

The commission proposes new §§12.1, 12.3, and 12.5, concerning Payment of Fees.

This proposal is concurrent with other rulemaking affecting applicable commission fee requirements.

The purpose of the rulemaking is to establish uniform and consistent requirements for the assessment of penalties and interest for the late payment of fees owed the state under the commission's jurisdiction as required by Texas Water Code, §5.235. The Water Code requires penalty and interest rates to be no greater than those established in Texas Tax Code, §111.060 and §111.061. Those sections of the Tax Code provide for the assessment of a penalty of 5.0% of any delinquent tax, and if those taxes are not paid within 30 days after the day on which they are due, an additional 5.0% penalty will be assessed. Furthermore, an annual interest rate of 12.0% will be assessed on delinquent taxes beginning 60 days after the day on which taxes are due. The proposed Chapter 12 would incorporate the Tax Code penalty and interest provisions. A reference to Chapter 12 would be placed in all fee rules, while at the same time, all existing late payment language would be deleted.

Proposed new §12.3, Penalty and Interest on Delinquent Fees, would specifically incorporate the penalty and interest rates found in Tax Code, §111.060 and §111.061.

Proposed new §12.5, Consistency of Penalties and Interest with the Tax Code, would link the penalty and interest structure of the commission's rules to Tax Code, §111.060 and §111.061, and would therefore not permit the commission to charge penalties or interest at rates in excess of the Tax Code.

The commission has prepared a Takings Impact Assessment for these proposed rules in accordance with Texas Government Code, §2007.043. Promulgation and enforcement of these proposed rules will not affect private real property.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that, for the first five years these sections are in effect, there will be no significant fiscal implications for state government as a result of enforcement and administration of the proposed provisions. In most cases, the provisions will simply adjust an existing interest or penalty rate. Although the effects of adopting these uniform rates has cannot be determined, no significant increase or decrease in collections is anticipated. Local governments making late payments of fees could be affected by changes in effective interest and penalty rates, however, any such effect would be minor. There are no other implications for local governments anticipated.

Mr. Minick has also determined that for the first five years these sections are in effect, the public benefit anticipated as a result of enforcement of and compliance with the sections will be: more cost-effective administration of the assessment and collection of public funds; improved consistency in the administrative provisions and procedures for assessment of late fees and penalties between agencies of the state; and more timely collection of funds supporting the state's environmental programs. There are no additional indirect economic costs to any person, including small businesses, anticipated as a result of compliance with these proposed sections.

A public hearing on the proposal will be held December 3 , 1996, at 2:00 p.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, Austin. 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 within the audience will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96145-012-AD. Comments must be received by 5:00 p.m., December 5, 1996. For further information, please contact Steve Ortiz, Office of Policy and Regulatory Development, (512) 239-2008.

The new sections are proposed under Texas Water Code, §§5.103, 5.105, 13.041, 26.011, 27.019, 32.009, 33.007, and 34.006 and Texas Health and Safety Code, §§341.002, 341.031, 361.011, 361.017, 361.024, 366.012, 382.017, 401.011, 401.051, and 401.412, which authorize the commission to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of Texas and to establish and approve all general policy of the commission.

The proposed new sections implement Texas Water Code, §5.235.

**§§12.1, 12.3, 12.5**

**§12.1. Applicability.**

This chapter applies to those fees owed the state under the commission's jurisdiction.

**§12.3. Penalty and Interest on Delinquent Fees.**

(a) A penalty of 5.0% of the fee due shall be imposed on a person who fails to pay a fee required under this title when due, and, if the person fails to pay the fee within 30 days after the day on which the fee is due, an additional 5.0% penalty shall be imposed.

(b) Delinquent fees accrue interest beginning on the 61st day after their due date.

(c) The yearly interest rate on all delinquent fees required under this title is 12%.

(d) Penalties and/or interest under this section may be waived by the executive director for good cause.

**§12.5. Consistency of Penalties and Interest with the Tax Code.**

The penalties and interest rates assessed under this chapter may not exceed the penalties and interest rates established in Texas Tax Code, §111.060 and §111.061.

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

The commission proposes amendments to §101.24, concerning Inspection Fees and §101.27, concerning Emissions Fees.

This proposal is concurrent with other rulemaking affecting applicable commission fee requirements.

The purpose of the rulemaking is to establish uniform and consistent requirements for the assessment of penalties and interest for the late payment of fees owed the state under the commission's jurisdiction as required by Texas Water Code, §5.235. The Water Code requires penalty and interest rates to be no greater than those established in Texas Tax Code, §111.060 and §111.061. Those sections of the Tax Code provide for the assessment of a penalty of 5.0% of any delinquent tax, and if those taxes are not paid within 30 days after the day on which they are due, an additional 5.0% penalty will be assessed. Furthermore, an annual interest rate of 12.0% will be assessed on delinquent taxes beginning 60 days after the day on which taxes are due. A proposed new 30 TAC Chapter 12 would contain these penalty and interest provisions and would apply to all fees under the commission's jurisdiction.

These proposed amendments would ensure that the penalty and interest provisions required for the late payment of fees contained in these sections remain consistent with the limits of the Tax Code. The current late payment language contained in §101.24 and §101.27 would be replaced with references to proposed new Chapter 12.

The commission has prepared a Takings Impact Assessment for these proposed rules in accordance with Texas Government Code, §2007.043. Promulgation and enforcement of these proposed rules will not affect private real property.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that, for the first five years these amendments are in effect, there will be no significant fiscal implications for state government as a result of enforcement and administration of the proposed provisions. In most cases, the provisions will simply adjust an existing interest or penalty rate. Although the effects of adopting these uniform rates has cannot be determined, no significant increase or decrease in collections is anticipated. Local governments making late payments of fees could be affected by changes in effective interest and penalty rates, however, any such effect would be minor. There are no other implications for local governments anticipated.

Mr. Minick has also determined that for the first five years these amendments are in effect, the public benefit anticipated as a result of enforcement of and compliance with the amendments will be: more cost-effective administration of the assessment and collection of public funds; improved consistency in the administrative provisions and procedures for assessment of late fees and penalties between agencies of the state; and more timely collection of funds supporting the state's environmental programs. There are no additional indirect economic costs to any person, including small businesses, anticipated as a result of compliance with these proposed amendments.

A public hearing on the proposal will be held December 3, 1996, at 2:00 p.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, Austin. 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 within the audience will not occur during the hearing; however, an agency staff member will be

available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96145-012-AD. Comments must be received by 5:00 p.m., December 5, 1996. For further information, please contact Steve Ortiz, Office of Policy and Regulatory Development, (512) 239-2008.

The amendments are proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA.

The proposed amendments implement Texas Water Code, §5.235.

**§101.24, §101.27**

**§101.24. Inspection Fees.**

(a) - (e) (No change.)

(f) Late payment penalties. The owner or operator of an account failing to make payment of inspection fees when due shall [will] be assessed late payment penalties and interest [equal to the rates established for delinquent taxes under Texas Tax Code, §111.060(a) and (b) and §111.061] in accordance with Chapter 12 of this title (relating to Payment of Fees).

**§101.27. Emissions Fees.**

(a) - (e) (No change.)

(f) Late payment penalties. The owner or operator of an account failing to make payment of emissions fees when due shall [will] be assessed late payment penalties and interest [equal to the rates established for delinquent taxes under Texas Tax Code, §111.060(a) and (b) and §111.061] in accordance with Chapter 12 of this title (relating to Payment of Fees).

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

The commission proposes an amendment to §290.51, concerning Fees for Services to Drinking Water System.

This proposal is concurrent with other rulemaking affecting applicable commission fee requirements.

The purpose of the rulemaking is to establish uniform and consistent requirements for the assessment of penalties and interest for the late payment of fees owed the state under the commission's jurisdiction as required by Texas Water Code, §5.235. The Water Code requires penalty and interest rates to be no greater than those established in Texas Tax Code, §111.060 and §111.061. Those sections of the Tax Code provide for the assessment of a penalty of 5.0% of any delinquent tax, and if those taxes are not paid within 30 days after the day on which they are due, an additional 5.0% penalty will be assessed. Furthermore, an annual interest rate of 12.0% will be assessed on delinquent taxes beginning 60 days after the day on which taxes are due. A proposed new 30 TAC Chapter 12 would contain these penalty and interest provisions and would apply to all fees under the commission's jurisdiction.

This proposed amendment would insert a reference to the proposed new Chapter 12 to establish for this section penalty and interest provisions for the late payment of fees.

The commission has prepared a Takings Impact Assessment for this proposed rule in accordance with Texas Government Code, §2007.043. Promulgation and enforcement of this proposed rule will not affect private real property.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that, for the first five years this amendment is in effect, there will be no significant fiscal implications for state government as a result of enforcement and administration of the proposed provisions. In most cases, the provisions will simply adjust an existing interest or penalty rate. Although the effects of adopting these uniform rates has cannot be determined, no significant increase or decrease in collections is anticipated. Local governments making late payments of fees could be affected by changes in effective interest and penalty rates, however, any such effect would be minor. There are no other implications for local governments anticipated.

Mr. Minick has also determined that for the first five years this amendment is in effect, the public benefit anticipated as a result of enforcement of and compliance with the amendment will be: more cost-effective administration of the assessment and collection of public funds; improved consistency in the administrative provisions and procedures for assessment of late fees and penalties between agencies of the state; and more timely collection of funds supporting the state's environmental programs. There are no additional indirect economic costs to any person, including small businesses, anticipated as a result of compliance with this proposed amendment.

A public hearing on the proposal will be held December 3, 1996, at 2:00 p.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, Austin. 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 within the audience will not occur during the hearing; however, an agency staff member will be

available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96145-012-AD. Comments must be received by 5:00 p.m., December 5, 1996. For further information, please contact Steve Ortiz, Office of Policy and Regulatory Development, (512) 239-2008.

The amendment is proposed under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the Texas Water Code and other laws of this state.

The proposed amendment implements Texas Water Code, §5.235.

**SUBCHAPTER E : FEES FOR PUBLIC WATER SYSTEMS**

**§290.51**

**§290.51. Fees for Services to Drinking Water System.**

(a) Purpose and scope.

(1) - (5) (No change.)

(6) All fees are due by January 1 of each year, shall be paid by check or money order, and shall be made payable to the Texas Natural Resource Conservation Commission. Penalties and interest for the late payment of fees shall be assessed in accordance with Chapter 12 of this title (relating to Payment of Fees).

(b) (No change.)

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

The commission proposes an amendment to §291.76, concerning Regulatory Assessment (of water rates).

This proposal is concurrent with other rulemaking affecting applicable commission fee requirements.

The purpose of the rulemaking is to establish uniform and consistent requirements for the assessment of penalties and interest for the late payment of fees owed the state under the commission's jurisdiction as required by Texas Water Code, §5.235. The Water Code requires penalty and interest rates to be no greater than those established in Texas Tax Code, §111.060 and §111.061. Those sections of the Tax Code provide for the assessment of a penalty of 5.0% of any delinquent tax, and if those taxes are not paid within 30 days after the day on which they are due, an additional 5.0% penalty will be assessed. Furthermore, an annual interest rate of 12.0% will be assessed on delinquent taxes beginning 60 days after the day on which taxes are due. A proposed new 30 TAC Chapter 12 would contain these penalty and interest provisions and would apply to all fees under the commission's jurisdiction.

This proposed amendment would ensure that the penalty and interest provisions required for the late payment of fees contained in this section remain consistent with the limits of the Tax Code. The current late payment language would be replaced with a reference to proposed new Chapter 12.

The commission has prepared a Takings Impact Assessment for this proposed rule in accordance with Texas Government Code, §2007.043. Promulgation and enforcement of this proposed rule will not affect private real property.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that, for the first five years this amendment is in effect, there will be no significant fiscal implications for state government as a result of enforcement and administration of the proposed provisions. In most cases, the provisions will simply adjust an existing interest or penalty rate. Although the effects of adopting these uniform rates has cannot be determined, no significant increase or decrease in collections is anticipated. Local governments making late payments of fees could be affected by changes in effective interest and penalty rates, however, any such effect would be minor. There are no other implications for local governments anticipated.

Mr. Minick has also determined that for the first five years this amendment is in effect, the public benefit anticipated as a result of enforcement of and compliance with the amendment will be: more cost-effective administration of the assessment and collection of public funds; improved consistency in the administrative provisions and procedures for assessment of late fees and penalties between agencies of the state; and more timely collection of funds supporting the state's environmental programs. There are no additional indirect economic costs to any person, including small businesses, anticipated as a result of compliance with this proposed amendment.

A public hearing on the proposal will be held December 3, 1996, at 2:00 p.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, Austin. 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 within the audience will not occur during the hearing; however, an agency staff member will be

available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96145-012-AD. Comments must be received by 5:00 p.m., December 5, 1996. For further information, please contact Steve Ortiz, Office of Policy and Regulatory Development, (512) 239-2008.

The amendment is proposed under Texas Water Code, §§5.103, 5.105, and 13.041, which provide the commission with rulemaking authority relating to the regulation and supervision of retail public utilities' rates, fees, operations, and services and submetered and nonsubmetered master metered service providers. The amendment establishes the substantive regulations which affect the policies of the commission regarding the assurance of water and sewer rates, fees, operations, and services which are just and reasonable.

The proposed amendment implements Texas Water Code, §5.235.

**SUBCHAPTER D : RECORDS AND REPORTS**

**§291.76. Regulatory Assessment.**

(a) - (j) (No change.)

(k) If assessments remitted on an annual basis are not received by the commission by January 30th following the year in which they are collected, the utility service provider shall be assessed [a penalty of 5.0% of the amount due, and if the fees are not paid within 30 days after the day on which the fees are due, an additional 5.0% penalty shall be imposed. An annual interest rate of 12% shall be imposed on delinquent fees beginning 60 days from the date on which the fee is due.] penalties and interest in accordance with Chapter 12 of this title (relating to Payment of Fees).

(l) - (n) (No change.)

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

The commission proposes an amendment to §303.73, concerning Assessment of Costs. This section pertains to financing Rio Grande watermaster operations.

This proposal is concurrent with other rulemaking affecting applicable commission fee requirements.

The purpose of the rulemaking is to establish uniform and consistent requirements for the assessment of penalties and interest for the late payment of fees owed the state under the commission's jurisdiction as required by Texas Water Code, §5.235. The Water Code requires penalty and interest rates to be no greater than those established in Texas Tax Code, §111.060 and §111.061. Those sections of the Tax Code provide for the assessment of a penalty of 5.0% of any delinquent tax, and if those taxes are not paid within 30 days after the day on which they are due, an additional 5.0% penalty will be assessed. Furthermore, an annual interest rate of 12.0% will be assessed on delinquent taxes beginning 60 days after the day on which taxes are due. A proposed new 30 TAC Chapter 12 would contain these penalty and interest provisions and would apply to all fees under the commission's jurisdiction.

This proposed amendment would insert a reference to the proposed new Chapter 12 to establish for this section penalty and interest provisions for the late payment of fees.

The commission has prepared a Takings Impact Assessment for this proposed rule in accordance with Texas Government Code, §2007.043. Promulgation and enforcement of this proposed rule will not affect private real property.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that, for the first five years this amendment is in effect, there will be no significant fiscal implications for state government as a result of enforcement and administration of the proposed provisions. In most cases, the provisions will simply adjust an existing interest or penalty rate. Although the effects of adopting these uniform rates has cannot be determined, no significant increase or decrease in collections is anticipated. Local governments making late payments of fees could be affected by changes in effective interest and penalty rates, however, any such effect would be minor. There are no other implications for local governments anticipated.

Mr. Minick has also determined that for the first five years this amendment is in effect, the public benefit anticipated as a result of enforcement of and compliance with the amendment will be: more cost-effective administration of the assessment and collection of public funds; improved consistency in the administrative provisions and procedures for assessment of late fees and penalties between agencies of the state; and more timely collection of funds supporting the state's environmental programs. There are no additional indirect economic costs to any person, including small businesses, anticipated as a result of compliance with this proposed amendment.

A public hearing on the proposal will be held December 3, 1996, at 2:00 p.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, Austin. 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 within the audience will not occur during the hearing; however, an agency staff member will be

available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96145-012-AD. Comments must be received by 5:00 p.m., December 5, 1996. For further information, please contact Steve Ortiz, Office of Policy and Regulatory Development, (512) 239-2008.

The amendment is proposed under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the Texas Water Code and other laws of this state.

The proposed amendment implements Texas Water Code, §5.235.

## FINANCING RIO GRANDE WATERMASTER OPERATION

### §303.73. Assessment of Costs.

(a) (No change.)

(b) The annual assessment shall be paid to the executive director in advance of expenditures. The executive director shall specify the dates by which payments shall be due, and may provide for payments in installments. Penalties and interest for the late payment of fees shall be assessed in accordance with Chapter 12 of this title (relating to Payment of Fees). If fees are paid in installments, penalties and interest for late payment shall be computed on the amount of the installment due. The executive director shall transmit all collections to the state treasurer to be held in a special fund to provide for the cost of the Rio Grande watermaster operation.

(c) - (e) (No change.)

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

The commission proposes an amendment to §304.63, concerning Assessment of Cost. This section pertains to financing watermaster operations.

This proposal is concurrent with other rulemaking affecting applicable commission fee requirements.

The purpose of the rulemaking is to establish uniform and consistent requirements for the assessment of penalties and interest for the late payment of fees owed the state under the commission's jurisdiction as required by Texas Water Code, §5.235. The Water Code requires penalty and interest rates to be no greater than those established in Texas Tax Code, §111.060 and §111.061. Those sections of the Tax Code provide for the assessment of a penalty of 5.0% of any delinquent tax, and if those taxes are not paid within 30 days after the day on which they are due, an additional 5.0% penalty will be assessed. Furthermore, an annual interest rate of 12.0% will be assessed on delinquent taxes beginning 60 days after the day on which taxes are due. A proposed new 30 TAC Chapter 12 would contain these penalty and interest provisions and would apply to all fees under the commission's jurisdiction.

This proposed amendment would insert a reference to the proposed new Chapter 12 to establish for this section penalty and interest provisions for the late payment of fees.

The commission has prepared a Takings Impact Assessment for this proposed rule in accordance with Texas Government Code, §2007.043. Promulgation and enforcement of this proposed rule will not affect private real property.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that, for the first five years this amendment is in effect, there will be no significant fiscal implications for state government as a result of enforcement and administration of the proposed provisions. In most cases, the provisions will simply adjust an existing interest or penalty rate. Although the effects of adopting these uniform rates has cannot be determined, no significant increase or decrease in collections is anticipated. Local governments making late payments of fees could be affected by changes in effective interest and penalty rates, however, any such effect would be minor. There are no other implications for local governments anticipated.

Mr. Minick has also determined that for the first five years this amendment is in effect, the public benefit anticipated as a result of enforcement of and compliance with the amendment will be: more cost-effective administration of the assessment and collection of public funds; improved consistency in the administrative provisions and procedures for assessment of late fees and penalties between agencies of the state; and more timely collection of funds supporting the state's environmental programs. There are no additional indirect economic costs to any person, including small businesses, anticipated as a result of compliance with this proposed amendment.

A public hearing on the proposal will be held December 3, 1996, at 2:00 p.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F , located at 12100 Park 35 Circle, Austin. 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 within the audience will not occur during the hearing; however, an agency staff member will be

available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96145-012-AD. Comments must be received by 5:00 p.m., December 5, 1996. For further information, please contact Steve Ortiz, Office of Policy and Regulatory Development, (512) 239-2008.

The amendment is proposed under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the Texas Water Code and other laws of this state.

The proposed amendment implements Texas Water Code, §5.235.

## FINANCING WATERMASTER OPERATIONS

### §304.63. Assessment of Cost.

(a) (No change.)

(b) The assessment shall be paid to the executive director in advance of expenditures. The executive director shall specify the dates by which payments shall be due, and may provide for payments in installments. Penalties and interest for the late payment of fees shall be assessed in accordance with Chapter 12 of this title (relating to Payment of Fees). If fees are paid in installments, penalties and interest for late payment shall be computed on the amount of the installment due. The executive director shall transmit all collections to the state treasurer to be held in a special fund to provide for the cost of the watermaster operation.

(c) - (d) (No change.)

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

The commission proposes an amendment to §305.507, concerning Failure to Make Payment.

This proposal is concurrent with other rulemaking affecting applicable commission fee requirements.

The purpose of the rulemaking is to establish uniform and consistent requirements for the assessment of penalties and interest for the late payment of fees owed the state under the commission's jurisdiction as required by Texas Water Code, §5.235. The Water Code requires penalty and interest rates to be no greater than those established in Texas Tax Code, §111.060 and §111.061. Those sections of the Tax Code provide for the assessment of a penalty of 5.0% of any delinquent tax, and if those taxes are not paid within 30 days after the day on which they are due, an additional 5.0% penalty will be assessed. Furthermore, an annual interest rate of 12.0% will be assessed on delinquent taxes beginning 60 days after the day on which taxes are due. A proposed new 30 TAC Chapter 12 would contain these penalty and interest provisions and would apply to all fees under the commission's jurisdiction.

This proposed amendment would ensure that the penalty and interest provisions required for the late payment of fees contained in this section remain consistent with the limits of the Tax Code. The current late payment language contained in the rule has an incorrect interest rate of 12.0% compounded monthly. The correct interest rate should be 12.0% annually. This late payment language would be replaced with a reference to proposed new Chapter 12.

The commission has prepared a Takings Impact Assessment for this proposed rule in accordance with Texas Government Code, §2007.043. Promulgation and enforcement of this proposed rule will not affect private real property.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that, for the first five years this amendment is in effect, there will be no significant fiscal implications for state government as a result of enforcement and administration of the proposed provisions. In most cases, the provisions will simply adjust an existing interest or penalty rate. Although the effects of adopting these uniform rates has cannot be determined, no significant increase or decrease in collections is anticipated. Local governments making late payments of fees could be affected by changes in effective interest and penalty rates, however, any such effect would be minor. There are no other implications for local governments anticipated.

Mr. Minick has also determined that for the first five years this amendment is in effect, the public benefit anticipated as a result of enforcement of and compliance with the amendment will be: more cost-effective administration of the assessment and collection of public funds; improved consistency in the administrative provisions and procedures for assessment of late fees and penalties between agencies of the state; and more timely collection of funds supporting the state's environmental programs. There are no additional indirect economic costs to any person, including small businesses, anticipated as a result of compliance with this proposed amendment.

A public hearing on the proposal will be held December 3, 1996, at 2:00 p.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, Austin. 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 within the audience will not occur during the hearing; however, an agency staff member will be

available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96145-012-AD. Comments must be received by 5:00 p.m., December 5, 1996. For further information, please contact Steve Ortiz, Office of Policy and Regulatory Development, (512) 239-2008.

The amendment is proposed under Texas Water Code, §§5.103, 5.105, 13.041, 26.011, 27.019, 32.009, 33.007, and 34.006 and Texas Health and Safety Code, §§341.002, 341.031, 361.011, 361.017, 361.024, 366.012, 382.017, 401.011, 401.051, and 401.412, which authorize the commission to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of Texas and to establish and approve all general policy of the commission.

The proposed amendment implements Texas Water Code, §5.235.

**SUBCHAPTER M : WASTE TREATMENT INSPECTION FEE PROGRAM**

**§305.507. Failure to Make Payment.**

(a) (No change.)

(b) Owners or operators of a facility failing to make payment of the fees imposed under this subchapter when due shall be assessed [a penalty of 5.0% of the amount due; and, if the fees are not paid within 30 days after the day on which the fees are due, an additional 5.0% penalty shall be imposed. An annual interest rate of 12% compounded monthly, shall be imposed on delinquent fees beginning 60 days from the date on which the fee is due] penalties and interest in accordance with Chapter 12 of this title (relating to Payment of Fees).

(c) (No change.)

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

The commission proposes an amendment to §312.9, concerning Sludge Fee Program.

This proposal is concurrent with other rulemaking affecting applicable commission fee requirements.

The purpose of the rulemaking is to establish uniform and consistent requirements for the assessment of penalties and interest for the late payment of fees owed the state under the commission's jurisdiction as required by Texas Water Code, §5.235. The Water Code requires penalty and interest rates to be no greater than those established in Texas Tax Code, §111.060 and §111.061. Those sections of the Tax Code provide for the assessment of a penalty of 5.0% of any delinquent tax, and if those taxes are not paid within 30 days after the day on which they are due, an additional 5.0% penalty will be assessed. Furthermore, an annual interest rate of 12.0% will be assessed on delinquent taxes beginning 60 days after the day on which taxes are due. A proposed new 30 TAC Chapter 12 would contain these penalty and interest provisions and would apply to all fees under the commission's jurisdiction.

This proposed amendment would ensure that the penalty and interest provisions required for the late payment of fees contained in this section remain consistent with the limits of the Tax Code. The current late payment language contained in the rule has an incorrect interest rate of 12.0% compounded monthly. The correct interest rate should be 12.0% annually. This late payment language would be replaced with a reference to proposed new Chapter 12.

The commission has prepared a Takings Impact Assessment for this proposed rule in accordance with Texas Government Code, §2007.043. Promulgation and enforcement of this proposed rule will not affect private real property.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that, for the first five years this amendment is in effect, there will be no significant fiscal implications for state government as a result of enforcement and administration of the proposed provisions. In most cases, the provisions will simply adjust an existing interest or penalty rate. Although the effects of adopting these uniform rates has cannot be determined, no significant increase or decrease in collections is anticipated. Local governments making late payments of fees could be affected by changes in effective interest and penalty rates, however, any such effect would be minor. There are no other implications for local governments anticipated.

Mr. Minick has also determined that for the first five years this amendment is in effect, the public benefit anticipated as a result of enforcement of and compliance with the amendment will be: more cost-effective administration of the assessment and collection of public funds; improved consistency in the administrative provisions and procedures for assessment of late fees and penalties between agencies of the state; and more timely collection of funds supporting the state's environmental programs. There are no additional indirect economic costs to any person, including small businesses, anticipated as a result of compliance with this proposed amendment.

A public hearing on the proposal will be held December 3, 1996, at 2:00 p.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, Austin. 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 within the audience will not occur during the hearing; however, an agency staff member will be

available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96145-012-AD. Comments must be received by 5:00 p.m., December 5, 1996. For further information, please contact Steve Ortiz, Office of Policy and Regulatory Development, (512) 239-2008.

The amendment is proposed under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the Texas Water Code and other laws of this state.

The proposed amendment implements Texas Water Code, §5.235.

**SUBCHAPTER A : GENERAL PROVISIONS**

**§312.9. Sludge Fee Program.**

(a) - (c) (No change.)

(d) Fees assessed in subsection (b) of this section shall be paid, by the registrant or permittee after being billed by the executive director, prior to October 1, of each year. Fees assessed in subsection (c) of this section shall be paid by the registrant after billing by the executive director, prior to September 1, of each year. Fees shall be paid by check, certified check, or money order payable to the Texas Natural Resource Conservation Commission (TNRCC). The permittee or registrant of a facility failing to make payment of the fees imposed under this subchapter when due shall be assessed [a penalty of 5.0% of the amount due; and, if the fees are not paid within 30 days after the day on which the fees are due, an additional 5.0% penalty shall be imposed. An annual interest rate of 12%, compounded monthly, shall be imposed on delinquent fees beginning 60 days from the date on which the fees are due.] penalties and interest in accordance with Chapter 12 of this title (relating to Payment of Fees).

(e) - (f) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

The commission proposes an amendment to §320.21, concerning Water Quality Fees.

This proposal is concurrent with other rulemaking affecting applicable commission fee requirements.

The purpose of the rulemaking is to establish uniform and consistent requirements for the assessment of penalties and interest for the late payment of fees owed the state under the commission's jurisdiction as required by Texas Water Code, §5.235. The Water Code requires penalty and interest rates to be no greater than those established in Texas Tax Code, §111.060 and §111.061. Those sections of the Tax Code provide for the assessment of a penalty of 5.0% of any delinquent tax, and if those taxes are not paid within 30 days after the day on which they are due, an additional 5.0% penalty will be assessed. Furthermore, an annual interest rate of 12.0% will be assessed on delinquent taxes beginning 60 days after the day on which taxes are due. A proposed new 30 TAC Chapter 12 would contain these penalty and interest provisions and would apply to all fees under the commission's jurisdiction.

This proposed amendment would ensure that the penalty and interest provisions required for the late payment of fees contained in this section remain consistent with the limits of the Tax Code. The current late payment language contained in the rule has an incorrect interest rate of 12.0% compounded monthly. The correct interest rate should be 12.0% annually. This late payment language would be replaced with a reference to proposed new Chapter 12.

The commission has prepared a Takings Impact Assessment for this proposed rule in accordance with Texas Government Code, §2007.043. Promulgation and enforcement of this proposed rule will not affect private real property.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that, for the first five years this amendment is in effect, there will be no significant fiscal implications for state government as a result of enforcement and administration of the proposed provisions. In most cases, the provisions will simply adjust an existing interest or penalty rate. Although the effects of adopting these uniform rates has cannot be determined, no significant increase or decrease in collections is anticipated. Local governments making late payments of fees could be affected by changes in effective interest and penalty rates, however, any such effect would be minor. There are no other implications for local governments anticipated.

Mr. Minick has also determined that for the first five years this amendment is in effect, the public benefit anticipated as a result of enforcement of and compliance with the amendment will be: more cost-effective administration of the assessment and collection of public funds; improved consistency in the administrative provisions and procedures for assessment of late fees and penalties between agencies of the state; and more timely collection of funds supporting the state's environmental programs. There are no additional indirect economic costs to any person, including small businesses, anticipated as a result of compliance with this proposed amendment.

A public hearing on the proposal will be held December 3, 1996, at 2:00 p.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, Austin. 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 within the audience will not occur during the hearing; however, an agency staff member will be

available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96145-012-AD. Comments must be received by 5:00 p.m., December 5, 1996. For further information, please contact Steve Ortiz, Office of Policy and Regulatory Development, (512) 239-2008.

The amendment is proposed under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the Texas Water Code and other laws of this state.

The proposed amendment implements Texas Water Code, §5.235.

**PROGRAM FOR WATER QUALITY ASSESSMENT BY WATERSHED**

**§320.21**

**§320.21. Water Quality Assessment Fees.**

(a) - (i) (No change.)

(j) Water quality assessment fees are due within 30 days of the billing date each year.

[However, for the first billing cycle after adoption of these rules, the fees are due within 60 days of the billing date.] Fees shall be paid by check, either personal or certified, or by money order payable to the Texas Natural Resource Conservation Commission. A person failing to make payment of the fees imposed under this section when due shall be [subject to a penalty of 5.0% of the amount due, and if the fees are not paid within 30 days after the day on which the fees are due, an additional 5.0% penalty shall be imposed. An annual interest rate of 12%, compounded monthly, shall be imposed on delinquent fees beginning 60 days from the date on which the fee is due.] assessed penalties and interest in accordance with Chapter 12 of this title (relating to Payment of Fees).

(k) - (l) (No change.)

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

The commission proposes an amendment to §330.601, concerning Purpose and Applicability (Municipal Solid Waste).

This proposal is concurrent with other rulemaking affecting applicable commission fee requirements.

The purpose of the rulemaking is to establish uniform and consistent requirements for the assessment of penalties and interest for the late payment of fees owed the state under the commission's jurisdiction as required by Texas Water Code, §5.235. The Water Code requires penalty and interest rates to be no greater than those established in Texas Tax Code, §111.060 and §111.061. Those sections of the Tax Code provide for the assessment of a penalty of 5.0% of any delinquent tax, and if those taxes are not paid within 30 days after the day on which they are due, an additional 5.0% penalty will be assessed. Furthermore, an annual interest rate of 12.0% will be assessed on delinquent taxes beginning 60 days after the day on which taxes are due. A proposed new 30 TAC Chapter 12 would contain these penalty and interest provisions and would apply to all fees under the commission's jurisdiction.

This proposed amendment would ensure that the penalty and interest provisions required for the late payment of fees contained in this section remain consistent with the limits of the Tax Code. The current late payment language contained in the rule has an incorrect interest rate of 12.0% compounded monthly. The correct interest rate should be 12.0% annually. This late payment language would be replaced with a reference to proposed new Chapter 12.

The commission has prepared a Takings Impact Assessment for this proposed rule in accordance with Texas Government Code, §2007.043. Promulgation and enforcement of this proposed rule will not affect private real property.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that, for the first five years this amendment is in effect, there will be no significant fiscal implications for state government as a result of enforcement and administration of the proposed provisions. In most cases, the provisions will simply adjust an existing interest or penalty rate. Although the effects of adopting these uniform rates has cannot be determined, no significant increase or decrease in collections is anticipated. Local governments making late payments of fees could be affected by changes in effective interest and penalty rates, however, any such effect would be minor. There are no other implications for local governments anticipated.

Mr. Minick has also determined that for the first five years this amendment is in effect, the public benefit anticipated as a result of enforcement of and compliance with the amendment will be: more cost-effective administration of the assessment and collection of public funds; improved consistency in the administrative provisions and procedures for assessment of late fees and penalties between agencies of the state; and more timely collection of funds supporting the state's environmental programs. There are no additional indirect economic costs to any person, including small businesses, anticipated as a result of compliance with this proposed amendment.

A public hearing on the proposal will be held December 3, 1996, at 2:00 p.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, Austin. 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 within the audience will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96145-012-AD. Comments must be received by 5:00 p.m., December 5, 1996. For further information, please contact Steve Ortiz, Office of Policy and Regulatory Development, (512) 239-2008.

The amendment is proposed under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the Texas Water Code and other laws of this state, and Texas Health and Safety Code, §361.024, which provides the commission with the authority to regulate solid and hazardous waste.

The proposed amendment implements Texas Water Code, §5.235.

**SUBCHAPTER P : FEES AND REPORTING**

**§330.601. Purpose and Applicability.**

(a) (No change.)

(b) Applicability.

(1) - (3) (No change.)

(4) Interest penalty. Owners or operators of a facility failing to make payment of the fees imposed under this subchapter when due shall be assessed [a penalty of 5.0% of the amount due; and, if the fees are not paid within 30 days after the day on which the fees are due, an additional 5.0% penalty shall be imposed. An annual interest rate of 12%, compounded monthly, shall be imposed on delinquent fees beginning 60 days from the date on which the fees is due] penalties and interest in accordance with Chapter 12 of this title (relating to Payment of Fees).

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

The commission proposes amendments to §334.22 and §334.128, concerning Failure to Make Payment and Annual Facility Fees for ASTs (Aboveground Storage Tanks), and §§334.406, 334.423, and 334.467, concerning Fee Assessments for Certificate of Registration, Fee Assessments for License A and License B, and Fee Assessments for Certificates of Registration.

This proposal is concurrent with other rulemaking affecting applicable commission fee requirements. The purpose of the rulemaking is to establish uniform and consistent requirements for the assessment of penalties and interest for the late payment of fees owed the state under the commission's jurisdiction as required by Texas Water Code, §5.235. The Water Code requires penalty and interest rates to be no greater than those established in Texas Tax Code, §111.060 and §111.061. Those sections of the Tax Code provide for the assessment of a penalty of 5.0% of any delinquent tax, and if those taxes are not paid within 30 days after the day on which they are due, an additional 5.0% penalty will be assessed. Furthermore, an annual interest rate of 12.0% will be assessed on delinquent taxes beginning 60 days after the day on which taxes are due. A proposed new 30 TAC Chapter 12 would contain these penalty and interest provisions and would apply to all fees under the commission's jurisdiction.

These proposed amendments would ensure that the penalty and interest provisions required for the late payment of fees contained in these sections remain consistent with the limits of the Tax Code. The current late payment language contained in the rules would be replaced with references to proposed new Chapter 12.

The commission has prepared a Takings Impact Assessment for these proposed rules in accordance with Texas Government Code, §2007.043. Promulgation and enforcement of these proposed rules will not affect private real property.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that, for the first five years these amendments are in effect, there will be no significant fiscal implications for state government as a result of enforcement and administration of the proposed provisions. In most cases, the provisions will simply adjust an existing interest or penalty rate. Although the effects of adopting these uniform rates has cannot be determined, no significant increase or decrease in collections is anticipated. Local governments making late payments of fees could be affected by changes in effective interest and penalty rates, however, any such effect would be minor. There are no other implications for local governments anticipated.

Mr. Minick has also determined that for the first five years these amendments are in effect, the public benefit anticipated as a result of enforcement of and compliance with the amendments will be: more cost-effective administration of the assessment and collection of public funds; improved consistency in the administrative provisions and procedures for assessment of late fees and penalties between agencies of the state; and more timely collection of funds supporting the state's environmental programs. There are no additional indirect economic costs to any person, including small businesses, anticipated as a result of compliance with these proposed amendments.

A public hearing on the proposal will be held December 3, 1996, at 2:00 p.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, Austin. 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 within the audience will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96145-012-AD. Comments must be received by 5:00 p.m., December 5, 1996. For further information, please contact Steve Ortiz, Office of Policy and Regulatory Development, (512) 239-2008.

The amendment is proposed under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the Texas Water Code and other laws of this state.

The proposed amendment implements Texas Water Code, §5.235.

**SUBCHAPTER B : UNDERGROUND STORAGE TANK FEES**

**§334.22. Failure To Make Payment.**

(a) (No change.)

(b) The executive director shall [may] impose interest and penalties on owners who fail to make payment of the annual facility fees imposed under this subchapter [at the time and in the manner and amount prescribed. The executive director is authorized to impose a penalty of 5.0% of the annual fee amount once the annual fee is past due. An additional 5.0% penalty may be imposed 30 days after the due date if the fee remains unpaid. The executive director is authorized to assess interest at an annualized rate of 12% on tank fees that are delinquent 60 days or more from the original due date.] when due in accordance with Chapter 12 of this title (relating to Payment of Fees).

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

## SUBCHAPTER F : ABOVEGROUND STORAGE TANKS

The amendment is proposed under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the Texas Water Code and other laws of this state.

The proposed amendment implements Texas Water Code, §5.235.

### §334.128. Annual Facility Fees for ASTs.

(a) - (b) (No change.)

(c) Failure to make payment.

(1) (No change.)

(2) The executive director shall [may] impose interest and penalties on owners who fail to make payment of the annual facility fees assessed under this section [at the time and in the manner and amount prescribed] when due in accordance with Chapter 12 of this title (relating to Payment of Fees).

[(3) The executive director is authorized to impose a penalty of 5.0% of the annual fee amount once the annual fee is past due. An additional 5.0% penalty may be imposed 30 days after the

due date if the fee remains unpaid. The executive director is authorized to assess interest at an annualized rate of 12% on tank fees that are delinquent 60 days or more from the original.]

(d) - (e) (No change.)

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

**SUBCHAPTER I : UNDERGROUND STORAGE TANK CONTRACTOR**  
**REGISTRATION AND INSTALLER LICENSING**

The amendments are proposed under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the Texas Water Code and other laws of this state.

The proposed amendments implement Texas Water Code, §5.235.

**§334.406. Fee Assessments for Certificate of Registration.**

The fees for certificate of registration are as follows.

(1) The following fee schedule shall apply for the registration of underground storage tank contractors:

(A) - (E) (No change.)

(F) late renewal fee -- assessed in accordance with Chapter 12 of this title (relating to Payment of Fees) [\$25].

(2) (No change.)

**§334.423. Fee Assessments for License A and License B.**

(a) The following fee schedule for a License A and License B shall apply to installers and on-site supervisors:

(1) - (3) (No change.)

(4) late renewal fee -- assessed in accordance with Chapter 12 of this title (relating to Payment of Fees) [\$25];

(5) (No change.)

(b) - (c) (No change.)

(d) A license renewal application shall be considered late when received by the executive director after the expiration date of the license and shall be subject to a [the \$25] late renewal fee assessed in accordance with Chapter 12 of this title.

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

**SUBCHAPTER J : REGISTRATION OF CORRECTIVE ACTION  
SPECIALISTS AND PROJECT MANAGERS FOR PRODUCT  
STORAGE TANK REMEDIATION PROJECTS**

The amendment is proposed under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the Texas Water Code and other laws of this state.

The proposed amendment implements Texas Water Code, §5.235.

**§334.467. Fee Assessments for Certificates of Registration.**

(a) The following fee schedule shall apply to the registration of Corrective Action Specialists on or after September 1, 1995:

(1) - (2) No change.)

(3) late renewal fee -- assessed in accordance with Chapter 12 of this title (relating to Payment of Fees) [\$25];

(4) - (5) (No change.)

(b) The following fee schedule shall apply to the registration of Corrective Action Project managers except qualified registered professional engineers as provided in §334.452(i) of this title (relating to Exemptions From Subchapter J):

(1) - (3) (No change.)

(4) late renewal fee -- assessed in accordance with Chapter 12 of this title [\$25];

(5) (No change.)

(c) - (d) (No change.)

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.

The commission proposes an amendment to §335.331, concerning Failure to Make Payment or Report.

This proposal is concurrent with other rulemaking affecting applicable commission fee requirements.

The purpose of the rulemaking is to establish uniform and consistent requirements for the assessment of penalties and interest for the late payment of fees owed the state under the commission's jurisdiction as required by Texas Water Code, §5.235. The Water Code requires penalty and interest rates to be no greater than those established in Texas Tax Code, §111.060 and §111.061. Those sections of the Tax Code provide for the assessment of a penalty of 5.0% of any delinquent tax, and if those taxes are not paid within 30 days after the day on which they are due, an additional 5.0% penalty will be assessed. Furthermore, an annual interest rate of 12.0% will be assessed on delinquent taxes beginning 60 days after the day on which taxes are due. A proposed new 30 TAC Chapter 12 would contain these penalty and interest provisions and would apply to all fees under the commission's jurisdiction.

This proposed amendment would ensure that the penalty and interest provisions required for the late payment of fees contained in this section remain consistent with the limits of the Tax Code. The current late payment language contained in the rule has an incorrect interest rate of 12.0% compounded monthly. The correct interest rate should be 12.0% annually. This late payment language would be replaced with a reference to proposed new Chapter 12.

The commission has prepared a Takings Impact Assessment for this proposed rule in accordance with Texas Government Code, §2007.043. Promulgation and enforcement of this proposed rule will not affect private real property.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that, for the first five years this amendment is in effect, there will be no significant fiscal implications for state government as a result of enforcement and administration of the proposed provisions. In most cases, the provisions will simply adjust an existing interest or penalty rate. Although the effects of adopting these uniform rates has cannot be determined, no significant increase or decrease in collections is anticipated. Local governments making late payments of fees could be affected by changes in effective interest and penalty rates, however, any such effect would be minor. There are no other implications for local governments anticipated.

Mr. Minick has also determined that for the first five years this amendment is in effect, the public benefit anticipated as a result of enforcement of and compliance with the amendment will be: more cost-effective administration of the assessment and collection of public funds; improved consistency in the administrative provisions and procedures for assessment of late fees and penalties between agencies of the state; and more timely collection of funds supporting the state's environmental programs. There are no additional indirect economic costs to any person, including small businesses, anticipated as a result of compliance with this proposed amendment.

A public hearing on the proposal will be held December 3, 1996, at 2:00 p.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, Austin. 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 within the audience will not occur during the hearing; however, an agency staff member will be

available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96145-012-AD. Comments must be received by 5:00 p.m., December 5, 1996. For further information, please contact Steve Ortiz, Office of Policy and Regulatory Development, (512) 239-2008.

The amendment is proposed under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the Texas Water Code and other laws of this state, and Texas Health and Safety Code, §361.024, which provides the commission with the authority to regulate solid and hazardous waste.

The proposed amendment implements Texas Water Code, §5.235.

**SUBCHAPTER J : HAZARDOUS WASTE GENERATION, FACILITY  
AND DISPOSAL FEE SYSTEM**

**§335.331. Failure to Make Payment or Report.**

(a) (No change.)

(b) Generators and owners or operators of a facility failing to make payment of fees imposed under the Health and Safety Code, Chapter 361, when due, shall be assessed [a] late payment [penalty of 5.0% of the amount due, and if the fees are not paid within 30 days after the day on which the fees are due, an additional 5.0% penalty shall be imposed. An annual interest rate of 12%, compounded monthly, shall be imposed on delinquent fees beginning 60 days from the date on which the fee is due.] penalties and interest in accordance with Chapter 12 of this title (relating to Payment of Fees).

(c) - (d) (No change.)

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 23, 1996.