

The Texas Natural Resource Conservation Commission (commission) proposes amendments to §330.1181 and §330.1183, concerning used oil filters.

EXPLANATION OF PROPOSED RULES

The purpose of the proposed rulemaking is limited to amending §330.1181 and §330.1183(a) to establish an increase in the allowable used oil filter (UOF) storage quantity prior to transport. The commission proposes to amend the allowable storage quantity to make it possible for persons handling UOFs to accumulate larger quantities prior to transport without becoming a storage facility.

The existing regulations at §330.1183(a) state that: “any person storing more than three 55-gallon containers of used oil filters (UOFs), or the volumetric equivalent, must register with the Texas Natural Resource Conservation Commission (TNRCC) as a UOF storage facility” These proposed amendments would give greater flexibility by allowing persons handling UOFs, such as collection centers and generators, to store larger quantities on-site prior to transport. This would reduce transportation cost and thereby encourage greater participation in the recycling of UOFs in Texas.

Facilities that handle large quantities of UOFs would benefit from the proposed amendments because they would be able to store larger quantities on-site without registering as a storage facility and would require less transporter pickups. Some facilities may prefer to use a single container with a volume equivalent to the increased number of allowable 55-gallon containers. One single container holding an equivalent volume of UOFs could be more efficient and could also cut the cost of transportation. The

proposed amendments would give greater flexibility in handling UOFs, and a facility would not be obligated to use a single container.

Small businesses, particularly those in rural areas, could benefit from the proposed amendments because transporters would not require as many trips to pickup stored filters. This should reduce transportation costs for small businesses.

The proposed amendment to §330.1181 would amend the definition of storage facility to increase the allowable storage quantity from three 55-gallon containers or the volumetric equivalent to six 55-gallon containers or the volumetric equivalent.

The proposed amendment to §330.1183(a) would amend requirements to allow a person to store up to six 55-gallon containers or the volumetric equivalent without having to register as a storage facility.

FISCAL NOTE

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five years these sections as proposed are in effect, there will be fiscal implications as a result of enforcement and administration of these sections. The fiscal implications of these rules will be to reduce UOF generator, collection center, and handler transportation costs by a variable amount.

PUBLIC BENEFIT

Mr. Minick also has determined that for the first five years these sections as proposed are in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be more cost-effective regulation of used oil filter recycling. There are no anticipated increased costs to persons to comply with these sections as proposed.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated §2007.043. The following is a summary of that assessment. The specific purpose of the rule is to allow collection centers, generators, and other handlers to store a larger quantity of UOFs prior to transport without registration as a storage facility. The rules will substantially advance this specific purpose by increasing the allowable UOF storage quantity from three 55-gallon containers or the volumetric equivalent to six 55-gallon containers or the volumetric equivalent. Promulgation and enforcement of these rules will not burden private real property which is the subject of the rules because the proposed changes allow increased UOF storage without registration as a storage facility, and they do not limit or restrict a person's rights in private real property.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The executive director has reviewed the proposed rulemaking and found that the rule is neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11, nor will it affect any

action or authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11.

Therefore, the proposed rule is not subject to the Coastal Management Program.

SUBMITTAL OF COMMENTS

Written comments may be mailed to Bettie Bell, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-3223. All comments must be received within 30 days following the date of this publication and should reference Rule Log No. 97169-330-WS. Comments received by 5:00 p.m. on that date will be considered by the commission prior to any final action on the proposal. For further information, please contact Tooran Khosh at (512) 239-2580.

STATUTORY AUTHORITY

These amendments are proposed under Texas Health and Safety Code, Solid Waste Disposal Act, §§361.011, 361.024, and 361.432, which authorize the commission to regulate municipal solid waste and to adopt rules consistent with the general intent and purposes of the Act and require the commission to prohibit a used oil filter from being intentionally or knowingly placed in or accepted for disposal in a landfill permitted by the commission. These amendments are also 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 or other laws of this state.

These amendments implement Texas Health and safety Code Chapter 361.

SUBCHAPTER Z : WASTE MINIMIZATION AND RECYCLABLE MATERIALS

§330.1181. Definitions.

The following words, terms, and abbreviations, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions pertinent to these and other sections are contained in §330.5 of this title (relating to Definitions).

Storage facility-A facility which is used to store more than six [three] 55-gallon drums or containers, or the volumetric equivalent, of used oil filters.

§330.1183. Storage Facilities.

(a) Any person storing more than six [three] 55-gallon containers of used oil filters (UOFs), or the volumetric equivalent, must register with the Texas Natural Resource Conservation Commission (TNRCC) as a UOF storage facility using the TNRCC Form TWC-0906. Persons storing UOFs may store up to six [three] 55-gallon containers, or the volumetric equivalent, of UOFs without registering as a storage facility.

(b)-(g) (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