

The Texas Commission on Environmental Quality (commission) proposes repealing current §§335.401 - 335.403 and 335.405 - 335.412 and simultaneously proposes new §§335.401 - 335.403, 335.405, 335.407, 335.409, 335.411, 335.413, 335.415, 335.417, and 335.419.

#### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

In order to make substantial reorganization and amendments to the current rules, the commission proposes new rules for household hazardous waste (HHW) concurrently with the repeal of the existing rules for HHW. The proposed rules would revise and reorganize the rules for the commission's HHW program. The commission encourages the collection of HHW for reuse, recycling, or for its eventual disposal or processing by a method appropriate for hazardous waste.

HHW is municipal solid waste that has the characteristics of hazardous waste. Wastes from households are specifically excluded from classification as hazardous waste by the United States Environmental Protection Agency (EPA) under 40 Code of Federal Regulations (CFR) §261.4(b)(1), which specifies that these wastes are solid waste. The wastes from households that would be hazardous waste except for the exclusion are termed "hazardous household waste" or "household hazardous waste" (the terms have the same meaning and are often abbreviated using the acronym "HHW"). The exemption is based on the facts: 1) that these wastes are typically disposed in very small quantities dispersed in a large volume of municipal solid waste, 2) that the most hazardous types of hazardous wastes are not typically found in consumer products that are typically disposed by households, and 3) that modern landfills are designed to safely hold these materials. Because the collection of HHW involves aggregating relatively large volumes of hazardous materials in a relatively small area, proper practices and proper disposal or processing are needed for the collections to occur safely and to avoid any adverse impacts. The Texas

Legislature requires by statute that the commission provide rules covering standards for HHW collections and training of staff working at collections. These rules provide the standards for HHW collections and cover the requirements for training staff to conduct the collections safely.

As solid waste, these materials can usually be legally disposed in the normal municipal solid waste stream and sent to landfills. However, because there are better disposal and processing options available, some entities choose to collect HHW from the public and manage it by having it reused for its intended purpose or having it recycled, processed, or disposed as hazardous waste. Typical HHW includes some household solvents, some pesticides, some paints, some cleaning products, some fuels, some automotive fluids, lead acid batteries, and some other consumer products that all would be hazardous waste when disposed except for the federal exclusion for household wastes. Because these household wastes are exempt from hazardous waste regulation, they can be disposed of as municipal solid waste unless there are other laws or regulations limiting such disposal (such as for lead acid batteries). However, these wastes may include chemicals or constituents that can pose a risk to human health and the environment if not managed appropriately. Communities and other entities throughout the state have organized voluntary efforts to collect HHW to reduce the volume of these products disposed in municipal waste landfills or and to reduce the chances that they will be disposed improperly. These collection programs bring in HHW materials that can be reused for their intended purpose or that are recycled, processed, or disposed of as hazardous waste. These rules establish the requirements for the collection of HHW and other wastes through such programs.

The original rules for HHW collections were adopted in 1988 as joint rules between the Texas Water Commission (TWC) and the Texas Department of Health (TDH). At the time the TWC had jurisdiction

over hazardous waste, and the TDH had jurisdiction over municipal solid waste. After jurisdiction for all solid waste was transferred to the commission, a revision was done to the rules in 2001 which primarily changed references from the two former agencies to the commission. Since the name of the commission subsequently changed, the name is updated as needed throughout the rules. Because of the extent of the reorganization and revisions to the existing HHW rules, the commission is proposing the repeal of the existing requirements and is proposing new rules in replacement. This rulemaking proposes the new, revised, and continued provisions for HHW collection activities.

Various approaches are used to collect HHW. Some entities organize one-time or recurrent events where residents may bring their HHW for collection and proper reuse, disposal, or processing. Others have special vehicles that can pick up the wastes from individual households. Other entities have permanent collection facilities open for various days and hours year-round where individuals can bring their HHW for reuse or shipment for proper processing or disposal. Some entities offer as much HHW for reuse as possible, while others focus entirely on aggregating the wastes for disposal or processing. In the 20 years since the rules were first promulgated, new approaches and methods for these collections have developed, which are not covered in the current rules.

To identify issues that should be addressed in the rule revisions, the commission requested open input from any interested parties on the existing rules prior to drafting revisions. The only stakeholders who provided input were entities involved with HHW collection programs, but there was not consensus in the input that was provided. Some stakeholders requested significant changes to the rules, but other stakeholders indicated that only minor changes should be made. Some issues from stakeholders and other

issues identified by the commission in administering the program are addressed in the proposed revisions to the rules.

One development in HHW collection programs is the use of mobile collection units to hold collection events in areas convenient to the public rather than at a fixed facility. A mobile collection unit is a vehicle or trailer that can be moved to different locations and that is designed to facilitate the acceptance, classification, storage, and transport of HHW. The existing rules do not contemplate or address the use of such mobile units, and some stakeholders indicated that various provisions should be added. Changes are proposed to specify the requirements that are applicable to mobile collection units.

A second development that some stakeholders indicated should be addressed in the rule revisions is satellite collection areas, which are small fixed facilities that are located in places convenient to the public. While there are no collection programs in Texas using satellite collection areas currently, some stakeholders indicated that they would like provisions to be added for such sites, as either manned or unmanned drop-off stations for HHW. The proposed amendments would allow for manned stations as permanent collection centers, but unmanned stations present significant risks and are not allowed under the current or the proposed rules. Without staff on site to ensure that incompatible wastes are properly separated and stored and to ensure that open or leaking containers are properly secured, unmanned drop-off stations present significant risks to the public and the environment. Since manned stations are the same as permanent collection centers, the proposed rules would allow these facilities subject to the same requirements as any other permanent collection center.

The commission's rules address only the collection of wastes from households. Some stakeholders asked that HHW programs be allowed to accept hazardous waste from conditionally exempt small quantity generators (CESQGs). CESQG waste is hazardous waste generated in small volumes that is exempt from the disposal and processing requirements for hazardous wastes so long as the waste generator meets certain conditions to maintain the exemption. Like HHW, hazardous waste from CESQGs can be placed legally in the normal municipal solid waste stream for disposal in a landfill, although it may include small amounts of acutely hazardous waste, which may be more hazardous than materials generally present in consumer products. Currently, HHW collection programs must prohibit the acceptance of any hazardous wastes. The commission is not proposing to change this prohibition because this rule change would require amending other parts of Chapter 335 that are not covered in this rulemaking. To meet other requirements in this chapter for accepting CESQG wastes, HHW facilities would need to be authorized by the commission. However, several stakeholders, including some who requested changes to be able to take CESQG wastes, were opposed to having HHW programs authorized by the commission.

In addition to updating and reorganizing the rules for the HHW program, the commission is proposing certain other changes as well. Based on stakeholder input, the changes propose shortening the deadline for notifying the agency of collection activities to 45 days, rather than 90 days, in advance of starting a collection. This decreased notice time should provide sufficient time for the agency to review notifications and should allow HHW collection activity planners greater flexibility. The commission proposes eliminating the requirement that a detailed operational plan be submitted to the agency in advance of HHW collection activities. Rather, the commission proposes that HHW operators prepare and implement a detailed operational plan, and make the plan available for agency review upon request.

There is certain information currently required for operational plans that the agency will need to continue

to review. The agency proposes to incorporate this information into the new notification requirements. The time in advance that HHW programs would need to determine this information would not be changed since the new deadline for notifications is the same as the previous deadline for operational plans (45 days).

Another proposed change is to provide more emphasis and specificity to the training requirements for people involved in HHW collections. By statute, the HHW rules must cover training requirements, but there has been some confusion in the regulated community on what training is actually needed. The commission proposes to amend the rules to make the requirements clearer for the content of the training and the connection of certain training to specific job functions.

#### SECTION BY SECTION DISCUSSION

The title of Subchapter N is changed from “Household Materials Which Could be Classified as Hazardous Waste” to “Household Hazardous Waste.” In the two sections of the Texas Health and Safety Code that require that the commission provide rules for HHW collections, these two phrases are used as the title of the sections. Because “Household Hazardous Waste” is the term most often used in Texas for this waste, the use of this term throughout the rules would provide clarity and consistency.

Where appropriate throughout the rules, the amendments would add the term “reuse” to the types of activities covered by the provisions since this activity is included in the rules. “Reuse” refers to the use of a product received in a HHW collection for its intended purpose, rather than recycling or disposing the material. “Recycling” in the rules refers to the use of a waste as the raw material for a new product or to the burning of a waste as a fuel for energy recovery.

Because of the distinction between the definitions of “disposal” and “processing” in Chapter 335, the term “processing” is proposed to be added where appropriate throughout the rules to the parts in the current rules that relate to disposal. The term “disposal” in the rules refers to the placement or discharge of wastes to land or water (such as in a landfill or injection well). The term “processing” in the rules refers to the proper treatment or destruction of the material to eliminate its hazardous properties or reduce its volume (such as incineration or burning for energy recovery). Where needed grammatically in the rules, the verbs “dispose” and “process” are used in place of “disposal” and “processing” respectively, for the same reasons. The addition of “processing” in the rules is proposed for clarity rather than to expand the rules. The current rules already include processing in the requirements for disposal.

Where appropriate throughout the rules, the amendments would change “and/or” to other grammatical constructions. Where appropriate throughout the rules when needed to clarify that any combination of listed items, actions, etc. are covered by a rule provision, the words “and” and “or” are also changed to other grammatical constructions. The use of the alternative constructions is meant to clarify the full coverage of a provision that might otherwise not be clear to the regulated community, without resorting to usage of “and/or” per the standards of the *Texas Legislative Council Drafting Manual*.

Where appropriate throughout the rules, the words “shall” and “must” are changed to be consistent with the standards of the *Texas Legislative Council Drafting Manual*. The word “shall” is used to indicate an obligation or requirement for a specific person. The word “must” is used to denote a condition precedent, such that the person or thing specified does not meet the applicable designation or requirement unless the condition is met. Where needed, this issue is discussed further for the specific instances in the discussion below.

Permits for hazardous waste facilities specify the types of materials that the facilities can receive and handle, including specifying when they can receive HHW. The permits are protective of human health and the environment, so additional requirements in these rules are not needed. When appropriate in the rules, the phrase “that is authorized to receive household hazardous waste” is added after “hazardous waste processing storage, or disposal facility.” These changes are meant to ensure that HHW operators verify that the hazardous waste facilities selected to receive HHW are properly authorized to receive HHW. When used in the current rules, the phrasing “authorized by the commission” is changed in the proposed rules to “authorized” in order to avoid any confusion that the rules do not allow HHW to be shipped to other states; facilities in other states would still need to be authorized to receive HHW, but their authorization is not from the commission. Because the receiving facilities must also agree to accept the HHW prior to shipment, the phrasing “that have agreed to accept the wastes” is also added in the same places in the rules to clarify that the hazardous waste facilities must agree in advance to accept the HHW.

The original HHW rules were promulgated prior to the development of universal waste rules by the EPA and the commission, and no reference to these rules were added during the revisions made in 2001. Since a limited variety of HHW is allowed to be shipped as universal wastes, the commission proposes to add throughout the rules where it is specified that HHW must be shipped under a uniform waste manifest a new provision that HHW can be shipped as universal waste if allowed under the Universal Waste Rule in Subchapter H, Division 5 of this chapter.

§335.401. *Purpose and Applicability.*

The commission proposes new §335.401 to establish the purpose and applicability of Subchapter N of Chapter 335. Texas Health and Safety Code, §361.029 and §361.429 require the commission to provide rules and to set standards for HHW collection programs, including the training of personnel. This subchapter establishes the requirements for those who collect, aggregate, offer for reuse, recycle, transport, or process or dispose of HHW. New §335.401(a) would add “aggregate,” “offer for reuse,” and “transport” to the list of activities covered by this subchapter, since these activities are currently regulated and are proposed to continue to be regulated by the subchapter, and would clarify that any combination of the activities is covered.

In new §335.401(b), the commission proposes that the requirements of Subchapter N apply to persons who collect, aggregate, or store HHW for offering for reuse, recycling, processing, or disposal; provide a point of generation pick-up service; operate a mobile collection unit; operate a collection event; operate a permanent collection center; transport aggregated HHW; own or operate a hazardous waste processing, storage or disposal facility receiving HHW; or engage in any combination of these activities. The proposed revisions change the existing provisions in current §335.405 in the following ways: 1) by specifying that any combination of activities is covered; 2) by adding “store” after “collect” and “aggregate,” adding “offering for reuse” before “recycling, or disposal”, and inserting “processing” between “recycling” and “disposal”; 3) by adding “operate a mobile collection unit”; and 4) by changing the current “transport any hazardous waste required by this subchapter to be manifested” to the proposed “transport any aggregated household hazardous waste.” In each case, both the current and proposed rules regulate these activities, so the changes are made for clarity. The change in regards to transportation is

made because HHW transported by point of generation pick-up services and by proposed mobile collection units or transported as universal waste (if allowed) would not need to be manifested, but its transport is still regulated.

The proposal would also specify that only hazardous waste processing, storage, or disposal facilities that receive HHW directly from the public are covered by this subchapter. The commission proposes to remove the current provisions for hazardous waste facilities that receive HHW from collection programs because their permits provide adequate oversight for the handling of HHW. Processing, storage, or disposal facilities that receive HHW directly from individuals would only be required to report to the commission the amounts received from individuals (rather than collection programs).

In new §335.401(c), the commission proposes several exclusions for certain types of operations. The commission proposes that the requirements of Subchapter N do not apply to collection programs that collect any combination of batteries, used oil, and paint, as long as no other HHW is collected. These types of collections are often called battery, oil, paint, and antifreeze (BOPA) collections. Because these materials generally do not present substantial hazards in collections, there is no need for additional regulation of these activities by themselves. The collections often take materials that do not have characteristics of hazardous waste, such as antifreeze and tires, which do not significantly increase the hazards associated with collecting the materials. The new proposed exclusion would expand the existing exclusion for collections of used oil or lead acid batteries.

The commission proposes a new exclusion that the requirements of Subchapter N do not apply to collection programs that receive *de minimus* amounts of HHW (i.e., collection of less than 100 pounds of

HHW per year). Because the amounts involved are about the same as might be expected from a household, the collection does not present any more risk than normal household disposal of HHW.

The commission proposes a new exclusion that the requirements of Subchapter N do not apply to retail businesses that take wastes from customers that are similar in nature to the products sold by the business. Some retailers, such as those selling lead acid batteries, are required by law to accept back from customers used products. Other retailers, such as many that sell motor oil, offer such services to their customers. Since these programs accept limited varieties of waste from many sources (households, businesses, government, etc.) which could conflict with the prohibition in these rules from accepting hazardous waste along with HHW, these programs should not be subject to these rules. The limited variety of wastes avoids much of the potential risk from general HHW collections, and the risks from used products are generally similar to those for new items in stock so there is little risk from retailers handling such wastes.

The commission proposes a new exclusion that the requirements of Subchapter N do not apply to collections primarily intended to receive wastes from agricultural operations that also take incidental amounts of HHW, if there is no fee charged for taking wastes and if registered transporters are used to take the collected wastes to hazardous waste processing, storage, or disposal facilities. The commission intentionally is not adding a provision for pesticides shipped as universal wastes because this addition would make this exclusion too broad. The collections are generally held in or near rural areas for farmers and others involved with agriculture. In many cases, household wastes from farms are brought with the wastes from agricultural operations, and their acceptance does not present any increased risk for the collection activities. Since some of the agricultural waste pesticides and other waste materials are

hazardous waste, these collections would be prohibited from taking HHW unless excluded. Since HHW collection programs are usually very limited in rural areas, the exclusion would allow better processing or disposal options for the HHW other than disposal as municipal solid waste, which can be buried or burned on the property of the generator in many rural areas and presents a greater risk to public health and the environment than normal disposal into landfills that are designed to hold HHW safely.

The commission proposes a new exclusion that the requirements of Subchapter N do not apply to the collection of used electronics for reuse. When electronic items are received for later evaluation of whether they are still useful and are handled in a manner that does not break them, they are products rather than wastes. As products, these materials are not HHW. The exclusion is proposed because of some misunderstanding of this issue in the regulated community.

In new §335.401(d), the commission proposes that the executive director may waive the requirements of this subchapter when necessary during emergencies or disasters. This provision anticipates occasions, such as flood and hurricane recovery efforts, when immediate action is required to safely collect HHW for appropriate processing or disposal. During emergency responses, there is not time available for submitting notifications and developing operational plans weeks in advance of collecting HHW. The disruption of trash collection services that often occurs in such circumstances may inhibit citizens' ability to legally dispose of HHW and may increase risks of improper storage or disposal. This change would provide for suspending any parts of the rules by the executive director in any extraordinary circumstance where this action is needed to protect human health and the environment.

§335.402. *Definitions.*

The commission proposes new §335.402 to establish definitions of terms used in the subchapter. For clarity, language would be added to the introductory paragraph of the section to note that the definitions in 30 TAC Chapter 3 and §335.1 apply to this subchapter. The current definition of “aggregate” would be expanded to include the different types of HHW programs defined in the proposed rules and to include reuse as an option for disposition of collected HHW.

The current definition of “collection center” would be divided into new definitions of “collection event” and “permanent collection center” based primarily on whether HHW is stored for 24 hours or longer to allow distinctions between these types of programs in the rules because of the greater risks associated with longer term storage. As used in Chapter 335, the term “storage” includes, for one-day collection events, the time between the filling of a shipping container and its being transported. Although this period is generally much less than 24 hours for one-day collections, the period of “less than 24 hours” is used in the proposed definition of “collection event” to allow flexibility to conduct very large or very long one-day collection events by ensuring sufficient time to package collected wastes for transport.

The current definitions of “collector,” “hazardous waste processing, storage, and disposal facility,” and “household” are retained in the proposed new rule. The current definitions of “division” and “recurring collection program” are not included in the proposed new rule because these terms would not be used in the revised rules. The current definition of “hazardous household waste” is proposed to be changed to “household hazardous waste,” to reflect common usage, and is based on the exemption provided in 40 CFR §261.4(b)(1). The term can be used interchangeably with the term “hazardous household waste,” as proposed in the definition.

The revisions would add a definition for “inclement weather” to clarify that collections need to be prepared for severe weather, high winds, and temperature extremes, rather than just minor rain events. There has been confusion on this issue for the regulated community, but the dictionary definition of “inclement” is “severe.”

A new definition of “mobile collection unit” is proposed to add this type of collection program to the rules.

A new definition for “operator” is proposed because the definition of this term in §335.1 is limited to operators of hazardous waste facilities; however, because the term is also used for operators of hazardous waste processing, storage, or disposal facilities, the definition also incorporates the definition from §335.1 when the context clearly refers to operators of hazardous waste processing, storage, or disposal facilities.

The commission proposes a new definition for “personnel” because the definition of this term in §335.1 is limited to hazardous waste and industrial solid waste facilities, which do not include HHW operations; similar to the definition in §335.1, the proposed definition would include all operator staff, contractor staff, and volunteers at a HHW facility whose duties could have a direct impact on compliance with this subchapter. A new definition of “point of generation pick-up service” is proposed to ensure clarity of the use of the term in the rules; the definition covers all collections done by an operator at households where HHW is received directly from residents at households or is left out for collection at households (as opposed to being brought to a central location by individuals).

§335.403. *General Requirements for Household Hazardous Waste Collections.*

The commission proposes new §335.403 to establish the general requirements for HHW collection. In new §335.403(a), the commission proposes that, except for an owner or operator of a hazardous waste processing, storage, or disposal facility that is authorized to receive HHW, no person can engage in activities regulated by this subchapter without first submitting a notification to the executive director.

In new §335.403(b), the commission proposes requirements for the required notifications. Using a form provided by the commission, an operator would need to submit a notification to the executive director 45 days prior to starting HHW collection activities and resubmit a notification for on-going collection operations whenever information in the previous notification changes. The commission proposes that separate notifications be sent for each collection location to be used, but that multiple collections at a single location may be covered in a single notification if all information other than the dates is the same. The commission proposes to require a notification to include: 1) the identification of the operator and contact person and contact information for each; 2) the dates and hours of operation; 3) both the address of the property and location of the collection site on the property for collection events, permanent collection centers, and mobile collection units; 4) for point of generation collection centers and mobile collection units, the address of the collection event or permanent collection center where the collected wastes will be delivered or a statement that the aggregated HHW will be transported to a processing, storage, or disposal facility; 5) the name of the owner of the property to be used for holding collections, and an attached letter granting permission for use if the owner is different than the operator; 6) areas to be served by collection activities; 7) types by waste category of materials expected to be collected; 8) for permanent collection centers (including any sites where HHW would be stored for 24 hours or longer) a properly completed TCEQ Core Data Form attached; and 9) the planned disposition of collected

materials, including the name, address and U.S. Environmental Protection Agency identification number for each transporter to be used and each hazardous waste or recycling facility that is planned to receive the wastes collected. The elements of currently required notifications are retained in the revised notifications. The hours of operation of HHW collections and facilities would be added to the notification because this information is needed for the commission's oversight of these programs. The address of the collection site, the on-site location of the collection area, the geographic area covered by the collection, the types and approximate amounts of HHW expected, information related to the disposition of aggregated wastes (with the addition of the address for any transporter to be used), and documentation of financial assurance for non-governmental entities conducting HHW collections would be moved from the operational plan to the new notification because the commission continues to need to receive this information although the operational plan would no longer be submitted routinely. The TCEQ Core Data Form would be added to the information submitted by permanent collection centers (including sites where HHW is stored longer than 24 hours) so that these facilities can be entered into the commission's Central Registry. Documentation of landowner consent to use property not owned by the operator would be added to ensure that landowners are aware of and allow the waste collection activities. The current requirements that notifications cover the conceptual organization for the collection efforts and details on public information and education efforts would be deleted.

In new §335.403(c), the commission proposes to require that owners or operators of private permanent collection centers provide financial assurance along with their notification of operations. The financial assurance mechanism would be required to be an original signed version of a mechanism that is acceptable to the executive director. Prior to filing a notification, operators of non-governmental permanent collection centers would be required to provide sufficient information to the executive director

to allow the agency to determine an acceptable amount, format and type of financial assurance.

Operators, other than governmental entities, would not be allowed to operate permanent collection centers without having financial assurance in place.

In §335.403(d), the commission proposes to retain the following operating parameters for HHW collections: 1) the requirement that an operational plan be developed prior to and followed during HHW collection activities; 2) the prohibition against HHW collections accepting hazardous waste or Class 1 industrial waste (the latter term is changed to “Class 1 waste” to be consistent with the definition in §335.1); 3) the requirement that wastes be processed or disposed of only at hazardous waste processing, storage, and disposal facilities authorized to receive HHW that have agreed to accept the wastes; and 4) the requirement to have aggregated HHW from a permanent collection center or collection event transported only by an authorized hazardous waste transporter. HHW collected by a mobile collection unit or point of generation pickup service would be required to be delivered to a permanent collection center or collection event or to be transported by an authorized hazardous waste transporter. This amendment would restrict point of generation pickup services from delivering HHW directly to a hazardous waste processing, storage, or disposal facility unless registered as a hazardous waste transporter because of the increased risk from transporting larger loads or longer distances by entities that have not complied with the transporter registration process.

The commission proposes to remove the requirement that operational plans be submitted to the commission and to specify that HHW programs must follow their plans during collections and to use the plans in training individuals who work at the collections. The commission proposes to continue requiring the one-year records retention for HHW collections, but reword the language for clarity. Because the

amounts of wastes collected must be reported to the legislature annually, the commission proposes to add annual reporting requirements for all waste collections covered by this subchapter, including a deadline of February 1st for the previous calendar year and the use of forms provided by the commission for the reports in order to ensure consistency in the reporting.

Hazardous waste processing, storage, or disposal facilities are subject to permitting requirements that are protective of human health and the environment. In order to accept HHW, their operating permit must allow this activity. Since the permits provide sufficient oversight for these types of facilities on how HHW is handled on-site, the commission proposes in new §335.403(e) to specify that hazardous waste processing, storage, or disposal facilities that accept HHW directly from the public are subject only to the reporting requirements of this section, as long as their operating permit allows HHW to be accepted.

§335.405. *Operational Plans.*

The commission proposes new §335.405 to establish detailed requirements for developing, revising, retaining, and following operational plans for HHW collections. The purpose of operational plans is to ensure both that each collection is properly planned and conducted and that personnel are properly trained on the plans and procedures for the specific collection. The commission proposes retaining the current requirement that any person collecting HHW develop and maintain an operational plan, and adding both that the operational plan be maintained in certain locations and that the operational plan be provided to the executive director upon request.

The commission proposes to retain the requirements that operational plans contain certain information, but there are some changes on the specific information required. The expected types and amounts of

HHW and other household wastes proposed for collection are currently required and are still needed for efficient planning of HHW collection operations; this information would still be required to be in the operational plan, as well as covered in the notification. The commission proposes adding a requirement that an operational plan must describe the types and amounts of HHW that would be accepted by or transferred to a collection event or permanent collection center after collection by a mobile collection unit or a point of generation collection service unless the collections are conducted by a single operator; this provision is intended to require coordination among different operators for the proper transfer of HHW between operators. The requirement to cover the minimum number of personnel needed for conducting HHW activities and their functions would be retained with clarification that this provision applies to operator's staff, contractors, volunteers, etc., but the current requirement for information on their qualifications would be changed to an explanation of how the training requirements that apply to their functions have been or will be met.

The commission proposes to retain the current requirements that the operational plans include information on planned disposition of collected wastes, but to make mandatory the consideration of an expanded hierarchy of processing and disposal options ranked by their relative environmental benefit. In order to provide the maximum environmental benefit for the funds expended, it is important that all HHW collection programs consider these issues. The hierarchy is expanded to include the reuse of a product for its intended purpose as the most environmentally beneficial option since such use removes the need for processing or disposal and reduces the need for manufacturing new product; reuse is split from and placed above recycling in the new hierarchy because of the greater benefits. The hierarchy is expanded to include recycling for energy recovery as the third-level option since it is less beneficial than reuse for the intended purpose or recycling to make new products but more beneficial to the environment than the

other current processing and disposal options. The other current processing and disposal options are retained but renumbered in the new hierarchy in the same order of decreasing benefits as in the current hierarchy.

The proposal for operational plans would continue to include detailed procedures to avoid accepting hazardous waste and Class 1 waste and the methods used to classify and control wastes received, but with new lists of certain issues to be covered in each of these discussions. The procedures to ensure that prohibited wastes are not received are proposed to include at least the screening procedures for collection participants, the questions that will be asked of the participants on this issue, and the quantities or types of wastes that would require further explanation prior to acceptance. Because many businesses use consumer products that are also used by households and because there may be a financial incentive for non-household businesses to try to deliver their waste to these collection events, a variety of mechanisms is needed to ensure that hazardous waste or Class 1 waste is not received as HHW, and the three mechanisms listed appear to be the most effective combination. In order to allow for sufficient planning and training for HHW collections to be conducted safely and efficiently, the discussion of methods used to classify and control wastes is proposed to cover the following: 1) the waste streams that will be accepted and rejected; 2) the types of shipping containers and storage areas for each waste stream; 3) the methods used to categorize waste prior to packaging for shipment and processing or disposal; 4) the methods used to handle and identify unknown wastes; 5) bulking procedures, if any would be used; 6) procedures for handling containers that are leaking, unsealed, or contaminated externally when received; and 7) procedures for wastes with special handling and processing or disposal needs, if any would be accepted. A non-exclusive list of certain common wastes with special handling and processing or disposal needs is included in the proposal for the convenience of the regulated community.

The commission proposes to retain coverage in the operational plans of contingencies for inclement weather, but with clarification of types of weather to be covered. Historically, most operational plans have discussed personal rain gear or tents for rain protection and shade. However, “inclement” means “severe,” so plans for more extreme weather are supposed to be covered under the rules. Since protection from rain, wind, extreme temperatures, and severe storms can be important to conducting collections safely, the proposal lists all of these for inclusion in the discussion.

The commission proposes to add a requirement that operational plans discuss in detail recordkeeping for wastes received and sent for proper processing or disposal. The current and proposed rules have requirements for recordkeeping under provisions for temporary storage, so this part of a new operational plan would discuss how the requirements would be met.

The proposal for operational plans would drop the requirement for an area map since those involved in the collection should be familiar with the area. The commission proposes to retain the current requirement for a site map to be attached to an operational plan, and would make mandatory the depiction of improvements, boundaries, traffic flow, unloading points, emergency vehicles location, and classification and storage areas. These are the salient features that are most useful for the site maps. The maps are useful in depicting how a collection site will be arranged and run for planning and conducting collections and for training staff. The term for the map in the rules is changed from “planimetric map” to “site map” for clarity and because the commission recognizes that having topographic features on the maps could be beneficial in some respects, such as planning for spill responses and evacuations.

The commission proposes to retain the requirement for an attachment to the operational plan covering evidence of competency including experience and qualifications of key personnel, but would require that copies of training certificates be included. Because certain training is required for specific job functions and specific knowledge is needed to conduct collections safely, it is important that a mechanism be in place to allow efficient evaluation of whether all the training requirements are covered for a collection. Having the training documented in the operational plan will allow collection programs to monitor this issue easily.

The commission proposes to replace the current provisions for a detailed discussion of safety, spill and fire response, and related topics with a required attachment of a health and safety plan, including a non-exclusive list of specific elements. The requirements in the current rules related to safety are reflected in the proposed health and safety plan with additional detail provided for clarity concerning the required detailed discussion on safety, fire control, and spill response. The joining of these parts of the current requirements into a single health and safety plan is proposed to allow easy reference during planning, training, and emergencies. The new health and safety plan attachment would be required to include at least the following information: 1) the location and contents of first aid kits at sites and in collection vehicles; 2) the location and types of telephones or radios for summoning emergency assistance and specific instructions for their usage; 3) detailed procedures for avoiding and responding to spills of liquid and solid materials, including specific information discussed below; 4) preparation and response procedures for fires, including specific information discussed below; and 5) the timing and content of training to be provided to persons before their participating in the collection of wastes. The commission proposes that the detailed discussion of procedures for avoiding and responding to spills of liquid and solid materials must include at least the following information: 1) who will respond to different sizes and types of spills (including on-site staff, emergency responders, contractors, etc.); 2) detailed methods to be

used for avoiding, controlling, and cleaning up spills; 3) decontamination procedures for people and equipment; 4) processing or disposal of contaminated materials and other wastes from the spill response; 5) the types of engineering controls and personal protective equipment available on site and procedures for proper selection and use during spill responses; 6) types and location of equipment and materials available on site; 7) the duties of specific personnel; 8) evacuation procedures (including at least the collection site and, if appropriate, the surrounding area); and 9) procedures for reporting spills to local, state, and federal authorities. The discussion of preparation and response procedures for fires would include at least the following information: 1) the location and types of fire extinguishers and other fire suppression equipment available on site; 2) when on-site fire equipment would be used and when the fire department would be summoned; 3) evacuation procedures (including at least the collection site and, if appropriate, the surrounding area); 4) the identity and storage location of any materials to be collected that might need special fire-fighting methods (such as flammable liquids and metals, explosives, compressed gases and aerosol cans, water reactive materials, etc.); the availability of a local fire department and whether they can handle the maximum fire potential from the anticipated collection on their own or through established mutual aid response arrangements.

The health and safety plan would cover the timing and content of training or briefings on safety for staff and volunteers before they participate in collecting wastes. The content of this training would be specific to the duties to be performed.

In new §335.405(b), the commission proposes that the operational plan must be available at the collection event or permanent collection center covered by the plan and at the offices of the entity operating the collection program. The operational plan is to be used for training staff, planning, and conducting

collections. The operational plan is to be maintained for as long as collection events are planned and for at least one year after a collection event, after a permanent facility closes, or after other types of HHW activities cease. The commission proposes that the operational plan must be provided to the executive director upon request in lieu of the current requirement that all operational plans be submitted to the commission before collections.

*§335.407. Training Requirements.*

The commission proposes new §335.407 to cover training requirements for persons involved with HHW collections and reuse operations. The section would cover the general types and the timing of training.

The commission proposes new §335.407(a) to specify that the operator is responsible for ensuring that training appropriate to their duties is provided to all individuals involved in any waste collection, that the training is specific to the HHW operations being conducted, and that training is provided to all individuals involved with the collection, aggregation, storage, and transport of HHW and with offering materials for reuse. The training would be specified as any appropriate combination of training courses as well as the operational plan for program-specific training.

New §335.407(b) would require operators to ensure that training is provided before individuals collect, aggregate, store, or transport HHW for reuse, recycling, processing, or disposal. Operators would be required to ensure that all training requirements are met for individuals performing specific job duties. Operators would be required to ensure that volunteers are appropriately trained on the site rules and safety issues before assisting with a collection.

In new §335.407(c), the commission proposes that the training must cover any applicable training requirements in federal and state laws and regulations, including federal Occupational Safety and Health Administration requirements related to handling hazardous materials, responding to spills, and other activities, the Texas Hazard Communication Act, U.S. Department of Transportation requirements for preparing and packaging wastes for transportation, and EPA rules for training of personnel at hazardous waste facilities. New §335.407(d) would require that operators ensure that individuals are trained under this chapter as if HHW were hazardous waste, such as using Hazardous Waste Operations and Emergency Response (HAZWOPER) courses although they apply to hazardous waste rather than HHW.

§335.409. *Operation of Collection Events and Permanent Collection Centers.*

The commission proposes new §335.409 to specify operational requirements for permanent collection centers and collection events. Most current requirements would be retained, in some cases with changes or rewording, but reordered to reflect the order in which actions would generally occur.

New §335.409(a) would retain the current requirement for operators to site, organize, and operate collections in a manner that protects the environment and safeguards human health, welfare, and physical property. The current requirement would be retained that operators select locations suitable for the types and quantities of wastes to be collected. Because of the risks associated with incompatible chemicals being in close proximity and with public exposure or environmental impacts if wastes are packaged in an uncontrolled area, the current requirement that wastes be sorted upon receipt and placed into a controlled waste packaging area whenever possible would be changed to make these requirements mandatory for all collection events and permanent facilities by removing the wording “whenever possible” - only sites that

do allow safe handling and processing of wastes upon receipt could be selected. The current requirement would be retained that operators provide a controlled access area for sorting, packaging, and handling wastes accepted. The commission proposes augmenting the current requirement that operators provide parking by clarifying that queuing of vehicles waiting to unload must be done so as to not interfere with safe entry or exit of vehicles and to prevent traffic congestion. The current requirement that operators prepare for inclement weather would be retained with a specification that the preparation include provisions for sheltering personnel at or near the site during storms. The current requirement would be retained that operators must designate areas for eating, drinking, and smoking and prohibit these activities in collection work areas. The commission proposes changing the current requirement that incompatible and unidentified wastes be segregated prior to packaging for transport or storage to also require segregation after packaging.

In new §335.409(b), the commission proposes provisions for personnel and training. The current requirement that personnel at HHW facilities be familiar with the operational plan is proposed to be changed to require that the operator ensure that personnel are trained to use and follow the operational plan.

The current provision requiring that at least one person involved in handling and packaging waste be trained and knowledgeable of waste incompatibility and qualified to package waste for transport is proposed to be changed. The revised provision would require that the operator ensure that all persons involved in these activities and those overseeing and supervising the activities on site be trained and knowledgeable of HHW incompatibility and qualified to package hazardous waste for transport. In order to ensure that waste is properly packaged and to avoid reactions of incompatible wastes, the persons with

direct control over these activities while in progress need to have the requisite knowledge. Because the pertinent U.S. Department of Transportation regulations (at 49 CFR §171.3) cover hazardous waste not HHW, although the materials are the same, the qualification for packaging hazardous wastes is the appropriate training for persons handling and packaging HHW.

The commission proposes to retain, as a responsibility of the operator, the requirement that at least one person who is trained to classify hazardous waste be utilized to accept or supervise the acceptance of waste at each HHW facility. The commission proposes expanding the current requirement that personnel be instructed in accident prevention, responses to fires, explosions, and spills, and the use of protective devices to minimize exposure to HHW to include other materials accepted during the collection activities that also present exposure risks and proper fire extinguisher training, and to make it the responsibility of the operator to ensure this requirement is met. There are types of household wastes that do not have the characteristics of hazardous waste (and are therefore not HHW) but that can present significant exposure risks. The current requirement that labeling and packaging of HHW waste be supervised by a person familiar with U.S. Department of Transportation hazardous materials shipping and hazardous waste manifest requirements is proposed to be retained as a responsibility of the operator.

The commission proposes to expand, as a responsibility of the operator, the current requirement that at least one person be on site who is trained to perform general first aid and who is knowledgeable concerning safety measures used for chemical exposures. The new requirement would expand the requirement to any hazardous material presented for collection (rather than only HHW) and would specify that the first aid training must be consistent with courses provided under the auspices of a recognized national safety organization and documented with a current certificate. First aid practices

improve over time and retraining reinforces this knowledge, so it is important that the first responders keep their training current. Because national safety organizations that certify first aid training ensure that the training is complete, thorough, and up-to-date, these courses will provide the necessary skills for general first aid responders. The new provision would specify that a person trained on these issues must be on site whenever wastes are being handled.

The current provision would be retained, as a responsibility of the operator, that an on-site supervisor must be available and responsible for initiating an emergency response plan, for accepting any unidentified wastes, and for ensuring proper handling and processing or disposal. The commission proposes to retain, as a new responsibility of the operator, the provision that the on-site supervisor must have the authority to remove from the site and prohibit the re-entry of any person who may threaten site security or personal safety.

The current requirement that a HHW operation must be manned by an adequate number of staff with the necessary skills and expertise to accept, sort, package, transport, and manifest the waste and to provide on-site supervision and public relations would be made a responsibility of the operator and modified by dropping package, transport and manifest and by adding label and store. The commission proposes this change to allow flexibility in operations because in some cases wastes are not prepared for shipment at the time of collection but are stored until a registered transporter comes to prepare and ship them from the facility, often at times when collections are not occurring. The commission proposes a new provision that operators ensure that an adequate number of operator or contractor staff with the necessary skills and expertise to package, transport and manifest hazardous materials be present and involved when wastes are prepared for transportation.

The commission proposes to add a requirement that an operator must ensure that personnel who handle HHW or who supervise these activities must have certification through attending a HAZWOPER course appropriate to their duties and annual refresher training. The commission also proposes that, if the HAZWOPER course covers other training required by this subchapter but not by the HAZWOPER regulation from the federal Occupational Safety and Health Administration, this fact must be documented on the certificate for the HAZWOPER course or on a separate certificate.

In new §335.409(c), the commission proposes to modify the existing requirements for having equipment and materials present at collection events and permanent collection centers. The current requirement that materials and equipment to provide protection, safety, and first aid for staff, to contain and clean up spills, and to properly handle, classify, and label the waste would be specified as responsibilities of the operator because operators must ensure that collections are conducted properly and safely. Additionally, because wastes are not always packaged during collections, as discussed previously, the requirement that materials to package waste must be present would be changed to materials for storing wastes. Because materials other than HHW may be collected and spilled and to provide clarity for whom is responsible, the current provision that disposable cleanup materials and protective clothing used during a spill cleanup be handled as HHW would be changed to a responsibility of the operator to ensure that these materials are handled as the type of material that was spilled.

The current requirement that nondisposable equipment and materials that are used and contaminated in a spill response be decontaminated before removal from the site would be changed to a responsibility of the operator to ensure that items are properly decontaminated before removal from the site, regardless of the

cause of the contamination. The changes here would specify who is responsible for the action and would also extend the requirement to any nondisposable equipment or material that becomes contaminated, regardless of how this occurs. The risk of spread of contamination is not limited to spills, and equipment or materials that become contaminated during normal use or in other ways need to be decontaminated as well.

The commission proposes to specify that the provision of equipment at collection events and permanent collection centers is the responsibility of the operator. The current list of equipment would be retained with some changes. Because this section addresses collection events and permanent collection centers, the requirement for a first aid kit for a point of generation pick-up service vehicle would be moved to new §335.411(a)(4)(A). The current requirement for a means of communication for emergencies specifies a telephone or citizen's band radio; this requirement would be changed to a telephone or any type of radio because some collections have radios used by police or fire departments on site rather than citizen's band radios. The current requirement that an eyewash, shower station, or hosing device be available would be changed to an eyewash and shower station or a hosing device; an eyewash is not designed to wash contamination from other parts of a body and a shower station is not effective for washing the eyes, but a hosing device could be used for either purpose. The current requirement for a fire extinguisher would be amended to require at least two fire extinguishers that are appropriate to the types of wastes accepted. Because a chemical fire could limit access to a single fire extinguisher, having two on site provides an additional margin of safety. The current requirement for sufficient absorbent or containment to handle a spill of ten percent of the anticipated volume of liquid waste would be retained, and the applicability of this provision to point of generation pick-up service vehicles would be moved to §335.411(a)(4)(D) with changes as discussed later for that section.

In §335.409(d) the commission proposes to retain with changes the current provisions for wastes accepted and excluded. The recommendation that only household wastes be collected would be retained intact. The prohibition on accepting hazardous waste and Class 1 waste would be retained with a correction to the term “Class 1 waste” (i.e., dropping “industrial”) to be consistent with §335.1(18). The current provision that unidentified waste be identified by a chemist or trained individual would be made a responsibility for the operator to ensure that this action occurs prior to transportation of the waste, and language would be added to specify that any physical assessment must be done by qualified individuals.

The commission proposes to remove the current requirement that announcements and promotional material must state that compressed gas or explosives cannot be brought to a collection event or permanent collection center but that these materials should be taken if brought and appropriate authorities immediately contacted. Instead, the commission proposes that the announcement and promotional material be required to state which types of waste will be accepted and which will not. The operator would be required to provide information to potential participants before a collection event or the opening of a permanent collection center and at least annually thereafter for the period that the permanent collection center is open. The commission proposes that the information must include all relevant information on the following: 1) the types and quantities of wastes that will be accepted and that will not be accepted; 2) the instructions for the public to safely package and transport the wastes to the collection; 3) the days and hours of operation and the location of the site; and 4) who can bring wastes to the collection, as well as any other information that may be useful to the public. Because some collection programs have made special arrangements to handle compressed gases or explosives, it is counterproductive to require that the public be told not to bring these materials. The issues related to

safely transporting the materials could be covered through public outreach rather than a stated but un-enforced ban on the materials. The new types of information that would be required for the outreach materials and advertisements provide greater protection to the public and facilitate participation in the collections.

The current requirement concerning decisions on accepting certain wastes would be made a responsibility of the operator to ensure that these decisions are based on the capabilities of the personnel collecting, sorting, and packaging the waste. The current requirements would be retained that the operational plan include a generic list of proposed wastes to be accepted and that this list be developed with the intent of minimizing the need to analyze unknown wastes, but the phrase “unidentifiable wastes” would be changed to “unidentified wastes” because any material can be identified if analyzed properly.

The current requirement that empty HHW and pesticide containers can be disposed as nonhazardous waste if rendered unusable would be retained. The current requirement that there be a container at the collection for nonhazardous wastes would be deleted because some collection programs do not accept nonhazardous wastes. Any collection program that accepts wastes other than HHW is still required to comply with other laws and regulations pertinent to the other types of wastes that are collected, including storage and disposal.

In new §335.409(e), the commission proposes to retain the requirements for temporary storage with some changes. The current requirements are modified to provide that the operator is responsible for storage being operated safely and for a facility being secured to control access by the public.

The current rules have permissible periods of storage based on amounts of wastes on site, but neither the periods or amounts correspond with those for hazardous waste storage in §335.69. The reasons for these differences are not clear because HHW has the same characteristics as hazardous waste. The commission is not proposing to make the provisions for HHW consistent with those for hazardous waste at this time, but the commission is specifically requesting comment on this issue to evaluate whether changes should be made in future rulemaking.

The commission proposes to retain the following provisions for storage of HHW: 1) HHW can be stored for 10 days if more than 3,000 kilograms are aggregated; 2) storage at an authorized hazardous waste processing, storage, or disposal facility is not limited by Subchapter N; 3) the commission may extend the ten-day period if a written request is received; and 4) HHW can be stored for 180 days if 3,000 kilograms or less are aggregated. The current provisions would be changed in the following ways: 1) to specify that extensions would be requested of and provided by the executive director (or his designee); 2) to add that the written requests for extension must include the reason that waste must be stored longer than ten days, the earliest date that a waste in storage was received, and the expected date that the wastes will be transported to a recycling facility or a hazardous waste processing, storage, or disposal facility; and 3) to specify that the 180-day storage period only applies to permanent collection centers rather than recurring collection programs.

The commission proposes to change the current labeling requirements for HHW in storage. The current provisions appear to be based on labeling requirements for consumer products rather than for hazardous materials in transportation from the U.S. Department of Transportation. Although simpler than labeling requirements for consumer products, the hazardous materials in transportation provisions would provide

sufficient information for safe storage of HHW and would not require additional labeling for HHW stored in shipping containers that are properly labeled for transport. The labels on consumer products also provide sufficient information for safe storage. Therefore, the commission proposes to require that operators ensure the following for HHW stored in the individual containers received by the public (as opposed to materials in proper shipping containers with required labeling): 1) intact, legible, and correct labels are maintained on the individual containers with such labels (i.e., labels could not be removed, defaced, or changed); 2) if labels are missing, defaced, or incorrect on containers stored individually, as a minimum, information required by the hazardous materials in transportation regulations is marked on each container; and 3) the date received from the public is marked on any container stored individually. Further, if HHW is properly prepared for transportation and stored in properly labeled shipping containers, the commission proposes that the marking of individual containers received from the public is not required. The commission proposes to retain the current one-year recordkeeping provision for HHW that is collected, but to make the retention the responsibility of the operator.

*§335.411. Operation of Point of Generation Pick-up service and Mobile Collection Units.*

The commission proposes new §335.411 to specify operational requirements for point of generation pick-up services and mobile collection units. These types of collections receive HHW from the public and then usually transport the HHW to a receiving facility. Point of generation pick-up services go to households and take the wastes via direct contact with the residents or take wastes that have been left at curbside or in another prearranged location. Mobile collection units set up in a convenient location and then function similar to a collection event or permanent collection center with the public delivering the wastes to the site.

The commission proposes to provide in §335.411(a) the requirements for point of generation pick-up services. Because leaving HHW unattended outdoors for pickup presents potential hazards from spills, rain runoff, and contact by animals and children, the commission proposes to retain the requirements that operators utilizing point of generation pick-up services develop and implement a collection program that minimizes human and animal exposure to collected waste and is protective of human health and the environment and that, when the collector will not directly contact the generator of the HHW, operators be required to provide instructions to the public for properly packaging, labeling, and securing the waste. The commission proposes to change the current requirement to specify for clarity that the procedures provided to the public are to be specific to the wastes left out for pickup. The commission proposes to remove the specification that the requirements for these programs also apply to collectors. Because operators are in charge of the programs, collectors affiliated with the programs are under the operators' control. The commission does not intend that these provisions should apply to citizens delivering HHW from friends, relatives, neighbors, or others, so the current application of the provisions to collectors is not needed.

To ensure that the public has sufficient information to participate safely and effectively, the commission proposes requiring operators of point of generation pick-up services to disseminate prior to collection activities information to potential participants detailing the following: 1) instructions for properly packaging, labeling, and securing the waste if it will not be personally transferred by the generator to the collector; 2) eligibility criteria for participating in the program; 3) the types and quantities of wastes that will be accepted and will not be accepted; and 4) methods to be used for arranging pickup. The proposal includes a requirement that operators of point of generation pick-up services organize and operate collections so as to safeguard health, welfare, and physical property and to protect the environment.

To ensure safety in operations, the commission proposes requiring that operators ensure that each vehicle is equipped with a first aid kit, an appropriate fire extinguisher, a method of communicating with emergency first responders and information needed for its use (such as instructions, emergency telephone numbers, radio frequencies for specific types of emergencies, etc.), and enough spill absorbent to clean up a spill of ten percent of the maximum quantity of liquid waste the vehicle is designed to hold. The proposal also requires that vehicles used for point of generation pick-up service be staffed by at least one person experienced in and trained in hazardous waste handling, fire extinguisher use, first aid, waste classification, waste incompatibility, spill prevention, and clean-up safety.

Operators of point of generation pick-up services that will accept unknown wastes would be required to ensure that unknown wastes are properly identified and either to have available on the collection vehicle all testing equipment needed to identify wastes prior to placement on the vehicle and a person qualified to use the equipment, or to have a way of separately isolating on the vehicle each container of unknown waste until delivery to a permanent collection center or collection event where the wastes will be identified prior to being aggregated with other wastes, as long as this is consistent with U.S. Department of Transportation regulations for hazardous materials in transportation. Because the federal rules apply to shipments larger than 1,000 kilograms and do not allow the shipment of unknown materials because of potential incompatibility issues, the second option is not available in all cases.

Because the operation of mobile collection units is similar to either a permanent collection center or a collection event depending on how long wastes are stored at the site where the collection is held, the commission proposes requiring operators utilizing mobile collection units to comply with the

requirements in §335.409, as discussed previously, for the sites where collections are held. Because mobile collection units can be used to collect, store, and haul HHW, the proposal also requires that these operators develop and implement a collection program that minimizes the potential for human exposure to or environmental harm from collected waste during collection, storage, and transport. The commission proposes requiring that operators using mobile collection units staff each mobile collection unit with at least one person experienced in and trained in hazardous waste handling, fire extinguisher use, first aid, waste classification, waste incompatibility, spill prevention, and clean-up safety. The proposal requires that mobile collection units be equipped with the following: 1) a first aid kit, 2) an appropriate fire extinguisher, 3) an eye wash and emergency shower or a hosing device, 4) a means of summoning emergency assistance, and 5) enough spill absorbent and containment to handle a spill of ten percent of all liquid waste on the unit.

Operators of mobile collection units that will accept unknown wastes would be required to ensure that unknown wastes are properly identified and either to have available on the mobile collection unit all testing equipment needed to identify wastes prior to placement on the vehicle and a person qualified to use the equipment, or to have a way of separately isolating on the unit each container of unknown waste until delivery to a permanent collection center or collection event where the wastes will be identified prior to being aggregated with other wastes, as long as this is consistent with U.S. Department of Transportation regulations for hazardous materials in transportation. Because the federal rules apply to shipments larger than 1,000 kilograms and do not allow the shipment of unknown materials because of potential incompatibility issues, the second option is not available in all cases. The commission proposes that operators must register as a transporter to use a mobile collection unit to transport HHW to a processing, storage, or disposal facility, except for HHW that is properly shipped as universal waste.

The commission proposes requiring operators utilizing point of generation pick-up services and mobile collection units to comply with personnel and training requirements found in proposed §335.409(b), with proposed wastes acceptance and exclusion parameters found in proposed §335.409(d), and with temporary storage requirements found in proposed §335.409(e). The requirements for training staff, accepting and excluding wastes, and temporary storage are all equally pertinent to mobile collection units and point of generation pick-up services as to collection events and permanent collection centers.

In order to provide flexibility on how the programs operate, there are no specific proposed requirements for secure long term storage on the vehicles or for manifesting collected HHW. Therefore, the commission proposes requiring that within 24 hours of collection that HHW collected by a point of generation pick-up service or mobile collection unit be delivered to a permanent collection center to be aggregated with other HHW or be transported to a hazardous waste processing, treatment, and disposal facility by a transporter compliant with the requirements of §335.415. The current requirement allowing collection vehicles to take waste directly to a hazardous waste processing, storage, or disposal facility would be deleted to avoid the risks of long-distance transport of the more hazardous types of HHW by unregistered transporters. If operators wish to transport HHW that cannot be classified as universal waste directly to processing, storage, or disposal facilities, they have the option to register as transporters.

§335.413. *General Shipping, Manifesting, Recordkeeping, and Reporting Requirements.*

The commission proposes new §335.413 to specify shipping, manifesting, recordkeeping, and reporting requirements for persons who collect, receive, or aggregate HHW. The proposal retains the provisions but use clearer language to state that this section applies to materials collected except for materials to be

offered for reuse and to wastes that are not HHW. The commission proposes to retain the requirement that persons who collect, receive, or aggregate HHW must use only hazardous waste transporters who have notified the executive director and the EPA of their hazardous waste activities and who have been issued an EPA identification number, except for HHW that can be shipped as universal waste by non-registered transporters. The proposal specifies this requirement applies to HHW from collection events and permanent collection centers because there are provisions for point of generation pick-up services and mobile collection units to transport HHW to collection events and permanent collection centers without being registered transporters, as discussed previously.

The commission proposes retaining, but in clearer language, the requirement that collectors and operators transport and ship HHW from a collection center or a collection event using a uniform hazardous waste manifest or following the universal waste rules (if appropriate to the type of waste being shipped) only to a permitted hazardous waste processing, storage, or disposal facility authorized to accept HHW that has agreed in advance to accept the waste. The proposal would specify this part as applying to HHW from collection events and permanent collection centers because there are provisions for point of generation pick-up services and mobile collection units to transport HHW to collection events and permanent collection centers without using manifests, as discussed previously. As discussed previously, point of generation pick-up service vehicles and mobile collection units would be prohibited from transporting HHW to hazardous waste facilities unless they are registered as transporters.

The commission proposes to clarify the requirement that persons who collect, receive, or aggregate HHW ensure that the HHW is packaged and labeled in compliance with §335.10 and U.S. Department of Transportation requirements by adding language that the other regulations are to be applied as if the

HHW was hazardous waste. The commission proposes requiring persons to make available to the executive director upon request, and to retain for one year, all hazardous waste manifests and bills of lading (for universal waste shipments) for HHW shipments.

The commission proposes requiring operators to submit an annual report on all wastes collected and materials offered for reuse. The report would be due each February 1st for the previous calendar year on a form provided by the commission. The commission proposes requiring collectors and operators to ensure that all wastes are processed or disposed of in compliance with federal, state, and local laws and regulations. This provision would also state that any materials that are sent for processing or disposal after being offered for reuse need to be processed or disposed of as HHW if they would be hazardous waste except for the federal exclusion for household waste.

*§335.415. General Requirements for Transporters.*

The commission proposes new §335.415 to specify conditions for persons who transport HHW that is required to be accompanied by a universal hazardous waste manifest. The proposal retains the provision that HHW that is required to be accompanied by a universal hazardous waste manifest can be transported only by transporters who have notified the executive director and the EPA and obtained an EPA identification number. The current provisions requiring transporters to comply with §§335.4(1) - (3), 335.11, and 335.14 would be modified to state that transporters must apply those requirements to HHW as if it was hazardous waste.

The commission proposes rewording for clarity the current requirements for transporters who conduct HHW collections. The amended requirements would state that transporters operating a HHW collection

program must comply with the applicable requirements for operators. The provision that transporters must keep HHW separate from hazardous waste or Class 1 waste would be retained but reworded for clarity and brevity.

*§335.417. General Requirements for Processing, Storage, or Disposal Facilities.*

The commission proposes new §335.417 to specify the requirements for hazardous waste processing, storage, or disposal facilities. Wording would be added to §335.417(a) to clarify that only hazardous waste facilities with a permit authorizing the receipt of HHW are allowed to receive HHW shipped under a uniform hazardous waste manifest or as universal waste. The rule would require that hazardous waste facilities receiving HHW comply with their permit.

The current requirements with which hazardous waste processing, storage, or disposal facilities must comply in order to receive HHW directly from the public would be deleted. As discussed previously, the permitting process for these facilities provides sufficient oversight of their handling HHW. The commission proposes adding a new requirement that hazardous waste processing, storage, or disposal facilities receiving HHW directly from the public must report to the executive director on the quantities received using the same process as any other HHW program. This change would provide more complete information for the commission's required reports on wastes collected.

*§335.419. Reuse of Collected Material.*

The commission proposes new §335.419 to specify that collected materials that may be reused do not have to be managed as HHW unless they are sent for processing or disposal. The section would retain the current criteria for which materials are reusable. The entities to whom reusable materials can be given

would be expanded to any individual or group by replacing the current wording “a governmental entity, institution, or other responsible party” with the word “person” which is defined in Chapter 3 as any individual or legal entity. The commission does not see any reason to restrict who can receive materials that are in useable condition.

The commission proposes adding language to specify that storage of materials to be offered for reuse is not subject to the requirements of this chapter. Such materials are products rather than waste, and therefore are not HHW. The commission intends that this clarification increases the amount of materials that HHW programs make available for reuse because this option for dealing with received materials is by far the most environmentally and economically beneficial way to handle the materials. Additionally, language would be added to clarify that, if any material in usable condition not accepted by another party is sent for processing or disposal by the HHW program, it must be processed or disposed as HHW under the provisions of this subchapter if it is HHW. This provision is consistent with the federal exclusion for wastes from households from classification as hazardous waste (at 40 CFR §261.4(b)(1)).

#### FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

Nina Chamness, Analyst, Strategic Planning and Assessment, has determined that, for the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for the agency or other units of state or local governments as a result of administration or enforcement of the proposed rules. Participation in HHW collection programs is voluntary. Local governments and other state agencies that have HHW programs should not experience a significant increase or decrease in costs as a result of the proposed rules.

The proposed rules would revise current standards for HHW collection programs to: reduce the time limit for collection notification to be sent to the agency from the current 90 days to 45 days; eliminate the need to submit an operational plan to the agency unless requested to do so; move information required by the agency from an operational plan to the collection notification; specify requirements for the use of mobile collection units which are not addressed under current rules; make operational plans more specific to the types of HHW collections so that they serve as more useful reference documents during collections; formalize an annual reporting requirement on the amount of HHW collected so that more complete reporting information is available to the agency; and update rules to reflect the current name of the agency.

The establishment of HHW collection programs is voluntary in nature. Local governments and state agencies that have established these types of programs already incur costs to collect the waste and transport them to hazardous waste facilities for processing or disposal. The proposed rules, which are chiefly administrative in nature, are not expected to generate significant cost savings or increases for these volunteer participants. Staff estimates that there may be as many as 80 active local governments involved with HHW collections. The requirement for record retention over a longer length of time may increase record retention costs, but eliminating the submission of operational plans to the agency unless requested may reduce postage costs. Because the proposed rules would also clarify the requirements for operational plans, plan preparation may be easier, and the plans may be more useful as reference material and training documents. Any cost increases or savings are expected to be insignificant and would vary widely among governmental entities depending on the operations and costs of each different local government and the manner in which they conduct HHW collections.

#### PUBLIC BENEFITS AND COSTS

Ms. Chamness also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be greater clarity in the requirements for HHW collections which may encourage the availability of such programs and promote reuse, recycling, and better processing or disposal of HHW.

Businesses involved in any aspect of HHW collection programs must comply with the requirements of the proposed rules. Such businesses may run collections or may be contracted to handle HHW during or after collections. Staff estimates that there may be as many as seven hazardous waste firms that are currently involved in HHW collections as contractors, and at least one business runs a permanent HHW collection center. The proposed rules are not expected to have a significant impact on cost increases or savings for these businesses. Businesses should experience the same cost impacts as local governments. Any fiscal impact will depend on the business entity and its business practices.

#### SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

No adverse fiscal implications are anticipated for small or micro-businesses. It is not known how many small or micro-businesses are involved with HHW collection programs. If a small or micro-business is involved in HHW collection programs, the proposed rules should not have any significant fiscal implications for it.

#### SMALL BUSINESS REGULATORY FLEXIBILITY ANALYSIS

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules do not adversely affect a small or micro-business in a material way for the first five years that the proposed rules are in effect.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

#### DRAFT REGULATORY IMPACT ANALYSIS

The commission reviewed the proposed rulemaking action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the action is not subject to §2001.0225 because it does not meet the definition of a “major environmental rule” as defined in the statute. “Major environmental rule” means a rule, the specific intent of which, is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The proposed amendments to Chapter 335 are not anticipated to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state, because there are no significant requirements added to HHW collection activities. HHW collection activities are voluntary. The proposed rulemaking action reorganizes and rewords existing requirements for HHW collection activities, streamlines the application requirements, and addresses new methods and

techniques for HHW collection. The proposed rules make appropriate formatting changes, clarifications, and updates to the rules to reflect requirements of the Secretary of State for rule publication.

Furthermore, the proposed rulemaking action does not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. The proposed rulemaking action does not exceed a standard set by federal law, an express requirement of state law, a requirement of a delegation agreement, nor does it adopt a rule solely under the general powers of the agency.

Federal rules in 40 CFR §261.4(b) specifically exclude HHW from the definition of hazardous waste.

Thus, HHW and the commission's proposed requirements for the management of HHW are not subject to federal standards for the management of hazardous waste.

The Texas Health and Safety Code, §361.029, specifically authorizes the commission to develop rules for the collection of HHW. The commission proposes these rules consistent with this statutory authority and does not propose to exceed an express requirement of state law.

The proposed rules do not exceed a requirement of a delegation agreement or contract between the state and an agency of the federal government because there is not an applicable delegation agreement or contract with the federal government related to these activities. Because HHW is excluded from the definition and regulatory requirements for hazardous waste, the proposed revisions to the HHW program do not exceed a requirement of the state's authorized hazardous waste program.

The commission does not propose these rules solely under the general powers of the agency. Rather, the commission proposes these rules under Texas Health and Safety Code, §361.029 and §361.429, which authorize the commission to develop rules for the collection of HHW. The commission invites public comment of the draft regulatory impact analysis determination.

#### TAKINGS IMPACT ASSESSMENT

The commission evaluated rulemaking action and performed a preliminary assessment of whether Texas Government Code, Chapter 2007 is applicable. The commission's preliminary assessment indicates that Texas Government Code, Chapter 2007 does not apply to these proposed rules because these proposed rules implement requirements for the safe and effective management of HHW. The proposed rulemaking is reasonably taken in response to a real and substantial threat to public health and safety, is designed to significantly advance the health and safety purpose, and does not impose a greater burden than is necessary to achieve the health and safety purpose. Thus, the proposed rulemaking is exempt under Texas Government Code, §2007.003(b)(13).

Nevertheless, the commission further evaluated these proposed rules and performed a preliminary assessment of whether these proposed rules constitute a taking under Texas Government Code, Chapter

2007. The purpose of these proposed rules is to implement changes to the requirements for the collection of HHW. The proposed rules would substantially advance this purpose by reorganizing and rewording existing requirements, streamlining the application requirements, and addressing new methods and techniques for HHW collection.

Promulgation and enforcement of these proposed rules would be neither a statutory nor a constitutional taking of private real property. The proposed rules do not affect a landowner's rights in private real property because this rulemaking action does not burden (constitutionally), nor restrict or limit, the owner's right to property and reduce its value by 25% or more beyond which would otherwise exist in the absence of the regulations. The proposed rules implement a voluntary program for HHW collection. The proposed rules do not substantially change the existing technical requirements that were in place under the previous rules. Therefore, the commission's proposed rules do not affect real property in a manner that is different than may have been affected under the previous requirements.

#### CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the proposed rulemaking and found the proposal is a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(4), relating to rules subject to the Coastal Management Program, and will, therefore, require that goals and policies of the Texas Coastal Management Program (CMP) be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council and determined that the rulemaking is

procedural in nature and will have no substantive effect on commission actions subject to the CMP and is, therefore, consistent with CMP goals and policies.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS section of this preamble.

#### ANNOUNCEMENT OF HEARING

The commission will hold a public hearing on this proposal on March 11, 2008, at 10:00 AM in Austin at the commission's central office located at 12100 Park 35 Circle in Room 2210 of Building F. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact John Gaete, Office of Legal Services at (512) 239-6091. Requests should be made as far in advance as possible.

#### SUBMITTAL OF COMMENTS

Written comments may be submitted to John Gaete, MC 205, Office of Legal Services, Texas

Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512)

239-4808. Electronic comments may be submitted at <http://www5.tceq.state.tx.us/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2007-005-335-AD. The comment period closes March 17, 2008.

Copies of the proposed rulemaking can be obtained from the commission's Web site at

[http://www.tceq.state.tx.us/nav/rules/propose\\_adopt.html](http://www.tceq.state.tx.us/nav/rules/propose_adopt.html). For further information, please contact Joseph Thomas, Pollution Prevention and Education Section at (512) 239-0012.

**SUBCHAPTER N: HOUSEHOLD MATERIALS WHICH COULD BE CLASSIFIED AS  
HAZARDOUSWASTE**

**§§335.401 – 335.403 and 335.405 – 335.412**

**STATUTORY AUTHORITY**

The repeals are proposed under Texas Water Code, §5.103, concerning Rules, and §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the state. The repeals are also proposed under Texas Health and Safety Code, Chapter 361, concerning Solid Waste Disposal Act.

The proposed repeals implement Texas Health and Safety Code, Chapter 361.

**[§335.401. Purpose.]**

[The purpose of this subchapter is to provide requirements for interested persons to engage in activities which involve the collection, disposal, or recycling of hazardous household wastes and other types of household waste materials that may, due to their quantity and characteristics, pose a potential endangerment to human health or the environment if improperly handled.]

**[§335.402. Definitions.]**

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

[(1) Aggregate--The act of bringing together hazardous household waste that, after being separated from other household waste, is collected from two or more households and accumulated at a collection center or transporter's facility for the purpose of disposing of or recycling the waste.]

[(2) Collection center--A designated site and areas within that site used or planned for use by an operator to aggregate hazardous household waste delivered to the site by individuals, households, or collectors. ]

[(3) Collector--Any person who accepts directly from two or more households any unmanifested waste materials that have been separated from other household waste and offered to the collector because the generator either knows or considers the materials to be hazardous household waste.]

[(4) Division--The Small Business and Environmental Assistance Division, Texas Natural Resource Conservation Commission.]

[(5) Hazardous household waste--Any solid waste generated in a household

by a consumer which, except for the exclusion provided in 40 Code of Federal Regulations (CFR) §261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.]

[(6) Hazardous waste processing, storage, or disposal facility--A hazardous waste processing, storage, or disposal facility that has received an EPA permit (or a facility with interim status) in accordance with the requirements of 40 CFR Parts 270 and 124, or that has received a permit from a state authorized in accordance with 40 CFR Part 271.]

[(7) Household--Single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreational areas.]

[(8) Recurring collection program--An organized effort to collect and/or aggregate hazardous household waste in a community at scheduled intervals, at least annually.]

**§335.403. Authority.]**

[The Texas Natural Resource Conservation Commission is the state agency having responsibility for regulating non-hazardous municipal solid waste and hazardous waste as defined by the EPA in 40 Code of Federal Regulations Part 261. Except for collected materials being used or planned to be used or reused in accordance with §335.410 of this title (relating to Reuse of Collected Material), all hazardous household waste once collected and aggregated at a collection center or at a transporter's facility shall be

transported only by hazardous waste transporters and shall be shipped only to authorized hazardous waste processing, storage, or disposal facilities.]

**[\S335.405. Applicability.]**

[(a) This subchapter applies to persons who:]

[(1) collect and/or aggregate hazardous household waste for disposal or recycling;]

[(2) are involved in the point of generation pick-up of hazardous household waste that has been separated by the generator from other solid wastes;]

[(3) operate hazardous household waste collection centers;]

[(4) transport any hazardous household waste required by this subchapter to be manifested; and]

[(5) own or manage a hazardous waste processing, storage, or disposal facility that receives manifested hazardous household waste.]

[(b) The sections of this subchapter do not apply to individuals who receive from households, for the purpose of recycling or reclamation, used oil or lead acid batteries, provided such individuals do not operate a collection center for other hazardous household waste or other household wastes that fall under the purview of this subchapter.]

**[§335.406. General Requirements for Collectors and Operators.]**

[(a) Except as provided in subsection (d) of this section, no person may engage in any activity to collect or aggregate hazardous household waste that has been segregated from other solid waste without having first notified the Small Business and Environmental Assistance Division, Texas Natural Resource Conservation Commission (division), in accordance with subsection (b) of this section and without having submitted to the division an operational plan as provided for in subsection (c) of this section.]

[(b) The notification shall be submitted 90 days prior to the expected collection date, by letter or on a form provided by the division. It shall include the following information:]

[(1) name and address of the operator;]

[(2) name, address, and telephone number of an individual to be the contact person for the operator;]

[(3) date of planned collection;]

[(4) areas that are planned to be covered by the collection effort, i.e., city, county, precinct, neighborhood, district, region, etc.];]

[(5) a conceptual organization of the collection effort with names of persons or groups providing support and identities of all organizations or groups involved together with the operator in any advertising, public service campaigns, or other public information efforts; and]

[(6) details regarding any planned public information efforts concerning the dangers or risks associated with hazardous household waste, the need or desirability of separating such waste from other household waste, and the procedures for delivery of hazardous household waste to the collection center prior to collection day. Collectors or operators conducting recurring collection programs need not submit a plan for the second and subsequent operations, provided the original or revised plan has been previously submitted and remains in effect. The plan shall be prepared in format and content as described in paragraphs (1) - (12) of this subsection or as otherwise specified by the division. Changes to the plan may be made after consultation and coordination with the division.]

[(c) The collector or operator shall submit to the division a complete operational plan not less than 45 days.]

[(1) The plan shall be in a typewritten report form (except for maps and drawings) on 8 1/2 inches by 11 inches white paper. All materials in excess of 8 1/2 inches by 11 inches shall be folded to that size. Undersized materials shall be mounted on 8 1/2 inches by 11 inches paper,

and the report stapled in the upper left-hand corner or bound along the left margin. All folded material shall be affixed so it can be unfolded without removing binders.]

[(2) The title page shall show the name of the project, the location by city and county, name of responsible person and date of plan.]

[(3) The table of contents shall list the main sections of the plan.]

[(4) The plan shall identify the nature, type, and quantity of hazardous household waste and other household wastes proposed for collection and disposal and include a brief description of the general sources and generation areas contributing wastes.]

[(5) If the waste is to be collected from households by a point of generation pick-up service, the plan shall describe in detail how this is to be done.]

[(6) The plan will describe the approximate number of residences, institutions (identify types) and business establishments within 300 feet of the proposed collection center, including the distances and directions to the nearest residence, institution, or business.]

[(7) Information relating to adequacy of roads or streets to be used to enter or exit the collection center shall be submitted as part of the plan.]

[(8) The plan shall identify the type and location of fences or other means

of access control to protect the public from exposure to potential health and safety hazards and to discourage unauthorized entry.]

[(9) The following operational concepts shall be discussed in detail:]

[(A) the storage of waste at the collection center;]

[(B) provisions for inclement weather operation, e.g., alternate collection site, or alternate collection day, etc.];]

[(C) provisions for wastes requiring special handling and for wastes that are identified as non-hazardous;]

[(D) provisions for classifying and controlling the wastes;]

[(E) procedures to ensure that unauthorized waste, i.e., hazardous waste (or Class 1 industrial solid waste) from industries, businesses, or institutions subject to regulations of the commission, is not accepted as hazardous household waste;]

[(F) fire control measures, e.g., availability of local fire departments and on-site fire fighting equipment;]

[(G) spill control measures and cleanup procedures;]

[(H) the minimum required number of personnel, their functions and their qualifications;]

[(I) provisions for security, screening waste for acceptability, traffic control, and safety;]

[(J) measures to control unloading within the collection center; and]

[(K) the posting of signs at the collection center and enforcement of site rules.]

[(10) The operator shall provide information on the planned disposal of the waste collected, to include the transporter's name and the EPA identification number, and the name, location, and the EPA identification number of the hazardous waste facility which is to be used for the processing, storage, disposal, or recycling of the waste. The operator, in developing the plan for disposal of waste to be received at the collection center, should determine the feasibility of managing collected hazardous household waste in the following order of preference:]

[(A) reuse and/or recycling of waste;]

[(B) treatment to destroy hazardous characteristics;]

[(C) treatment to reduce hazardous characteristics;]

[(D) underground injection; and]

[(E) land disposal.]

[(11) The operator shall provide information on planned disposition of materials that are accepted at the collection center that are in usable condition.]

[(12) The plan shall include the following attachments:]

[(A) Attachment 1 - general location map. This map should be all or a portion of a half-scale county map, prepared by the Transportation Planning Division of the State Department of Highways and Public Transportation, with the collection site marked and labeled thereon in a manner that will facilitate determining the general location of the site and roadway access. If the site is located within a city, a city map may be used for this purpose.]

[(B) Attachment 2 - planimetric map. This will normally be a constructed map showing the features of the collection center. It need not be drawn to scale but the improvements and boundaries should fairly represent the collection center area. The map should be annotated to show flow of traffic, unloading points, location of emergency vehicles, and classification and storage areas.]

[(C) Attachment 3 - evidence of financial responsibility. Collectors

or operators other than governmental entities shall submit evidence of financial responsibility which assures the division that sufficient assets are available to properly operate the collection center, enable appropriate shipment and disposal of the waste, and to provide for proper closure of the collection center. The amount and type of financial assurance shall be determined by the division after discussing the scope of the collection effort with the operator.]

[(D) Attachment 4 - evidence of competency. Evidence of competency to operate the center shall be provided, to include experience and qualifications of key personnel.]

[(E) Attachment 5 - responsible party's statement. The operator or the authorized representative empowered to make commitments for the operator, shall provide a statement that he or she is familiar with the operational plan and is aware of all commitments represented in the plan and that he or she is also familiar with all pertinent requirements in these regulations and agrees to develop and operate the site in accordance with the regulations and any special written instructions from the division.]

[(d) Owners or operators of hazardous waste processing, storage, or disposal facilities who accept or intend to accept unmanifested hazardous household waste directly from household waste generators or their representatives are not subject to the requirements of this section, provided that prior to first accepting such waste they notify the executive director in writing concerning their intention to accept such waste, and in the notification indicate:]

[(1) their Texas Natural Resource Conservation Commission registration number and EPA identification number;]

[(2) the date they intend to start receiving such hazardous household waste;]

[(3) the kinds of hazardous household waste and other household waste they intend to accept;]

[(4) the types or classes of waste that will not be accepted;]

[(5) the information to be required from each generator so as to enable proper classification and handling of waste;]

[(6) how they intend to handle on-site wastes which may be accepted and what the ultimate disposition of the wastes will be;]

[(7) the methods and procedures to be utilized so as to assure that only household waste is accepted; and]

[(8) the identities of all organizations or groups involved together with the notifier in any advertising, public service campaigns, or other public information efforts concerning the dangers or risks associated with hazardous household waste, the need or desirability of separating such

waste from other household solid waste, and the procedures by which the household waste generator may deliver his or her hazardous household waste to the notifier's facility.]

**[§335.407. Operation of Collection Centers.]**

[(a) Minimum requirements. Except as provided in subsection (g) of this section, collection centers established for the purpose of accepting and aggregating hazardous household waste must be operated so as to comply with the minimum requirements set forth in subsections (b) - (f) of this section.]

[(b) Location. Collection centers shall be located, organized and operated so as to safeguard the health, welfare, and physical property of the people, and to protect the environment. At a minimum, collection centers shall:]

[(1) be located based on the types and quantities of waste to be collected and suitability of the site for collecting such waste;]

[(2) provide parking for the public and for essential project vehicles so as not to interfere with the safe entry and exit of traffic;]

[(3) whenever possible, be structured in a way that allows incoming wastes to be sorted upon arrival and placed in a controlled area for packaging;]

[(4) keep incompatible wastes separated, including unidentified wastes, while they are waiting to be packaged for further storage or transport;]

[(5) provide an area, not generally accessible to the public, for sorting, packaging, and handling waste that is accepted;]

[(6) have designated eating, drinking, and smoking areas for personnel working at the center (such activities shall be prohibited at the collection center work area);]

[(7) be prepared for the possibility of inclement weather; and]

[(8) have materials and procedures to control spills.]

[(c) Personnel. Personnel who work at the collection center shall be familiar with the operational plan. Other requirements pertaining to personnel utilized at the collection center are included in paragraphs (1) - (8) of this subsection.]

[(1) Personnel who sort and package waste or who supervise these activities for transport to a hazardous waste facility must be trained and knowledgeable concerning the incompatibility of various classes of waste and be qualified to package waste for transport.]

[(2) At least one person trained to classify hazardous waste and who is

competent to perform tests to identify characteristics of hazardous waste (e.g., pH, flammability, etc.) shall be utilized at the collection center to accept or supervise the acceptance of waste at the center.]

[ (3) Personnel involved with handling waste must be instructed in accident prevention, the proper response to fires, explosions, and spills, and in the use of protective devices (such as respiratory gear and gloves) to minimize exposure to hazardous household waste.]

[ (4) Packaging and labeling of waste shall be supervised by a person familiar with the shipping requirements and hazardous waste manifest requirements of the U.S. Department of Transportation (DOT) for packaging, placarding, and labeling of hazardous materials.]

[ (5) At least one person must be on-site who is trained to perform general first aid and who is knowledgeable concerning safety measures to be taken in the event of an accidental contact with a hazardous household waste.]

[ (6) An on-site supervisor must be available and responsible for initiating an emergency response plan that includes site evacuation procedures. The on-site supervisor also assumes responsibility for accepting any unidentified wastes and insuring proper handling and disposal.]

[ (7) The on-site supervisor shall have the authority to remove anyone from the site and prohibit re-entry if it is determined that the person threatens site security or personnel safety.]

[ (8) Manning of the collection center shall consist of an adequate number

of persons who jointly possess the necessary skills and expertise needed to accept, sort, package, transport, and manifest the waste and be responsible for on-site supervision and public relations.]

[(d) Equipment and Materials. Equipment and materials shall be available at the collection center to provide protection, safety and first aid for persons operating the center, to contain and clean up spills, and to properly handle, classify, package, and label the waste. All disposable cleanup materials and protective clothing used during a spill cleanup shall be handled as a hazardous household waste. Nondisposable equipment and materials that are used and contaminated shall be decontaminated before removal from the site. At a minimum, the provision for equipment and material shall include:]

[(1) a first aid kit available at each collection center and on each point of generation pick-up service vehicle;]

[(2) a method of communication in the event of a spill, personal injury, etc., at the site and in the point of generation pick-up vehicle. Such method of communication may include a telephone or a citizen's band (CB) radio;]

[(3) an eyewash, shower station, or hosing device and fire extinguisher; and]

[(4) sufficient spill containment and absorbent materials at the collection center and on each point of generation waste collection vehicle to contain a spill of 10% of the anticipated volume of collected liquid waste.]

[(e) Waste accepted and excluded. The collection center should accept only household wastes.

The operator shall take necessary precautions to prohibit the receipt of waste defined as a hazardous waste by Texas Health and Safety Code, Chapter 361; or as Class 1 waste by the commission. Other requirements related to acceptance or exclusion of wastes are as follows:]

[(1) Any unidentified waste accepted shall be identified by a chemist or trained individual knowledgeable in chemical characteristics and incompatibilities before being packaged for transport. Wastes that cannot be identified by physical assessment or conversation with the generator or his representative may not be packaged until the substance or waste has been analyzed and the appropriate chemical class has been identified.]

[(2) Announcements and promotional material shall state that compressed gas or explosives (including ammunition) shall not be brought to the collection center. However, if such materials are brought to the collection center, the staff should accept the waste and immediately contact the appropriate authorities, e.g., explosives experts, etc., to properly dispose of the waste.]

[(3) Decisions to accept certain wastes shall depend on the capabilities of the personnel collecting, sorting, and packaging the waste. A generic list of proposed wastes to be accepted must be submitted to the division with the operational plan. The list should be developed with the intent of minimizing the need for chemical analysis of unidentifiable wastes.]

[(4) Empty hazardous material and pesticide containers from households may be disposed of as a nonhazardous waste if they are rendered unusable before leaving the collection center.]

[(5) A container shall be provided at the collection center for collection and storage of waste received at the center, that because of quantity and characteristics, does not pose a potential endangerment to human health or the environment if disposed of in a municipal solid waste facility.]

[(f) Temporary storage. Storage at the collection center, or other site identified in the operational plan, shall be operated and maintained so as to provide safe handling and storage of waste awaiting final disposition. The facility shall be secured to control access by the public. Operators shall comply with paragraphs (1) - (3) of this subsection when storing aggregated hazardous household waste.]

[(1) An operator shall not store aggregated hazardous household waste longer than 10 days except under one of the conditions described in subparagraphs (A) - (C) of this paragraph.]

[(A) The storage facility is an authorized hazardous waste processing, storage, or disposal facility.]

[(B) The operator requests in writing and obtains a storage time extension from the division.]

[(C) The operator is conducting a recurring collection program and does not accumulate more than 3,000 kilograms of hazardous household waste and does not store the waste longer than 180 days.]

[(2) A label shall be maintained on all containers in which hazardous household waste is stored and shall indicate:]

[(A) composition and physical state of the waste;]

[(B) special safety recommendations and precautions for handling the waste;]

[(C) statement(s) which call attention to the particular hazardous properties of the waste; and]

[(D) date of acceptance at the collection center.]

[(3) Records for storage of all hazardous household wastes shall be maintained to include all the information necessary to complete manifests for the wastes. (Copies of manifests may be used in lieu of a separate record).]

[(g) Requirements for hazardous waste facilities. Facilities which qualify as hazardous waste processing, storage, or disposal facilities and whose owners and operators comply with the notification requirements of §335.406(d) of this title (relating to General Requirements for Collectors and Operators) are not subject to the requirements of this section, except for the requirements of subsection (c) of this section with respect to personnel; subsection (d) of this section with respect to disposal of cleanup

materials and protective clothing used during a spill cleanup; and subsections (f)(2) and (3) of this section with respect to container labeling and recordkeeping.]

**[\$335.408. Household Pick-up.]**

[Collectors or operators offering point of generation pick-up service for hazardous household waste that has been segregated from other household waste shall:]

[(1) develop and implement a collection program that minimizes the potential for human and animal exposure to such waste (unless the pick-up procedures involve personal contact with the generator, the collector shall provide instructions to households on details of packaging, labeling, securing, and any other procedures to safeguard humans and animals and to protect the environment);]

[(2) have a person in each crew that has experience and training in handling hazardous waste, including waste classification, waste incompatibility, spill prevention, and clean-up safety; and]

[(3) deliver such waste to a collection center to be aggregated with other hazardous household waste, to a transporter's facility or to a hazardous waste processing, storage, or disposal facility that is authorized by the commission to accept hazardous household waste.]

**[§335.409. General Shipping, Manifesting, Recordkeeping, and Reporting Requirements.]**

[Except for those collected reusable materials handled in accordance with the requirements of §335.410 of this title (relating to Reuse of Collected Material) and waste received at the center, which can be disposed of at a municipal solid waste facility in accordance with the requirements of §335.407 of this title (relating to Operation of Collection Centers), persons who collect, receive, or aggregate hazardous household waste shall:]

[(1) when transporting or shipping such waste from a collection center or from a transporter's facility, utilize only hazardous waste transporters who have notified the executive director with respect to transportation of hazardous waste, who have notified the EPA of their involvement in transporting hazardous waste, and who have been issued an EPA identification number;]

[(2) transport or ship such waste only to receivers who qualify as hazardous waste processing, storage, or disposal facilities, that have agreed to accept the waste, and that have authorization to receive such wastes;]

[(3) assure, prior to offering such waste for shipment, that such waste is packaged and labeled so as to comply with applicable United States Department of Transportation (DOT) requirements and to comply with the requirements contained in §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class 1 Industrial Solid Waste); and]

[(4) retain for at least one year from the date of shipment copies of all manifests utilized for the shipment of such waste.]

**[§335.410. Reuse of Collected Material.]**

[Any material collected or accepted at a collection center in its original container with a legible label or that is otherwise readily identifiable and which has been determined by the collector or operator to be in a usable condition may be removed from the aggregated hazardous household waste and provided to a governmental entity, institution, or other responsible party for use.]

**[335.411. General Requirements for Transporters.]**

[(a) No person shall transport any hazardous household waste required by this subchapter to be accompanied by a uniform hazardous waste manifest, unless such person:]

[(1) has notified the executive director with respect to such transportation activities in accordance with the requirements contained in §335.6(d) of this title (relating to Notification Requirements);]

[(2) has notified the EPA as to his or her transporter status, and has been issued an EPA identification number;]

[(3) complies with the requirements outlined in §335.11 of this title (relating to Shipping Requirements for Transporters of Municipal Hazardous Waste or Class 1 Industrial Solid Waste) with respect to all manifested household waste;]

[(4) complies with the requirements outlined in §335.14 of this title (relating to Recordkeeping Requirements Applicable to Transporters of Municipal Hazardous Waste or Class 1 Industrial Solid Waste) with respect to all manifested household waste; and]

[(5) complies with the requirements of paragraphs (1) - (3) of §335.4 of this title (relating to General Prohibitions) with respect to all waste accepted or handled.]

[(b) Transporters engaged in point of generation pick-up of hazardous household waste, who operate or intend to operate hazardous household waste collection centers, or who otherwise handle or accept unmanifested hazardous household waste, are subject to all the requirements of this subchapter set forth for collectors and shall comply with paragraphs (1) - (4) of this subsection.]

[(1) Prior to engaging in such activity, notify and submit a plan to the division in accordance with §335.406 of this title (relating to General Requirements for Collectors and Operators).]

[(2) All activities to collect and/or aggregate hazardous household waste shall be in accordance with rules of this subchapter applicable to collectors and operators and written instructions from the executive director.]

[(3) All hazardous household waste accumulated by the transporter shall be kept separate and apart from hazardous waste or Class 1 industrial solid waste as defined in Texas Health and Safety Code, Chapter 361, which may be accumulated at a transporter's facilities.]

[(4) Transporters performing service under this subsection shall comply with requirements specified for operators or collectors engaged in similar activities.]

**[\$335.412. General Requirements for Processing, Storage, or Disposal Facilities.]**

[Owners or operators of hazardous waste storage, processing, or disposal facilities may receive manifested shipments of hazardous household waste or other household waste provided they:]

[(1) comply with the requirements of §335.12 of this title (relating to Shipping Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities) with respect to all manifested wastes received;]

[(2) comply with the requirements of §335.15 of this title (relating to Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities) with respect to all manifested wastes received;]

[(3) handle on-site all received or aggregated hazardous household waste in

the same manner as if the waste were defined as a hazardous waste under Texas Health and Safety Code, Chapter 361;]

[ (4) comply with the requirements of paragraphs (1) - (3) of §335.4 of this title (relating to General Prohibitions) with respect to all waste received; and]

[ (5) obtain written authorization from the commission to receive hazardous household waste.]

## SUBCHAPTER N: HOUSEHOLD HAZARDOUS WASTES

§§335.401 – 335.403, 335.405, 335.407, 335.409, 335.411, 335.413, 335.415, 335.417, and 335.419

### STATUTORY AUTHORITY

The new rules are proposed under Texas Water Code, §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 Texas Water Code and other laws of this state; under Texas Health and Safety Code, §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 Texas Health and Safety Code; under Texas Health and Safety Code, §361.029, which requires the commission to provide rules for persons to engage in activities that involve the collection and disposal of HHW; and under Texas Health and Safety Code, §361.429, which requires the commission to establish standards for HHW collection programs.

The proposed new rules implement Texas Health and Safety Code, Chapter 361.

### **§335.401. Purpose and Applicability.**

(a) The purpose of this subchapter is to provide requirements for persons who are involved in any combination of collecting, aggregating, offering for reuse, recycling, transporting, or disposing of household hazardous wastes and other types of household waste materials that may, due to their quantity and characteristics, pose a potential endangerment to human health or the environment if improperly handled.

(b) The requirements of this subchapter apply to persons who engage in any combination of the following activities:

(1) collect, aggregate, or store household hazardous waste for offering for reuse, recycling, processing, or disposal;

(2) provide a point of generation pick-up service;

(3) operate a mobile collection unit;

(4) operate a collection event;

(5) operate a permanent collection center;

(6) transport any aggregated household hazardous waste; and

(7) own or manage a hazardous waste processing, storage or disposal facility that receives household hazardous waste directly from the public or households.

(c) The requirements of this subchapter do not apply to:

(1) persons who receive from households for the purpose of reuse, recycling or reclamation any combination of used oil, batteries, and paint, provided such persons do not collect other household hazardous waste or other household wastes under the requirements of this subchapter;

(2) persons who collect less than 100 pounds of household hazardous waste per year;

(3) retailers who accept from the public only waste items that are of the same type(s) as products sold by the retailer;

(4) collection events organized primarily for the purpose of collecting for processing or disposal pesticides and other wastes from agricultural operations and incidental amounts of household hazardous wastes, if no fees are charged for the collection and if registered transporters are used to haul the collected wastes to hazardous waste processing, storage, or disposal facilities; or

(5) organizations that collect used electronic equipment from the public for reuse, provided such individuals do not make a determination during the collection of whether the electronics are wastes, do not handle the electronics in a manner that renders them useless, and do not collect household hazardous waste or other household wastes covered under the requirements of this subchapter.

(d) Any provisions of this subchapter may be waived by the executive director for emergencies, disasters, or in other circumstances where flexibility from the requirements is necessary to protect public health and the environment.

**§335.402. Definitions.**

In addition to the definitions in §3.2 of this title (relating to Definitions) and §335.1 of this title (relating to Definitions), the following words and terms, when used in this subchapter, have the following meanings:

(1) **Aggregate** - The act of bringing together household hazardous waste that, after being separated from other household waste, is collected from two or more households and accumulated at a collection event, permanent collection center, point of generation pick-up service, mobile collection unit, or transporter's facility for the purpose of reusing, recycling, or disposing the material.

(2) **Collection event**- A one-time or recurrent designation of a site and areas within that site for use by an operator to collect or aggregate household hazardous waste delivered to the site by individuals, households, or collectors and to store the waste for less than 24 hours.

(3) **Collector** - Any person who accepts from two or more households any waste materials that have been separated from other household waste and offered to the collector because the generator either knows or considers the materials to be household hazardous waste. This term includes persons involved with household hazardous waste collection programs, but does not include persons delivering wastes that have not been aggregated to a collection program with which they are not affiliated.

(4) **Hazardous waste processing, storage, or disposal facility** - A hazardous waste processing, storage, or disposal facility that has received an United States Environmental Protection Agency (EPA) permit (or a facility with interim status) in accordance with the requirements of 40 Code of Federal Regulations (CFR) Parts 270 and 124, or that has received a permit from a state authorized in accordance with 40 CFR Part 271.

(5) **Household** - Single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreational areas.

(6) **Household hazardous waste** - Any solid waste generated in a household by a consumer which, except for the exclusion provided in 40 Code of Federal Regulations (CFR) §261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261. The term has the same meaning as “hazardous household waste.”

(7) **Inclement weather** - Weather that could present a hazard in the operation of a collection event, permanent collection center, mobile collection unit, or point of generation pick-up service, including temperature extremes, high winds, rain, and severe weather.

(8) **Mobile collection unit** – A vehicle (such as a truck or trailer) that is used to aggregate household waste materials delivered by the public prior to transporting the material to a permanent collection center, collection event, or registered hazardous waste transporter facility.

(9) **Operator** – A person responsible for the collection, aggregation, and storage of household hazardous waste and household materials at a collection event or permanent collection center, in a point of generation pick-up service or mobile collection unit, or in any combination of collection programs; or, if the context clearly refers to an operator of a hazardous waste processing, storage, or disposal facility, the term has the same meaning as defined in §335.1 of this title (relating to Definitions).

(10) **Permanent collection center** - A designated site and facilities used to collect and aggregate household hazardous wastes on an ongoing basis and to store the wastes for 24 hours or longer.

(11) **Personnel** - All individuals who perform tasks at or oversee the operations of a collection event, permanent collection center, mobile collection unit, or point of generation pick-up service, and whose actions or failure to act may result in noncompliance with the requirements of this subchapter.

(12) **Point of generation pick-up service** – A service to collect household hazardous waste at generating households, either through direct contact with the generators or by collection of household hazardous waste left at curbside or in another location at the household.

**§335. 403. General Requirements for Household Hazardous Waste Collections.**

(a) Except as provided in subsection (e) of this section, no person may collect or aggregate household hazardous waste that has been segregated from other solid waste, provide point of generation pick-up service, operate a mobile collection unit, operate a collection event, or operate a permanent collection center without having first submitted a current notification to the executive director, in accordance with subsection (b) of this section.

(b) On a form provided by the commission, an operator shall submit an original and signed notification to the executive director at least 45 days prior to conducting activities covered by this subchapter. For on-going collection programs, such as multiple collection events at a single location, point of generation pick-up services, and permanent collection centers, the notification must be resubmitted whenever the information provided in the notification changes. For multiple collection events and mobile collection units, each location where a collection will be held must be covered in a separate notification, but multiple collections at one location can be covered by a single notification if the same information other than dates applies to each collection. The notification must include the following information:

(1) name and address of the operator;

(2) name, address, and telephone number of an individual to be the contact person for the operator;

(3) date(s) and times of the planned collection(s) or days and hours of operation of a permanent collection center, point of generation pick-up service, or mobile collection unit(s);

(4) for a collection event, permanent collection center or mobile collection unit, the address of the collection site and the part of the site that will be used for collections;

(5) for a point of generation pick-up service or mobile collection unit, the address of the collection event or permanent collection center where collected wastes will be delivered, or a statement that the aggregated household hazardous waste will be transported to a hazardous waste processing, storage, or disposal facility;

(6) the name of the person who owns the property where a permanent collection center is located, where a collection event will be held, or where a mobile collection unit will be used; if the owner is different from the operator, a signed letter that clearly gives permission for the use of the property for the stated purpose must be attached to the notification;

(7) areas that are planned to be covered by the collection effort, i.e., city, county, precinct, neighborhood, district, region, etc.;

(8) the types by waste category of each type of household materials that will be collected;

(9) permanent collection centers (including sites where household hazardous waste will be stored for 24 hours or longer) must include a properly completed TCEQ Core Data Form (Form TCEQ-10400) with the notification; and

(10) the planned disposition of wastes that are received in the collection efforts, including the name(s), address(es), and United States Environmental Protection Agency (EPA) identification number(s) of the transporter(s) to be used and the name, address, and EPA identification number of each recycling and hazardous waste facilities that is planned to receive the wastes collected.

(c) Along with the notification described in subsection (b) of this section, owners or operators of a permanent collection shall submit an originally signed financial assurance mechanism acceptable to the executive director to provide for proper closure of the site(s). Prior to the notification, owners or operators must provide sufficient information to the executive director to allow the agency to determine an acceptable amount, format and type of financial assurance. Local governments as well as state and federal entities whose debts and liabilities are the debts and liabilities of a state or the United States are not subject to this subsection. Except for those operated by a local government or state or federal entity, a permanent collection center may not operate without obtaining and maintaining financial assurance acceptable to the executive director.

(d) In addition to the other requirements of this subchapter, an operator of a collection event, permanent collection center, point of generation pick-up service, mobile collection unit, or any combination of these:

(1) shall develop and follow a complete operational plan as required in §335.405(a) of this title (relating to Operational Plans) and;

(2) may not collect hazardous waste or Class 1 waste, as defined by this chapter, unless authorized under a permit or authorization issued under this chapter or Chapter 330 of this title (relating to Municipal Solid Waste);

(3) shall ship, for proper processing or disposal, aggregated household hazardous waste only to a hazardous waste processing, storage, or disposal facility that is authorized to receive household hazardous waste and that has agreed to accept the waste;

(4) shall have collected household hazardous waste transported in one of the following manners:

(A) any aggregated household hazardous waste from a collection event or permanent collection center must be transported only by a registered hazardous waste transporter under a uniform hazardous waste manifest to a hazardous waste processing, storage, or disposal facility authorized to receive household hazardous waste that has agreed to accept the wastes or as universal waste if allowed under Subchapter H, Division 1 of this chapter (relating the Universal Waste Rule);

(B) the operator may transport any household hazardous waste on a point of generation pick-up service or mobile collection unit to a permanent collection center or collection event;

or

(C) the operator may have any household hazardous waste collected by a point of generation pick-up service or mobile collection unit transported by a registered hazardous waste transporter under a uniform hazardous waste manifest to a hazardous waste processing, storage, or disposal facility authorized to receive household hazardous waste that has agreed to accept the wastes or as universal waste if allowed under Subchapter H, Division 1 of this chapter;

(5) shall maintain records related to household hazardous waste collected and processed or disposed for one year after processing or disposal of the wastes; and

(6) shall report annually to the executive director the amounts of household hazardous waste and household materials collected. The operator shall submit the report by February 1st of each year for the previous calendar year, using a form provided by the commission.

(e) Owners or operators of hazardous waste processing, storage, or disposal facilities who accept or intend to accept household hazardous waste directly from households are not subject to the requirements of this subchapter other than the reporting requirements in subsection (d)(7) of this section, provided that the acceptance of household hazardous waste is authorized in their operating permit.

**§335.405. Operational Plans.**

(a) A person conducting activities under this subchapter shall develop a complete operational plan prior to the collection of household materials and shall revise the plan as needed for ongoing and future

operations. The operational plan must accurately depict the specific plan for how all wastes and materials will be handled during and after collection efforts. The operational plan:

(1) must identify the nature, type, and quantity of household hazardous waste and other materials proposed for collection and reuse, recycling, processing or disposal ;

(2) must describe the source(s), amounts and types of wastes that would be accepted at a collection event, permanent collection center, point of generation pick-up service, mobile collection unit, or any combination of these, and if the collectors involved in the programs are not under a single operator, must describe the source(s), amounts, and types of wastes that will be transferred by a point of generation pick-up service or mobile collection unit to a collection event or permanent collection center;

(3) must establish the minimum number of operator staff, contractors, volunteers, and other individuals needed to conduct collection operations at each collection event, permanent collection center, mobile collection unit, and point of generation pick-up service covered by the operational plan; the specific functions of each type of staff; and how the training requirements that apply to their functions have been or will be met;

(4) must describe the planned disposition of all waste collected, including the name and United States Environmental Protection Agency (EPA) identification number of the transporter (or transporters) that will haul the aggregated household hazardous waste, and the name, address, and EPA identification number of the hazardous waste processing, storage, or disposal facility (or facilities) to be used for the processing, storage, disposal, recycling for energy recovery, or recycling of the aggregated

household hazardous waste. If materials received in usable condition will be offered to persons for reuse, the operational plan must describe in detail the manner in which this will be done. The operator, in developing the plan for the disposition of waste to be received, shall determine the feasibility of managing collected household hazardous waste in the following order of preference:

(A) reuse for the product's intended purpose;

(B) recycling;

(C) recycling for energy recovery;

(D) treatment to destroy hazardous characteristics;

(E) treatment to reduce hazardous characteristics;

(F) underground injection; and

(G) land disposal;

(5) must include a detailed description of procedures to ensure that hazardous waste or Class 1 wastes, as defined in this chapter, are not accepted as household hazardous waste, including but not limited to screening procedures for persons bringing wastes to collections or participating in point of

generation pick-up services, survey questions that will be asked of participants, and the amounts or types of wastes that will require further explanation from generators prior to acceptance;

(6) must include methods used to classify and control wastes received, including but not limited to the following:

(A) the waste streams that will be accepted and the types that will be rejected;

(B) the types of shipping containers and the storage areas to be used for each waste stream that will be accepted;

(C) the methods used to categorize wastes prior to packaging for shipment and processing or disposal;

(D) the methods used to handle and identify unknown wastes;

(E) bulking procedures if used;

(F) procedures for handling containers that are unsealed, leaking, or contaminated on their external surface when received; and

(G) procedures for any other wastes with special handling and processing or disposal needs, if any would be accepted, including but not limited to the following:

(i) radioactive materials;

(ii) medical wastes (such as used syringes);

(iii) asbestos

(iv) polychlorinated biphenyls (PCBs)

(v) explosives;

(vi) compressed gas cylinders; and

(vii) tanks for compressed fuels;

(7) must include a detailed discussion of provisions for inclement weather, including severe weather, rain, wind, and extreme temperatures;

(8) must include a detailed discussion of recordkeeping for the wastes received and shipped for processing or disposal; and

(9) must include the following attachments:

(A) Attachment 1 is a site map constructed to show the features of the collection event site, the permanent collection center, or the site used with a mobile collection unit. The map need

not be drawn to scale but must fairly represent the improvements and boundaries of the collection area.  
The map must be annotated to show flow of traffic, unloading points, location of emergency equipment and vehicles, and waste handling and storage areas.

(B) Attachment 2 is evidence of competency to operate, including experience and qualifications of key personnel and copies of certificates for all required training in this subchapter for all operator, contractor, or other staff or individuals who will work at any collection event, at any permanent collection center, on any mobile collection unit, in the point of generation pick-up service, or any combination of these covered by the plan.

(C) Attachment 3 is a Health and Safety Plan, including but not limited to the following information:

(i) the location and contents of the first aid kits available on site, in each mobile collection unit, and on each point of generation pick-up service vehicle;

(ii) the location and type of telephones or radios available at the site, on each mobile collection unit, and on each point of generation pick-up service vehicle for summoning emergency assistance and any specific instructions related to usage of this equipment;

(iii) detailed procedures for avoiding and responding to spills of liquid materials and solid materials, including at least the following:

(I) identifying who will respond to different sizes and types of spills (including on-site staff, emergency responders, contractors, etc.);

(II) detailed methods to be used for spill avoidance, control, and cleanup;

(III) decontamination procedures for people and equipment;

(IV) processing or disposal of contaminated materials and other wastes;

(V) types of engineering controls and personal protective equipment available on site and procedures for proper selection and use during spill responses;

(VI) the types and locations of equipment and materials available on site;

(VII) the duties of specific personnel;

(VIII) evacuation procedures (including at least the collection site and if appropriate the surrounding area); and

(IX) procedures for reporting of spills to local, state, and federal authorities;

(iv) preparation and response procedures for fires, including at least the following:

(I) the location and types of fire extinguishers and other types of fire suppression and prevention equipment available at the site, on each mobile collection unit, and on each point of generation pick up collection vehicle;

(II) when on-site fire extinguishers and equipment would be used and when the fire department would be summoned;

(III) evacuation procedures (including the site at least and the surrounding areas if appropriate);

(IV) the identity and storage location of any materials to be collected that may require special methods for fire fighting (such as flammable liquids, flammable metals, explosives, compressed gases, aerosol cans, water reactive materials, etc.); and

(V) the availability of a local fire department and whether they can handle the largest fire possible from the planned collection either with available resources or through mutual aid arrangements;

(v) the timing and content of training or briefings on safety to be provided to staff and volunteers prior to their involvement in the waste collection.

(b) The operational plan must be available at a collection event or permanent collection center and at the offices of the entity operating the collection program. The operator shall use the operational plan as a reference in training staff, planning, and conducting collections of household hazardous waste and other materials. The operator shall maintain the operational plan for as long as collection operations are planned and for at least one year after: a collection event occurs, a permanent collection center has closed, or other types activities conducted under this subchapter cease.

(c) The operator shall provide the operational plan to the executive director upon request.

**§335.407. Training Requirements.**

(a) The operator shall ensure that all individuals conducting activities under this subchapter have been trained in a manner that is appropriate to their duties, using any appropriate combination of training courses as well as the operational plan as a reference for program-specific training. The training must be specific to the operation of the collection event, permanent collection center, mobile collection unit, point of generation pick-up service, or any combination of these for which the individual will have duties. The operator shall ensure that appropriate training is provided to all staff, contractors, and volunteers who participate in the collection, aggregation, storage, or transportation of household hazardous waste and in running operations to make useable materials available for reuse.

(b) The operator shall ensure that training is provided before individuals collect, aggregate, store, or transport household hazardous waste for reuse, recycling, processing, or disposal. The operator shall

ensure that all training requirements under this subchapter are met for the individuals performing or responsible for specific duties. The operator shall ensure that volunteers are appropriately trained on the site rules and safety issues related to the operation prior to assisting with any collection.

(c) The training must cover any applicable training requirements in federal and state laws and regulations including:

(1) requirements of the federal Occupational Safety and Health Administration that are pertinent to duties in handling hazardous materials, responding to spills, and other activities;

(2) requirements of the Texas Hazard Communication Act, Texas Health and Safety Code, Chapter 502;

(3) requirements of the United States Department of Transportation for preparing and packaging wastes for transportation that are applicable to the specific work and operation, as specified in this subchapter; and

(4) requirements of EPA regulations at 40 Code of Federal Regulations §265.16.

(d) The operator shall ensure that individuals who handle household hazardous waste are trained under the requirements of this chapter as if the waste were hazardous wastes.

**§335.409. Operation of Collection Events and Permanent Collection Centers.**

(a) Location and site setup. The operator shall locate, organize, and operate a collection event or permanent collection center in a manner that safeguards the public health and welfare, physical property, and the environment. At a minimum, for any collection event, permanent collection center, or site where mobile collections units are used, the operator shall:

(1) locate the collection based on the types and quantities of waste to be collected and suitability of the site for collecting the waste;

(2) organize the activities on site in a way that allows incoming wastes to be sorted upon arrival and placed in a controlled area for packaging;

(3) provide an area, not generally accessible to the public, for sorting, packaging, and handling waste that is accepted;

(4) provide parking for the public and for essential project vehicles and queuing for vehicles waiting to offload wastes so as not to interfere with the safe entry and exit of traffic or cause traffic congestion on roads near the site;

(5) prepare for inclement weather, including provisions for sheltering personnel at or near the site during storms;

(6) designate eating, drinking, and smoking areas for personnel working at the event, area, site, or center (the operator shall prohibit such activities in the collection work area); and

(7) keep incompatible wastes separated, including unidentified wastes, prior to and after packaging for further storage or transport;

(b) Personnel and training. The operator shall ensure that personnel who work at a collection event or the permanent collection center are trained to use and follow the operational plan in conducting collection, storage, processing and disposal, and reuse activities. In addition, the operator shall ensure that the following provisions are met:

(1) Personnel who sort and package waste for transport to a hazardous waste facility and who directly oversee and supervise these activities on site must be trained and knowledgeable concerning the incompatibility of various classes of waste and qualified to package waste for transport;

(2) At every collection event and permanent collection center, at least one person trained to classify hazardous waste and competent to perform tests to identify characteristics of hazardous waste (e.g., pH, flammability, etc.) must be utilized to accept or supervise the acceptance of waste;

(3) Personnel handling waste must be instructed in accident prevention; emergency response to fires, explosions, and spills; the proper use of fire extinguishers appropriate to the materials

that will be accepted; and the use of protective devices (such as respiratory gear and gloves) to minimize exposure to the household hazardous waste and other materials that would be accepted in the collection;

(4) Packaging and labeling of waste must be supervised by an individual familiar with the United States Department of Transportation (DOT) hazardous materials packaging, placarding, labeling, shipping, and hazardous waste manifest requirements;

(5) At least one person must be on site at times when wastes are handled who is trained to perform general first aid and who is knowledgeable concerning safety measures to be taken in the event of accidental contact with household hazardous waste or other hazardous materials presented for collection; the first aid training must be consistent with courses provided under the auspices of a recognized national safety organization (such as American Red Cross, National Safety Council, etc.) and must be documented with a current certificate;

(6) An on-site supervisor must be available and responsible for initiating an emergency response plan that includes site evacuation procedures. The on-site supervisor also assumes responsibility for accepting any unidentified wastes and insuring proper handling and proper processing or disposal;

(7) The on-site supervisor must have the authority to remove from the site and prohibit re-entry of any person that the supervisor determines may threaten site security or personnel safety;

(8) A collection event or permanent collection center must be manned by an adequate number of individuals who possess the necessary skills and expertise needed to accept, sort, label, and store the waste and to provide on-site supervision and public relations;

(9) When household hazardous waste or other hazardous materials are prepared for transportation, an adequate number of operator or contractor staff must be present and involved who possess the necessary skills and expertise needed to package, store, and manifest the waste; and

(10) Personnel who handle household hazardous waste or who supervise these activities must have certification through attending a Hazardous Waste Operations and Emergency Response (HAZWOPER) course appropriate to their duties. Staff involved with these activities must maintain their certification through annual refresher training. If the HAZWOPER course covers other training required by this subchapter that is not required by 29 Code of Federal Regulations §1910.1200, this fact must be documented in the certificate for the course or on a separate certificate.

(c) Equipment and materials. The operator shall provide equipment and materials at a collection event or permanent collection center to provide protection, safety and first aid for persons operating the collection, to contain and clean up spills, and to properly handle, classify, store, and label the waste. The operator shall ensure that disposable equipment and materials contaminated during a spill cleanup are handled appropriately for the type of material that was spilled. The operator shall ensure that any contaminated non-disposable equipment and materials are properly decontaminated before removal from the site. At a minimum, the operator shall provide the following equipment and material at every site and vehicle used to collect wastes:

(1) a first aid kit;

(2) a telephone or radio for contacting first responders in the event of a spill, personal injury, etc.;

(3) an eyewash and shower station, or a hosing device;

(4) at least two fire extinguishers appropriate to the wastes accepted; and

(5) sufficient spill containment and absorbent materials to contain a spill of 10% of the anticipated volume of collected liquid waste.

(d) Waste accepted and excluded. The collection program should accept only household wastes. The operator shall take necessary precautions to prohibit the receipt of waste that is defined as a hazardous waste or Class 1 wastes under this chapter. Other requirements related to acceptance or exclusion of wastes are as follows:

(1) The operator shall ensure that a chemist or trained individual knowledgeable in chemical characteristics and incompatibilities identifies any unidentified waste accepted before packaging the waste for transport. Wastes that cannot be identified by the generator or his representative when delivered or through physical assessment by qualified staff may not be packaged until the waste has been analyzed and the appropriate chemical class has been identified.

(2) Announcements and promotional material must state which types of wastes will be accepted and which types of waste will not be accepted at the collection event or permanent collection center. The operator shall provide information to potential participants prior to a collection event or the opening of a permanent collection center and at least annually during the period that a permanent collection center operates. The information provided must include all relevant instructions on the following issues, as well as any other appropriate information that may be useful to the public:

(A) the types and quantities of wastes that will be accepted and that will not be accepted;

(B) instructions for safely packaging and transporting wastes to the collection;

(C) the days and hours of operation and location of the collection site; and

(D) eligibility criteria for who can bring wastes.

(3) The operator shall ensure that waste acceptance decisions are based on the capabilities of the personnel collecting, sorting, and packaging the waste. A generic list of proposed wastes to be accepted and those that will be prohibited must be included in the operational plan. The list must be developed with the intent of minimizing the need for chemical analysis of unidentified wastes.

(4) Empty hazardous material and pesticide containers from households may be disposed of as nonhazardous waste if they are rendered unusable before leaving the collection event or permanent collection center.

(e) Temporary storage. The operator shall ensure that storage areas at a collection event or permanent collection center are operated and maintained so as to provide safe handling and storage of waste awaiting final disposition. The operator shall secure a collection event or permanent collection center to control access by the public. When storing aggregated household hazardous waste:

(1) An operator may not store aggregated household hazardous waste longer than 10 days except under one of the conditions described in subparagraphs (A) – (C) of this paragraph.

(A) The storage facility is an authorized hazardous waste processing, storage, or disposal facility;

(B) The operator requests in writing and obtains a storage time extension from the executive director. The request for an extension must state the reason that waste needs to be stored longer than ten days, the earliest date that the hazardous household waste currently on site was received, and the expected date that the waste will be shipped to a recycling facility or a hazardous waste processing, storage, or disposal facility; or

(C) The operator is operating a permanent collection center, does not accumulate more than 3,000 kilograms of household hazardous waste, and does not store the waste longer than 180 days;

(2) If wastes are stored in original individual containers as received from the public rather than in a proper and correctly labeled shipping container that meets the DOT regulations for hazardous materials in transportation, the operator shall ensure

(A) that all complete, legible, and correct labels are maintained on individual containers received from the public;

(B) that, if the label on any container of waste received from the public is missing, defaced, or incorrect, information needed for safe storage, transportation, and processing or disposal is marked on that container; at a minimum, this required information must cover all information required by the DOT regulations for hazardous materials in transportation; and

(C) that the date of acceptance of each individual container from the generator is placed on that container.

(3) If wastes are properly prepared for transportation and stored in proper shipping containers that are labeled consistent with the DOT regulations for hazardous materials in transportation, the individual containers received from the public do not need to be marked.

(4) The operator shall maintain records of all stored, processed, or disposed household hazardous wastes for at least one year after shipment of the waste-including all the information necessary to complete manifests for the wastes. (Copies of manifests may be used in lieu of a separate record.)

**§335.411. Operation of Point of Generation Pick-up Service and Mobile Collection Units.**

(a) Point of generation pick-up service. An operator offering point of generation pick-up service for household hazardous waste that has been segregated from other household waste shall:

(1) develop and implement a collection program that minimizes the potential for human and animal exposure to such waste (unless the pick-up procedures involve personal contact with the generator, the operator shall provide instructions to households on details of packaging, labeling, securing, and any other procedures to safeguard humans and animals and to protect the environment from the wastes left out for pick up);

(2) provide information to potential participants prior to collections. The information provided must include all relevant issues on the following topics, as well as any other appropriate information that may be useful to the public:

(A) the information required in paragraph (1) of this subsection;

(B) eligibility criteria for who can participate in the program;

(C) the types and quantities of wastes that will be and will not be accepted; and

(D) the method households are to use for arranging pickup of their wastes;

(3) organize and operate the collections so as to safeguard the public health and welfare, physical property, and the environment;

(4) have available in each vehicle used for the point of generation pick-up service the following equipment:

(A) a first aid kit;

(B) a fire extinguisher appropriate to the wastes accepted;

(C) a means of communication to summon emergency assistance and the information needed for its use; and

(D) sufficient absorbent to contain a spill of ten percent of the maximum quantity of liquid wastes that the vehicle is designed to hold;

(5) have a person in each collection vehicle who has experience and training in handling hazardous waste, the proper use of fire extinguishers, first aid, waste classification, waste incompatibility, spill prevention, and clean-up safety;

(6) if unknown wastes will be accepted, ensure that the wastes are properly identified and meet one of the following requirements:

(A) have available on the collection vehicle all necessary testing equipment and a person qualified to identify the wastes prior to placing the wastes on the collection vehicle; or

(B) have a method in place on the collection vehicle of isolating separately in a secure manner each container of unknown waste until delivery to a collection event or permanent collection center where the waste(s) will be characterized prior to aggregating with other wastes, if this method is consistent with the United States Department of Transportation (DOT) requirements for hazardous material in transportation.

(b) Mobile collection unit. In addition to the requirements of §335.409 of this title (relating to Operation of Collection Events and Permanent Collection Centers), an operator using one or more mobile collection units to collect household hazardous waste shall:

(1) develop and implement a collection program that minimizes the potential for human exposure to or environmental harm from such waste during collection, storage, and transport;

(2) have at least one person in each vehicle who has experience and training in handling hazardous waste, the proper use of fire extinguishers, first aid, waste classification, waste incompatibility, spill prevention, and clean-up safety;

(3) maintain on each mobile collection unit the following equipment:

(A) a first aid kit;

(B) a fire extinguisher appropriate to the wastes accepted;

(C) a eye wash and emergency shower or a hosing device;

(D) a means of communication to summon emergency assistance; and

(E) sufficient absorbent and containment to contain a spill of ten percent of all liquid wastes on the unit;

(4) if unknown wastes will be accepted, ensure that the wastes are properly identified and meet one of the following requirements:

(A) have available on the mobile collection unit all necessary testing equipment and a person qualified to identify the wastes prior to placing the wastes on the unit; or

(B) have a method in place on the mobile collection unit of isolating separately in a secure manner each container of unknown waste until delivery to a collection event or permanent collection center where the waste(s) will be characterized prior to aggregating with other wastes, if this method is consistent with the DOT requirements for hazardous material in transportation; and

(5) if the mobile collection unit is used to transport household hazardous waste to a hazardous waste processing, storage, or disposal facility, register the mobile collection unit as a transporter and manifest the aggregated household hazardous waste, or ship the household hazardous waste as universal waste if allowed under Subchapter H, Division 5 of this chapter (relating to Universal waste Rule);

(c) Point of generation pick-up service or mobile collection unit. The operator of a point of generation pick-up service or mobile collection unit shall also:

(1) comply with the personnel requirements in §335.409(b) of this title;

(2) comply with the waste acceptance and exclusion requirements in §335.409(d) of this title;

(3) comply with the temporary storage requirements in subsection 335.409(e) of this title;

and

(4) within 24 hours of receipt from the public, deliver collected household hazardous waste to a permanent collection center or collection event to be aggregated with other household hazardous waste, or have the household hazardous waste transported by a transporter that meets the requirements in §335.415 of this title (relating to General Requirements for Transporters) to a hazardous waste processing, storage, or disposal facility that is authorized to accept household hazardous waste that has agreed to accept the wastes or as universal waste if allowed under Subchapter H, Division 5 of this chapter.

**§335.413. General Shipping, Manifesting, Recordkeeping, and Reporting Requirements.**

(a) Except for those collected reusable materials handled in accordance with the requirements of §335.419 of this title (relating to Reuse of Collected Material) and wastes received at the center which are

not household hazardous waste, persons who collect, receive, or aggregate household hazardous waste shall:

(1) utilize only hazardous waste transporters who have notified the executive director with respect to transportation of hazardous waste, who have notified the United States Environmental Protection Agency (EPA) of their involvement in transporting hazardous waste, and who have been issued an EPA identification number, for transporting or shipping household hazardous waste from a collection event or permanent collection center, except for household hazardous waste that is shipped as universal waste under the provisions of Subchapter H, Division 5 of this chapter (relating to Universal Waste Rule);

(2) ship, using a uniform hazardous waste manifest or following the universal waste rules if appropriate to the type(s) of waste(s) being shipped, household hazardous waste from a collection event or permanent collection center only to receivers that are permitted as hazardous waste processing, storage, or disposal facilities with authorization to receive household hazardous waste and that have agreed to accept the waste;

(3) package and label household hazardous waste so as to apply the applicable United States Department of Transportation requirements and the requirements contained in §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class 1 Industrial Solid Waste) to the household hazardous waste as if it was hazardous waste; and

(4) retain for at least one year from the date of shipment copies of all manifests and bills of lading utilized for the shipment of household hazardous waste, and make the records available to the executive director upon request;

(b) For all wastes received and materials offered for reuse, an operator shall:

(1) report annually to the executive director by February 1st for the previous calendar year the amount of household hazardous waste and other wastes received, including materials offered for reuse, using a form provided by the agency; and

(2) ensure that all wastes received are properly processed or disposed under all federal, state, and local requirements that are applicable to the specific waste; if materials offered for reuse are later shipped for processing or disposal without having been transferred to another person, the materials must be processed or disposed as required for household hazardous waste if they have any characteristic of hazardous waste.

**§335.415. General Requirements for Transporters.**

(a) A person may not transport household hazardous waste required by this subchapter to be accompanied by a uniform hazardous waste manifest, unless such person:

(1) has notified the executive director with respect to hazardous waste transportation activities in accordance with the requirements contained in §335.6(d) of this title (relating to Notification Requirements);

(2) has notified the EPA as to his or her transporter status, and has been issued an United States Environmental Protection Agency (EPA) identification number;

(3) applies the requirements outlined in §335.11 of this title (relating to Shipping Requirements for Transporters of Municipal Hazardous Waste or Class 1 Industrial Solid Waste) to all manifested household waste as if it was hazardous waste;

(4) applies the requirements outlined in §335.14 of this title (relating to Recordkeeping Requirements Applicable to Transporters of Municipal Hazardous Waste or Class 1 Industrial Solid Waste) to all manifested household waste as if it was hazardous waste; and

(5) applies the requirements of §335.4(1) - (3) of this title (relating to General Prohibitions) to all household hazardous waste accepted or handled as if it was hazardous waste.

(b) A transporter who is engaged in a point of generation pick-up service of household hazardous waste, who operates or intends to operate any household hazardous waste collection event, mobile collection unit, or a permanent collection center, or who otherwise handles or accepts household hazardous waste from households or the public, shall comply with all the applicable requirements of this subchapter set forth for operators and shall keep all household hazardous waste accumulated separate and apart from hazardous waste or Class 1 waste, as defined in this chapter, which is accumulated at a transporter's facilities.

**§335.417. General Requirements for Processing, Storage, or Disposal Facilities.**

(a) An owner or operator of a hazardous waste processing, storage, or disposal facility with a permit authorizing the receipt of household hazardous waste may receive in compliance with the permit household hazardous waste shipped under a uniform hazardous waste manifest or as universal waste.

(b) Owners or operators of hazardous waste processing, storage, or disposal facilities with a permit authorizing the receipt of household hazardous waste may receive household hazardous waste directly from households without meeting any of the other provisions of this subchapter provided that the quantities received are reported to the executive director as described in §335.403(c)(7) of this title (relating to General Requirements for Collectors and Operators).

**§335.419. Reuse of Collected Material.**

Any material collected or accepted by a collector or operation in its original container with a legible label or that is otherwise readily identifiable and which has been determined by the collector or operator to be in a usable condition may be removed from the aggregated household hazardous waste and provided to a person for use. Storage of materials offered for reuse is not subject to the requirements of this subchapter. If any reusable material is shipped for processing or disposal without having been transferred to another person, the operator shall ensure that the material is processed or disposed as household hazardous waste under the requirements of this subchapter if it meets the definition of household hazardous waste in §335.402(6) of this title (relating to Definitions).