiencies and the executive director will immediately notify the planning agency of the commission's decision and the plan's deficiencies. The plan may be resubmitted for approval if the executive director determines that deficiencies have been corrected.

(d) If a regional or local solid waste management plan is adopted by the commission, public and private solid waste management activities and state regulatory activities shall conform to the adopted regional or local solid waste management plan. The plan shall only remain in effect during the planning period defined in the plan. Under the procedures and criteria of subsections (g) and (h) of this section, the executive director may grant a variance from an adopted regional or local solid waste management plan.

(e) If a portion of a regional or local plan is determined by the executive director to no longer be in compliance with this subchapter, the executive director may request that the council of governments or local government revise the plan. If such a revision is not submitted to the executive director within 180 days, the executive director may ask the commission to withdraw its approval of that portion of the plan.

(f) A council of governments or local government may submit revisions or updates to an approved plan that reflect new information or changed conditions. Updates to an approved plan to provide for changes to data and information contained in the plan, which do not substantially change the scope or content of the goals and recommendations of the plan, may be incorporated into an approved plan upon approval by the executive director without further adoption procedures being required. Major revisions and amendments to an approved plan that substantially change the scope or content of the goals and recommendations of the plan shall be considered by the same procedures as the original plan submission and approval.

(g) Upon application, the executive director may grant a variance from an adopted regional or local solid waste management plan when:

- (1) the application of the plan creates an unnecessary hardship;
- (2) equally safe, effective methods could be used;

(3) practical difficulties are encountered in meeting the requirements of a plan; or

(4) deviation or exception would not affect substantial compliance with the plan and not threaten health or safety.

(h) If the executive director intends to grant a variance from the requirements of a plan, the executive director will offer the opportunity for a public meeting on the matter prior to the final decision. The meeting, if requested, will be advertised and conducted within the area affected by the plan.

(i) Upon approval of a regional plan by the commission, the council of governments shall provide a copy of the adopted plan, including the inventory of closed municipal solid waste landfill units, to the chief planning official of each municipality and county within the planning region. The council of governments will include an advisory to the chief planning official that all enclosed structures over a closed landfill must comply with Subchapter T of this chapter (relating to Use of Land Over Closed Municipal Solid Waste Landfills). The council of governments and the chief planning officials shall make the adopted regional plan available for public inspection.

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§330.643. Regional and Local Solid Waste Management Implementation Plan Guideline Requirements.

(a) Regional implementation plans. A regional solid waste management plan provides the overriding structure and commitment to comply with the requirements for regional planning. A regional implementation plan provides the details to implement a regional solid waste management plan, is approved by the commission's executive director, and identifies the concerns, goals, objectives, and recommended actions for solid waste management over a long-range period for the entire planning region.

(1) Geographic scope. The geographic scope of the regional planning process shall be the entire planning region designated by the governor. It is not anticipated that the regional plan will present site-specific information. The regional implementation plan shall use the four types of planning units listed in subparagraphs (A) - (D) of this paragraph, as appropriate for the information presented:

(A) small geographic areas such as census tracts or city boundaries for the most detailed data collection and manipulation;

(B) planning areas to be used for the assessment of concerns and the evaluation of alternatives. These planning areas shall be aggregations of small geographic areas;

(C) county boundaries for the summarization and presentation of key information; or

(D) the entire planning region.

(2) Planning periods. An implementation plan should be developed based on the results of a planning process. The regional planning process shall address solid waste management over a long-range period. Long range is considered to be a period of at least 20 years. The maximum planning period addressed by the plan shall be stated on the plan cover and title page and at other appropriate locations within the body of the plan. The regional implementation plan shall use the four planning periods listed in subparagraphs (A) - (D) of this paragraph as appropriate for the information presented:

- (A) current and historical information;
- (B) short-range planning period, one to five years, with specific information presented by year;
- (C) intermediate planning period, six to ten years, with information in less detail; or
- (D) long-range planning period, 11 to 20 years or longer, with information in the least detail.

(3) Plan content. A regional implementation plan shall be the result of a planning process related to the proper management of solid waste in the planning region. The process shall include identification of concerns and collection and evaluation of the data necessary to provide a written public statement of goals and objectives, and actions recommended to accomplish those goals and objectives. The regional implementation plan shall include:

- (A) population patterns, commercial and industrial data, and other demographic information necessary to estimate solid waste quantities and characteristics;
- (B) estimates of current and future solid waste amounts by type;
- (C) description of current and planned solid waste management activities in the region;
- (D) description and assessment of the adequacy of existing resource recovery, storage, transportation, treatment, and disposal facilities and practices, and programs for the collection and disposal of household hazardous wastes;
- (E) assessment of current source reduction and waste minimization efforts, including sludge, and efforts to reuse or recycle waste;
- (F) identification of additional opportunities for source reduction and waste minimization, and reuse or recycling of waste;
- (G) recommendations for encouraging and achieving a greater degree of source reduction and waste minimization, and reuse or recycling of waste;

(H) identification of public and private management agencies and responsibilities;

(I) identification of solid waste management concerns and establishment of priorities for addressing those concerns;

(J) planning areas and agencies with common solid waste management concerns that could be addressed through joint action;

(K) identification of incentives and barriers for source reduction and waste minimization, and resource recovery, including identification of potential markets;

(L) regional goals and objectives, including waste reduction goals consistent with state goals;

(M) advantages and disadvantages of alternative actions;

(N) the recommended plan of action and associated timetable for achieving regional goals and objectives, including: waste reduction; composting programs for yard wastes and related organic wastes; household hazardous waste collection and disposal programs; public education programs; and the need for new or expanded facilities and practices; and

(O) identification of the process that will be used to evaluate whether a proposed municipal solid waste facility application will be in conformance with the regional plan.

(4) Special considerations or restrictions. The regional implementation plan shall not prohibit, in fact or by effect, importation or exportation of waste from one political jurisdiction into another.

(5) Prior approval. A regional implementation plan and any substantive changes must be approved in advance of implementation by the Texas Commission on Environmental Quality's executive director.

(b) Local plans. A local solid waste management plan provides the overriding structure and commitment to comply with the requirements for local planning. A local implementation plan provides the details to implement a local solid waste management plan, is approved by the commission's executive director, and addresses specific short- and long-range concerns and actions related to solid waste management within the jurisdiction of one or more local governments and may be developed regardless of whether a regional plan has been developed that will affect the local planning area.

(1) Geographic scope. The geographic scope of the local planning process shall be the jurisdiction of one or more local governments with common concerns or needs, but shall not include the entire planning region. In certain cases the local plan may present site-specific information. The local implementation plan shall use the three types of planning units listed in subparagraphs (A) - (C) of this paragraph, as appropriate for the information presented:

(A) small geographic areas such as census tracts or city boundaries for the most detailed data collection and manipulation. These small areas should be the same as those used in the regional plan;

(B) planning areas to be used for the assessment of concerns and the evaluation of alternatives. These planning areas should be aggregations of the small geographic areas; or

(C) the entire area encompassed by the local plan.

(2) Planning periods. The local planning process shall address specific short and long-range concerns and actions in solid waste management. The maximum planning period addressed by the plan shall be stated on the plan cover and title page and at other appropriate locations within the body of the plan. The local implementation plan should use the planning periods listed in subparagraphs (A) - (D) of this paragraph as appropriate for the information presented:

(A) current and historical information;

(B) short-range planning period, one to five years, with specific information presented by year;

(C) intermediate planning period, six to ten years, with information in less detail; or

(D) long-range planning period, 11 to 20 years or longer.

(3) Plan content. A local implementation plan shall be the result of a planning process that is related to the proper management of solid waste in the local planning area. The process shall include identification of concerns and collection and evaluation of the data necessary to provide a written public statement of goals and objectives, and the actions recommended to accomplish those goals and objectives. The local implementation plan shall include:

(A) population and commercial and industrial data from the regional planning process, supplemented with other local demographic information as necessary;

(B) composition, characteristics, and amounts of waste, by type, that affect the local planning area;

(C) description of current and planned solid waste management activities in the local planning area;

(D) description and assessment of the adequacy of existing resource recovery, storage, transportation, treatment, and disposal facilities and practices, including programs for the collection and disposal of household hazardous wastes;

(E) identification of the short and long-range solid waste management concerns within the local planning area;

(F) assessment of current source reduction and waste minimization efforts for solid waste, including sludge, and efforts to reuse or recycle waste;

(G) identification of additional opportunities for source reduction and waste minimization, and reuse or recycling of waste;

(H) recommendations for encouraging and achieving a greater degree of source reduction and waste minimization, and reuse or recycling of waste;

(I) local goals and objectives associated with management concerns, including waste reduction goals consistent with state and regional goals;

(J) advantages and disadvantages of alternative actions;

(K) the recommended plan of action and associated timetable for accomplishing the goals and objectives, including: waste reduction; composting programs for yard wastes and related organic wastes; household hazardous waste collection programs; public education programs; and the need for new or expanded facilities or practices; and

(L) identification of the process that will be used to evaluate whether a proposed municipal solid waste facility application will be in conformance with the regional plan.

(4) Special considerations or restrictions. The local implementation plan shall not prohibit, in fact or by effect, importation or exportation of waste from one political jurisdiction to another.

(5) Prior approval. A local implementation plan and any substantive changes must be approved in advance of implementation by the executive director.

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§330.645. Financial Assistance for Regional and Local Plans.

(a) Authority. The municipal solid waste management planning fund is established by the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act (Texas Health and Safety Code, Chapter 363) as a special fund in the state treasury.

(b) Administration of the planning fund.

(1) The executive director shall administer the financial assistance program and the planning fund under the direction of the commission.

(2) An applicant for financial assistance from the planning fund shall agree to comply with commission rules, and any other requirements adopted by the commission.

(3) The executive director shall not authorize release of funds under an application for financial assistance until the applicant has furnished the executive director with a resolution adopted by the governing body of each public agency or planning region that is a party to the application certifying that:

(A) the applicant will comply with the provisions of the financial assistance program and the requirements of the commission;

(B) the grant will only be used for the purposes for which it was provided;

(C) regional or local solid waste management plans, along with their implementation plans, developed with state financial assistance will be adopted by the governing body as its policy; and

(D) future municipal solid waste management activities will, to the extent reasonably feasible, conform to the regional or local solid waste management plan.

(4) The planning fund shall not be used for the preparation of final design and working drawings, construction, acquisition of land, or an interest in land, or payment for recovered resources.

(5) The order of priority to be given to applicants in receiving financial assistance shall be determined by:

(A) the need to initiate or improve the solid waste management program within the applicant's jurisdiction;

(B) the needs of the state;

(C) the financial need of the applicant;

(D) the degree that the proposed plan work program will result in improvements that meet the requirements of other applicable state, regional, and local solid waste management plans or activities;

(E) a positive consideration for applicants who have completed approved plans while utilizing their own resources; and

(F) a positive consideration for applicants who have committed a substantial amount of their own resources for development of an approvable plan at the time that a request is made for state financial assistance.

(6) The executive director may approve an application consistent with the provisions of this section when the executive director finds state financial participation is in the public interest and when it is determined that both state and regional or local funding is sufficient to complete the agreed scope of services. The executive director shall approve or disapprove an application for financial assistance within 90 days of its receipt.

(c) Applications.

(1) Requests for state financial assistance shall be made on forms furnished by the commission and shall include a work program and budget for a defined period in which the tasks described in the work program are to be completed.

(2) The only applicant eligible to apply for regional planning financial assistance shall be the council of governments designated as responsible for the planning region for which a plan is considered.

(3) The only applicants authorized to apply for local planning financial assistance are local governments or public agencies and designated council of governments. Where the local plan is to cover a geographical area larger than the area of one city, then the application and any resulting contract shall be made by one of the cities, counties, or public agencies that has all or part of its jurisdiction within the area to be considered in the plan, and that is authorized by all public agencies with jurisdiction included in the area considered to act as their agent; or the designated council of governments that has jurisdiction over the geographical area to be considered in the plan.

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§330.647. Approved Regional and Local Solid Waste Management Plans.

(a) Plans approved. The current effective regional solid waste management plan for each region or local solid waste management plan for a local government is the latest plan, including plan amendments, that has been adopted by the commission or approved by the executive director. Copies of approved plans shall be kept on file and available for public review at the Texas Commission on Environmental Quality library. Those plans, and any adopted amendments to the plans, are incorporated into this subchapter. Updates to an approved regional or local plan that do not require official adoption by the commission, as specified under §330.641(f) of this title (relating to Procedures for Regional and Local Plan Submission, Approval, and Distribution), may be incorporated into an approved plan for informational purposes, as each update is approved by the executive director. Each plan's effectiveness applies only for the geographical area described in the plan and for the period designated in the plan.

(b) Conflicting provisions. By adopting a regional or local plan, the commission determined that the plan has been developed according to commission rules and does not conflict with the state plan. If it should later be determined that provisions of an adopted plan do conflict with provisions of the state plan, then provisions of the state plan shall prevail.

(c) Agency responsibilities. It shall be the responsibility of the council of governments to coordinate the implementation of regional policies and recommended actions in an approved regional plan and coordinate local planning efforts. It shall be the responsibility of affected local governments to implement the policies and recommended actions of adopted regional and local plans and to maintain policies and activities that do not conflict with provisions in current state, regional, and local solid waste management plans.

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§330.649. Regional Solid Waste Grants Program.

(a) Authority. Funds are dedicated under Texas Health and Safety Code, §361.014, for the development and updating of regional and local solid waste management plans, and for implementing regional and local projects consistent with approved regional solid waste management plans. This regional solid waste grants program is separate from the financial assistance program outlined under §330.643 of this title (relating to Regional and Local Solid Waste Management Implementation Plan Guideline Requirements).

(b) Administration of regional solid waste grants program. The executive director shall administer the regional solid waste grants program under the direction of the commission.

(c) Funding allocation. Funds for local and regional projects under the regional solid waste grants program shall be allocated to municipal solid waste geographic planning regions according to a formula established by the commission that takes into account population, area, solid waste fee generation, and public health needs.

(d) Public/private cooperation. A project or service funded under the regional solid waste grant program must promote cooperation between public and private entities and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services.

(e) Pass-through grants. The executive director may establish procedures to make grant funds available to authorized local entities through pass-through grants administered by each council of governments.

(f) Applications.

(1) Requests for state financial assistance provided directly by the agency shall be made on forms furnished by the executive director.

(2) Requests for financial assistance made available through pass-through grants administered by a council of governments shall be made on forms developed jointly by the executive director and the council of governments, and furnished by the council of governments.

(g) Application procedures. Applicants for financial assistance from the agency shall follow the procedures set forth in the application instructions and guidelines issued by the executive director. Applicants for pass-through grant assistance from a council of governments shall follow the procedures set forth in the pass-through grant application instructions issued by the council of governments.

(h) Grant contracts. Grants shall be provided through contractual agreement between the agency and the grant recipient. If a council of governments provides financial assistance to local entities through a pass-through grant arrangement, the council of governments shall enter into an appropriate contractual agreement with the local grant recipient. The contractual agreement between the council of governments and the local grant recipient shall adhere to all applicable provisions of the main grant contract between the council of governments and the Texas Commission on Environmental Quality.

Adopted March 1, 2006

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