

The Texas Natural Resource Conservation Commission (TNRCC or commission) proposes the repeal of §305.70, Municipal Solid Waste Class I Modifications and new §305.70, Municipal Solid Waste Permit and Registration Modifications.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

In 1993, the commission adopted §305.70, Municipal Solid Waste Class I Modifications, which established a process to allow administrative approval of certain changes to municipal solid waste (MSW) permits. The section identified the changes to an MSW facility or operation that qualified for this administrative approval and defined eligible changes as those that are minor, routine in nature, do not substantially alter permit conditions, and maintain or improve environmental protection standards. In addition, the new section was considered a mechanism whereby many facilities would be able to begin compliance with the recently promulgated federal regulations (40 Code of Federal Regulations (CFR) Part 258 (relating to Criteria for Municipal Solid Waste Landfills)), commonly referred to as “Subtitle D upgrades,” which called for stricter operation, design, and management standards for all MSW landfill facilities. Until the modification rule was adopted, changes to permits to incorporate the new standards could only have been made through the more formal amendment process. Under the modification rule, the stricter federal standards were able to be implemented more expeditiously.

The rule required mailed notice in accordance with then-existing §305.103(b) of this title (relating to Notice by Mail) to certain persons if the permit modification sought was one that was marked with a superscript “1.” Although the superscript notation was discussed in the preambles to the proposed and adopted versions of the rule, the superscript did not appear in the published adopted version of the rule. Therefore, an applicant cannot currently be required to provide the mailed notice described in the rule,

and the mailed notice provisions once found in §305.103(b) have been relocated to other commission rules.

Although §305.70 only specifically addresses changes to MSW permits, the executive director has utilized the rule to process minor changes to permitted and registered MSW facilities since adoption of the rule in 1993. The rule is used to process minor changes to registered facilities as there is otherwise no authorization process, other than that required for a new registration, to make minor changes to an existing registered facility. The executive director uses the rule to process minor changes to registered MSW facilities in lieu of requiring the registrant to obtain a new registration for each minor change.

Over the years, the executive director has identified other permit and registration changes that are more appropriately handled through the modification process and has generally processed those applications under §305.70(i). The language in this “catch all” provision has been subject to a continuing debate over what permit changes §305.70(i) can or should cover.

Since the urgency of implementing Subtitle D upgrades has long since subsided, the commission on May 19, 2000 decided that the use of the §305.70 permit modification process for Subtitle D upgrades would not continue beyond May 19, 2003, and that such a change to a permit can only be accomplished through a major amendment.

This proposal is intended to rectify the superscript defect, exclude references to obsolete sections, establish a clearer set of mailed notice requirements, clarify that the rule applies to both permitted and registered MSW facilities, identify more specifically the changes which can be made to registrations

and permits through the modification process, and reflect the recent commission decision that Subtitle D upgrades may be approved only through a major permit amendment after May 19, 2003.

The proposed rules reflect a change in philosophy to allow owners and operators the flexibility to implement those changes that are necessary to improve day-to-day operations or to prevent nuisance problems without a long wait for agency approval, provided they meet expected performance standards and do not result in a decrease in protection of the environment or public health and safety. Examples of changes which will not require a modification are changes to eliminate interim fill sectors or cells, improvements to a safety or fire protection plan, changes in interior road design or construction materials, use of alternative windblown control measures, and addition of visual screening devices. Facilities exempt from permitting or registration will not be regulated under a permit or registration if they are located in non-waste management areas as proposed in §305.70(j)(7), as long as they do not affect drainage. Instead of requiring approval by modification, temporary use of alternative daily cover and temporary changes in operating hours may be approved by letter by the executive director under proposed §305.70(m).

SECTION BY SECTION DISCUSSION

Section 305.70(a) is proposed to clarify that the section applies only to modifications to MSW permits and registrations, and that modifications to industrial and hazardous waste permits are covered in §305.69 of this title (relating to Solid Waste Permit Modification at the Request of the Permittee). Subsection (a) also provides that special conditions in a permit or registration ordered by the commission following the contested hearing process or included by the executive director as a result of

negotiations between the applicant and interested persons during the permitting/registration process are not eligible for modification under this section.

Section 305.70(b) is proposed to indicate that references to the term “permit” include the permit document and all of the attachments thereto as defined in Chapter 330, Subchapter E, §§330.50 - 330.64 of this title (relating to Permit Procedures), and references to the term “registration” include the registration document and all of the attachments thereto as defined in Chapter 330, Subchapter E, of this title.

Section 305.70(c) is proposed to express that unless a change is specifically listed in §305.70(k), any change which results in an increase in the landfill capacity authorized for waste disposal or which increases the permitted or registered daily maximum rate of waste acceptance at a Type V facility can only be authorized either as a permit amendment under §305.62(c)(1) of this title (relating to Amendment) in the case of a permitted facility, or as a new registration in the case of a registered facility.

Section 305.70(d) is proposed to clarify that in order for a change to an MSW facility to be processed as a permit or registration modification, the change must either be specifically listed under §305.70(k) or the change must be a minor change to an MSW facility or its operation that cannot substantially alter the permit or registration conditions; and the change does not reduce the capability of the facility to protect human health and the environment.

Section 305.70(e) is proposed to specify that a permittee or registrant may put into effect a modification provided that they have received prior written authorization for the modification from the executive director. In order for the permittee or registrant to receive prior written authorization, the permittee or registrant must submit a modification application to the executive director which includes, at a minimum: 1) a description of the proposed change; 2) an explanation detailing why the change is necessary; 3) appropriate revisions to all applicable narrative pages and drawings of Attachment A of the permit or registration (i.e., site development plan, site operating plan, engineering report, etc); 4) a reference to the specific subsection under which the modification application is being made; and 5) for modifications requiring notice, an updated landownership map and an updated landowners list as required under §330.52(b)(4)(D) and (b)(5) of this title (relating to Technical Requirements of Part I of the Application).

Section 305.70(f) is proposed to indicate that a permittee or registrant must submit one original and two copies of the modification application in accordance with §305.44 of this title (relating to Signatories to Applications). A total of three copies of the modification application are needed as the original is maintained by the MSW Permits Section for review, one copy of the application is provided to TNRCC Central Records, and one copy is provided to the appropriate TNRCC Regional Office. The rule requires that the engineering documents associated with the permit or registration modification application be signed and sealed by the responsible licensed professional engineer as required by §330.51(d) of this title (relating to Permit Application for Municipal Solid Waste Facilities). Failure of the permittee or registrant to submit the modification application with complete information (i.e., the minimum information required by subsections (e) or (f)) shall result in the application being returned to the permittee or registrant without further action.

Section 305.70(g) is proposed to require the executive director to review and take one of six specific actions on the permit or registration modification application no later than 60 calendar days after receipt of a complete application. No later than 60 calendar days after receipt of the permit or registration application, the executive director must: 1) approve the application, with or without changes, and modify the permit or registration accordingly; 2) deny the application; 3) provide a notice-of-deficiency letter requiring additional or clarified information and requiring the resubmittal of a new application; 4) extend the 60-calendar day review period, if necessary, by notifying the permittee or registrant in writing that additional time is required for the modification review (the letter must include the reason for the extension and the date to which the review period has been extended); 5) determine that the application does not qualify as a registration modification and that the requested change requires a new application for registration; or 6) determine that the application does not qualify as a permit modification and that the requested change requires a major amendment to the permit pursuant to §305.62 of this title (relating to Amendment). If at the end of 60 days from receipt of the modification request the executive director has failed to take one of the preceding steps, the modification is automatically approved.

Section 305.70(h) is proposed to clarify that when an application for a permit or registration modification is denied by the executive director, the permittee or registrant must comply with the original permit conditions.

Section 305.70(i) is proposed to require that mailed notice be provided for certain modifications and to establish mailed notice requirements. If a permit or registration modification is listed in subsection (k) of this section or if a permit or registration modification application is made under subsection (l) and the

executive director determines that notice is required, within 15 days of submitting the modification application to the executive director or within 15 days of being notified by the executive director that notice is required for a modification under subsection (l) of this section, the permittee or registrant must prepare and send notice of the modification application in accordance with §39.106 of this title (relating to Application for Modification of a Municipal Solid Waste Permit or Registration) which is being proposed concurrently with this rulemaking.

Section 305.70 (j) is proposed to provide a list of changes to permitted and registered facilities that are eligible to be authorized by modification. Applications for changes identified in this section are required to be submitted in accordance with subsections (e) and (f) and must meet the criteria in subsection (d).

Section 305.70(j)(1) is proposed to specifically identify the establishment of a trench or area that will accept brush and construction demolition waste and rubbish only as being eligible to be authorized by modification, provided that the trench or area is located within the disposal footprint specified in the approved municipal solid waste landfill (MSWLF) permit or site development plan.

Section 305.70(j)(2) is proposed to specify that changes in excavation details for landfills are eligible to be authorized by modification, except for changes that increase the depth or lateral extent of the disposal footprint (as described in the site development plan or permit); result in a change to the Soils and Liner Quality Control Plan (SLQCP); or increase the disposal capacity of the landfill facility.

Section 305.70(j)(3) is proposed to specify that changes to landfill marker systems (e.g., from a grid based upon geographic coordinates to a grid based upon survey coordinates) are eligible to be authorized by modification.

Section 305.70(j)(4) is proposed to specify that changes in sampling frequency (e.g., for groundwater and methane monitoring systems) are eligible to be authorized by modification.

Section 305.70(j)(5) is proposed to specify that the submittal of a new SLQCP or changes to an existing SLQCP are eligible to be authorized by modification.

Section 305.70(j)(6) is proposed to specify that changes in closure or post-closure care plans are eligible to be authorized by modification.

Section 305.70(j)(7) is proposed to specify that changes to the site layout plan that add or delete a registered or exempted facility/activity are eligible to be authorized by modification, provided that the facility/activity either requires a registration or would be exempt were it located offsite (e.g., a used or scrap tire collection area, a compost operation, a recycling collection area, a liquid waste processing facility, a registered transfer station, a citizens' collection area used for collection of non-putrescible recyclable materials either stockpiled or collected in bins, a citizens' collection station, a beneficial landfill gas recovery plant, a brush collection/chipping/mulching area, stockpiles of non-putrescible recyclable materials, etc.). The rule does not intend to regulate exempt facilities/activities located in non-waste areas as long as they do not significantly alter drainage patterns within the permitted area.

Section 305.70(j)(8) is proposed to specify that changes in the site layout plan, other than changes in the entry gate location, that relocate the gatehouse, office, or maintenance buildings, or add scales or a wash pad not over a waste fill area to a facility may be authorized by permit or registration modification.

Section 305.70(j)(9) is proposed to specify that changes in the design details for a solidification basin may be authorized by modification.

Section 305.70(j)(10) is proposed to specify that changes to a site development plan, site operating plan, engineering report, Part A application form of a permit or registration or any other approved plan that changes operating personnel, operating equipment needs, site name, permittee/registrant name, or that makes minor changes in wording that do not alter the design or operations of a facility may be authorized by modification.

Section 305.70(j)(11) is proposed to specify that changes in the drainage control plan that alter internal run-on/run-off control without impacting offsite drainage or increasing landfill disposal capacity are eligible to be authorized by modification. The paragraph also clarifies that changes in the drainage control plan may include revisions to topslopes and sideslopes of landfills which may cause adjustment in the final contours.

Section 305.70(j)(12) is proposed to specify that changes in perimeter roadways, perimeter berms, or other features in the buffer zone resulting from changes in the facility's drainage system design may be authorized by modification.

Section 305.70(j)(13) is proposed to specify that changes to the approved final contours and final slopes of a landfill resulting from sequence of development changes that reduce the waste disposal area may be authorized by modification, provided the changes do not result in a landfill height or capacity increase.

Section 305.70(j)(14) is proposed to specify that the addition of a construction gate for access to borrow pits or offsite maintenance facilities may be authorized by modification, provided the borrow pit or maintenance facility is located on property that is owned or under lease by the permittee or registrant, contiguous to the permit or registration boundary, and restricted to use by the contractor or landfill personnel.

Section 305.70(j)(15) is proposed to specify that a change in the facility records storage area from an onsite to an offsite location may be authorized by modification.

Section 305.70(j)(16) is proposed to specify that the addition of a compost plan (containing instructions and procedures to ensure collection of the composting refund) to the site operating plan of an MSWLF may be authorized by modification.

Section 305.70(j)(17) is proposed to specify that the replacement of existing monitoring wells, such as landfill gas or groundwater monitoring wells, that have been damaged or rendered inoperable with no change to the design or depth of the wells or to the monitoring system may be authorized as a modification.

Section 305.70(j)(18) is proposed to specify that changes to an existing leachate collection system may be authorized by modification.

Section 305.70(j)(19) is proposed to specify that the installation of a landfill gas monitoring system where none existed before may be authorized as a modification.

Section 305.70(j)(20) is proposed to specify that design changes to an existing landfill gas monitoring system may be authorized as a modification.

Section 305.70(j)(21) is proposed to specify that design changes to an existing landfill gas collection system may be authorized as a modification.

Section 305.70(j)(22) is proposed to specify that changes to comply with the provisions of §330.203 of this title (relating to Special Conditions (Liner Design Constraints)) may be authorized as a modification.

Section 305.70(j)(23) is proposed to specify that the submittal of a new Groundwater Sampling and Analysis Plan (GWSAP) or changes to an existing GWSAP may be authorized as a modification.

Examples of changes that may be processed under this paragraph include: 1) the addition of constituents to the detection monitoring constituents listed in §330.241 of this title (relating to Constituents for Detection Monitoring); 2) substitution of alternative inorganic indicator constituents in lieu of some or all of the heavy metals in accordance with §330.234(a)(2) of this title (relating to Detection Monitoring

Program); 3) deletion of sampling constituents in accordance with §330.234(a)(1) of this title; 4) changes in sampling and analytical methods; and 5) other changes to the GWSAP.

Section 305.70(j)(24) is proposed to specify that the submittal of a new waste acceptance plan or the addition of detailed narrative or design drawings that provide details for the acceptance of waste streams previously authorized within the permit or registration may be authorized by modification. An example of a change that would be authorized as a modification under this section would be the incorporation of detailed narrative and design drawings for a Class 1 nonhazardous industrial waste trench where the Class 1 waste was listed in the permit as an authorized waste stream. Any change which expands the waste streams authorized by a permit would require the permittee to obtain a major amendment to the permit under §305.62(c)(1) of this title, and any change which expands the waste streams authorized by registration would require the registrant to obtain a new registration.

Section 305.70(j)(25) is proposed to specify that revisions to an existing Waste Acceptance Plan for waste streams authorized by the permit or registration may be authorized by modification.

Section 305.70(j)(26) is proposed to specify that the installation of a new landfill groundwater monitoring well or system where none had existed before may be authorized by modification.

Section 305.70(j)(27) is proposed to specify that the upgrade of an existing landfill groundwater monitoring system may be authorized by modification, provided there is no increase in the depth or in the design of wells or the well system or a change in the groundwater characterization as defined in Chapter 330, Subchapter I of this title (relating to Groundwater Monitoring and Corrective Action).

Section 305.70(j)(28) is proposed to specify that the plugging of groundwater monitoring wells may be authorized as a modification. This section applies only to groundwater monitoring wells which the executive director has determined are no longer needed. The executive director may determine that the plugging of groundwater monitoring wells is appropriate in various situations including, but not limited to, when a facility has completed the post-closure maintenance period, when an obsolete groundwater monitoring system is being replaced with a new groundwater monitoring system, or when a damaged groundwater monitoring well is being replaced.

Section 305.70(j)(29) is proposed to specify that the substitution of an equivalent financial assurance mechanism may be authorized by modification.

Section 305.70(j)(30) is proposed to specify that changes to a closure or post-closure cost estimate that result in an increase in the amount of financial assurance required may be authorized by modification if the increase in the cost estimate is due to an increase in the maximum area requiring closure or to the addition of registered or exempted facilities.

Section 305.70(j)(31) is proposed to specify that changes to a closure or post-closure cost estimate that result in a decrease in the amount of financial assurance required may be authorized by modification if the decrease in the cost estimate is due to a reduction in the total area requiring closure.

Section 305.70(j)(32) is proposed to specify that changes in the amount of financial assurance required as the result of corrective action may be processed as a modification.

Section 305.70(k) is proposed to identify those applications for modifications that require mailed notice in accordance with §39.106 of this title (relating to Application for Modification of a Municipal Solid Waste Permit or Registration) and §39.413 of this title (relating to Mailed Notice) before approval of the modification.

Section 305.70(k)(1)(A) is proposed to specifically identify a change in the direction of fill sequence as a change to the sequence of landfill development that is eligible to be authorized by modification.

Section 305.70(k)(1)(B) is proposed to specifically identify the establishment of a dedicated trench or area that will accept Class 1 nonhazardous industrial waste as a change to the sequence of landfill development that is eligible to be authorized by modification, provided that the landfill permit authorizes the acceptance of that waste; the dedicated trench or area is located within the disposal footprint specified in the approved facility permit or site development plan; and the landfill permit or site development plan does not fully address the requirements of §330.137 of this title (relating to Disposal of Industrial Wastes).

Section 305.70(k)(2) is proposed to specify that changes to the metes and bounds description of a permit or registration boundary that reduce the size of the facility and do not result in permit or registration acreage beyond the original permit or registration boundary are eligible to be authorized by modification.

Section 305.70(k)(3) is proposed to specify that requests to use an alternate daily cover material on a permanent basis in accordance with §330.133(c) of this title (relating to Landfill Cover) are eligible to be authorized by modification.

Section 305.70(k)(4) is proposed to specify that changes to the entry gate location that do not alter the access traffic patterns delineated in the permit or registration are eligible to be authorized by modification.

Section 305.70(k)(5) is proposed to specify that a one-time increase in the height of the landfill may be authorized as a modification if the criteria listed in subparagraphs (A) - (F) of this paragraph are met.

Section 305.70(k)(5)(A) is proposed to indicate that an authorization to increase the height of a specific landfill may be granted through the modification process only one time per facility, and that subsequent requests for a height increase require a major permit amendment.

Section 305.70(k)(5)(B) is proposed to state that the one-time height increase is limited to ten feet at any one or several points above the originally permitted final contour elevations for the purpose of improving drainage.

Section 305.70(k)(5)(C) is proposed to indicate that a revised final contour plan must be prepared and submitted with the one-time height increase modification application, and that the plan must detail the revised final contours and include design calculations demonstrating that the proposed design provides the necessary run-off capability and controls, including erosion control measures.

Section 305.70(k)(5)(D) is proposed to state that the waste disposal area may not be expanded beyond the disposal footprint specified in the landfill permit or site development plan.

Section 305.70(k)(5)(E) is proposed to state that a height increase cannot result in a rate of waste disposal greater than noted in the landfill permit.

Section 305.70(k)(5)(F) is proposed to indicate the various situations under which a one-time height increase may be processed as a permit modification. Clause (i) indicates that the one-time height increase may be granted if the entire landfill facility will cease the receipt of solid waste within 365 days of the approval of the height increase (including the placement of additional fill authorized by the one-time height increase), and initiates formal closure of the entire facility in accordance with MSW rule requirements; and clause (ii) states the one-time height increase may be granted as a modification if the height increase is requested solely for the purpose of improving the surface water drainage from the fill area.

Section 305.70(k)(6) is proposed to specify that a modification in the operation of a landfill that will change the incoming waste stream to a more restrictive waste stream (i.e., a change from a Type I, II, or III landfill operation to a Type IV landfill operation) may be granted as a permit modification, provided the receipt of waste under the present operation ceases once the modification is approved; the filled portion of the landfill will be closed in accordance with Chapter 330, Subchapter J of this title (relating to Closure and Post-Closure); and the modification application details changes to the site development plan and site operating plan as appropriate to reflect the proposed change in operation.

Section 305.70(k)(7) is proposed to specify that changes to the post-closure use of a landfill during the post-closure maintenance period may be authorized by modification.

Section 305.70(k)(8) is proposed to specify that the upgrade of a permitted landfill to meet the requirements of 40 CFR Part 258 (relating to Criteria for Municipal Solid Waste Landfills) may be authorized as a modification, provided no more than three notices of deficiency have been issued on the modification application. Incomplete applications remaining and upgrade applications received by the executive director on or after May 19, 2003 require a major amendment to the permit under §305.62(c)(1) of this title.

Section 305.70(k)(9) is proposed to specify that the installation of a landfill gas collection system where none existed before may be processed as a modification.

Section 305.70(k)(10) is proposed to authorize approval by modification of changes to a site layout plan that add, delete, or relocate a facility/activity, provided that the facility/activity does not require registration within the boundaries of a permitted landfill, but would not be exempt were it located outside the boundaries of a permitted landfill (e.g., a liquid waste solidification facility, a petroleum-contaminated soil stabilization area, stockpiles of putrescible recyclable materials, or a pesticide-container collection area).

Section 305.70(l) is proposed to authorize the executive director to determine if an application for a permit or registration modification for a change not listed in subsection (j) or (k) of this section is eligible to be processed as a permit or registration modification and if the change requires public notice

in accordance with subsection (k) of this section. In making this determination, the executive director shall consider if the requested change meets the criteria in subsections (d) and (e) of this section.

Section 305.70 (m) is proposed to authorize the executive director to approve a temporary authorization, without modifying a permit or registration, for situations such as the use of alternate daily cover on a trial basis, or temporary changes in operating hours to address natural disaster situations, accommodate special community events, or prevent disruption of waste services due to holidays. The executive director may approve a temporary authorization for a term of not more than 180 days, and may reissue the temporary authorization once for an additional 180 days if circumstances warrant the extension. Temporary authorizations must meet the criteria of subsections (d) and (e)(1), (2), and (4) of this section (i.e., they must apply to minor changes to an MSW facility or its operation that do not substantially alter the permit or registration conditions; do not reduce the capability of the facility to protect human health and the environment; etc.).

Section 305.70(n) is proposed to indicate that the applicant, public interest counsel, or other person may file with the chief clerk a motion to overturn the executive director's action on a modification application or a temporary authorization in accordance with §50.139 of this title (relating to Motion to Overturn Executive Director's Decision).

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

John Davis, Technical Specialist with Strategic Planning and Appropriations, has determined that for the first five-year period the proposed rulemaking is in effect there will be no significant fiscal impacts for approximately 390 owners of local government-owned and-operated MSW facilities that would be

affected by the proposed rulemaking if they request modifications to permits or registrations that require public notification. Additionally, there could be significant fiscal impacts for owners of four MSW landfills that are required to upgrade their permits. If the required permit upgrades occur after May 19, 2003, the upgrade applications will be handled as major amendments, instead of modifications, which could result in potentially costly public hearings.

The proposed rulemaking is intended to update public notification requirements for certain modifications to MSW permits and registrations, identify and expand the changes which can be made to registrations and permits through the modification process, delete references to obsolete sections, clarify that the rule applies to both permitted and registered MSW facilities, and to update the rule to reflect that upgrades to landfills required by federal regulations (40 CFR Part 258 (relating to Criteria for Municipal Solid Waste Landfills)) can only be implemented through a major permit amendment after May 19, 2003.

The proposed rulemaking increases the number of changes to permits and registrations, from 27 to 43, that are specifically allowed to be carried out under the modification process. The modification process allows MSW permit and registration holders to modify their permits and registrations through applications sent to the agency, without providing the opportunity for a public hearing. Of the 43 changes that can be handled through the modification process, 11 require public notification.

Applicants for modifications which require public notification are required to mail notices to owners of land within 500 feet of the facility's boundary in addition to a standard list of city, county, state, and federal agencies. The 11 modifications that would require public notification include: 1) changes to the direction of fill sequence; 2) the opening of a dedicated trench or area that will accept Class 1

nonhazardous industrial waste under specified conditions; 3) changes in the metes and bounds description of the permit or registration boundary that reduce the size of the facility; 4) the use of an alternate daily cover material on a permanent basis; 5) changes to the entry gate location that do not alter access traffic patterns delineated in the permit or registration; 6) an increase in the height of a landfill over the maximum permitted height of the landfill under specified criteria; 7) a modification in the operation of a landfill that will change the incoming waste stream to a more restrictive waste stream; 8) changes to post-closure use of a landfill during the post-closure care period; 9) upgrade of a permitted landfill facility to meet the requirements of (40 CFR Part 258 (relating to Criteria for Municipal Solid Waste Landfills)) under specified conditions; 10) installation of a landfill gas collection system not already authorized in the permit; and 11) changes to a site layout plan that add, delete, or relocate certain facilities/activities.

In addition to updating public notification requirements, the proposed rulemaking would require all Subtitle D upgrades to landfills that accept household waste be implemented only through the major permit amendment process after May 19, 2003. The United States Environmental Protection Agency implemented stricter standards for landfills that accept household waste in 1993. Since then, the agency has allowed facility owners to upgrade their sites through the modification process; however, since the majority of sites have already performed the required upgrades, the agency will require any further upgrades to be handled as a major amendment after May 19, 2003, which will require a public notice, the opportunity for public comment, and the opportunity to request a public hearing.

The commission estimates that approximately 390 local government-owned and -operated MSW facilities would be affected by the proposed rulemaking if they request modifications to permits or

registrations that require public notification. However, the costs involved would be much less than if the requested changes had to be made through the amendment process. Because the number of persons to be notified varies according to the location of the MSW facility, the commission cannot determine the overall cost due to public notification at this time. Some facilities may be bordered by few landowners while other facilities may have many adjacent landowners. Costs involved would be those for printing notices, envelopes, and first class postage at approximately \$0.45 per notice. Since only landowners located within 500 feet of the MSW facility would have to be notified of potential changes to the facility, the commission estimates that approximately 15 to 200 notices would have to be mailed for each modification requiring public notice.

Four out of the approximately 390 permits for local government-owned and -operated MSW landfills which accept household waste have not been upgraded to meet stricter federal regulations (40 CFR Part 258). If the owners of these facilities perform the required upgrades to their permit prior to May 19, 2003, these upgrades could be handled through the modification process. Any Subtitle D upgrade to existing permits for these facilities that occurs after May 19, 2003 will go through the major amendment process, which could result in a potentially costly public hearing. Although the exact cost cannot be determined, the commission estimates that overall costs for a public hearing could be as high as \$100,000, depending on the complexity of the changes, number and types of expert witnesses involved, and the length of the hearing.

PUBLIC BENEFIT AND COSTS

Mr. Davis also has determined that for each year of the first five years the proposed rulemaking is in effect, the public benefit anticipated from enforcement of and compliance with the proposed rulemaking will be increased public awareness concerning proposed changes to MSW facilities.

The proposed rulemaking increases the number of changes to permits and registrations, from 27 to 43, that are allowed to be carried out under the modification process. The modification process allows MSW permit and registration holders to modify their permits and registrations through applications sent to the agency, without providing an opportunity for a public hearing. Of the 43 changes that can be handled through the modification process, 11 require public notification. Applicants for modifications which require public notification are required to mail notices to owners of land within 500 feet of the facility's boundary in addition to a standard list of city, county, state, and federal agencies.

The commission estimates that approximately 83 individual and business-owned and -operated MSW facilities could be affected by the proposal if the owners request modifications to existing permits or registrations that require public notification. However, the costs involved would be much less than if the requested changes had to be made through the amendment process. Because the number of persons to be notified varies according to the location of the MSW facility, the commission cannot determine the overall cost due to public notification at this time. Some facilities may be bordered by few landowners while other facilities may have many adjacent landowners. Costs involved would be those for printing notices, envelopes, and first class postage at approximately \$0.45 per notice. Since only landowners located within 500 feet of the MSW facility would have to be notified of potential changes

to the facility, the commission estimates that approximately 15 to 200 notices would have to be mailed for each modification requiring public notice.

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

No adverse economic effects are anticipated to the approximately 83 small or micro-business-owned and -operated MSW facilities as a result of the proposed rulemaking. The proposed rulemaking increases the number of changes to permits and registrations that are allowed to be carried out under the modification process, which allows MSW permit and registration holders to modify their permits and registrations through applications sent to the agency, without providing an opportunity for a public hearing. Of the 43 changes that can be handled through the modification process, 11 require public notification. Applicants for modifications which require public notification are required to mail notices to owners of land within 500 feet of the facility's boundary in addition to a standard list of city, county, state, and federal agencies.

The commission estimates that approximately 83 small and micro-business-owned and -operated MSW facilities could be affected by the proposal if the owners request modifications to existing permits or registrations that require public notification. However, the costs involved would be much less than if the requested changes had to be made through the amendment process. Because the number of persons to be notified varies according to the location of the MSW facility, the commission cannot determine the overall cost due to public notification at this time. Some facilities may be bordered by few landowners while other facilities may have many adjacent landowners. Costs involved would be those for printing notices, envelopes, and first class postage at approximately \$0.45 per notice. Since only landowners located within 500 feet of the MSW facility would have to be notified of potential changes

to the facility, the commission estimates that approximately 15 to 200 notices would have to be mailed for each modification requiring public notice.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission has reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225 and determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a “major environmental rule” as defined in the act and it does not meet any of the four applicability requirements listed in §2001.0225(a). “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. As for the four applicability requirements, the proposal does not exceed a standard set by federal law, exceed an express requirement of state law, exceed a requirement of any delegation agreement or contract between the state, the commission, and an agency or representative of the federal government, nor are the repeal and new rule proposed solely under the general powers of the agency. Additionally, the proposal is 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 the purpose of the proposal is to clarify and simplify the process for making changes to permits and registrations for MSW facilities. The commission invites public comment on the draft regulatory impact analysis determination.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a takings impact assessment for this rulemaking under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of the rulemaking is to repeal the existing rule and replace it with a new rule which will specifically identify those modifications for which public notice must be given, remove references to obsolete sections, establish a clearer set of mailed notice requirements, clarify that the section applies to both permitted and registered MSW facilities, identify more specifically the changes which can be made to registrations and permits through the modification process, and reflect the recent commission decision that Subtitle D upgrades may be implemented only through a major permit amendment after May 19, 2003. The proposed rulemaking will substantially advance the stated purpose by clarifying and providing specific provisions on the aforementioned matters. Promulgation and enforcement of this rule will not burden or affect private real property which is the subject of the rule because the proposed new rule is only an update of the repealed rule, providing current references, clarification of procedures, and more specific information on the type of modifications that can be made to permitted and registered MSW facilities. The rule is applicable only to entities which have permits or registrations for MSW facilities. Therefore, this proposal will not constitute a takings under Texas Government Code, Chapter 2007.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission has reviewed this rulemaking and found that the proposal is a rulemaking subject to the Texas Coastal Management Program (CMP) and must be consistent with all applicable goals and policies of the CMP. The commission has prepared a consistency determination for this proposed rule under 31 TAC §505.22 and has found that the rulemaking is consistent with the applicable CMP goals

and policies. The following is a summary of that determination. The CMP goals applicable to the rulemaking are the goals to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (CNRAs). Applicable policies are those related to the regulation of solid waste facilities in 31 TAC §501.14(d)(1)(I) and (d)(2). These policies require that solid waste facilities shall be sited, designed, constructed, and operated to prevent releases of pollutants that may adversely affect CNRAs and, at a minimum, comply with standards established under the federal Solid Waste Disposal Act, and that the commission shall comply with the policies in 31 TAC 501.14(d) when issuing permits and adopting rules under Texas Health and Safety Code, Chapter 361. The specific purpose of the rulemaking is to repeal an existing rule and replace it with a new rule which will specifically identify those modifications for which public notice must be given, remove references to obsolete rules, establish a clearer set of mailed notice requirements, clarify that the rule applies to both permitted and registered MSW facilities, identify more specifically the changes which can be made to registrations and permits through the modification process, and reflect the recent commission decision that landfill permit upgrades to meet standards under Subtitle D of the federal Solid Waste Disposal Act may be implemented only through a major permit amendment after May 19, 2003. Promulgation and enforcement of the proposed rule would be consistent with the applicable CMP goals and policies, and the rule would not reduce the capability of a facility to protect human health and the environment. The commission invites public comment on the applicability of the CMP and on the consistency determination of the proposed rule.

SUBMITTAL OF COMMENTS

Comments may be submitted to Joyce Spencer, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All

comments should reference Rule Log Number 1997-186-305-WS. Comments must be received by 5:00 p.m., July 9, 2001. For further information, please contact Hector Mendieta, Policy and Regulations Division, at (512) 239-6694.

STATUTORY AUTHORITY

The repeal is proposed under Texas Water Code, §5.103, which provides the commission the authority to adopt and enforce rules necessary to carry out its powers and duties under the laws of this state; Health and Safety Code (HSC), §361.011, which provides the commission all powers necessary and convenient to carry out its responsibilities concerning the regulation and management of municipal solid waste; and HSC, §361.024, which provides the commission authority to adopt and promulgate rules consistent with the general intent and purposes of the Act.

No other codes, rules, or statutes will be affected by this proposal.

**SUBCHAPTER D: AMENDMENTS, RENEWALS, TRANSFERS, CORRECTIONS,
REVOCATION, AND SUSPENSION OF PERMITS**

§305.70

§305.70. Municipal Solid Waste Class I Modifications.

**SUBCHAPTER D: AMENDMENTS, RENEWALS, TRANSFERS, CORRECTIONS,
REVOCATION, AND SUSPENSION OF PERMITS**

§305.70

STATUTORY AUTHORITY

The new section is proposed under Texas Water Code, §5.103, which provides the commission the authority to adopt and enforce rules necessary to carry out its powers and duties under the laws of this state; Health and Safety Code (HSC), §361.011, which provides the commission all powers necessary and convenient to carry out its responsibilities concerning the regulation and management of municipal solid waste' and HSC, §361.024, which provides the commission authority to adopt and promulgate rules consistent with the general intent and purposes of the Act.

The proposed new section implements Texas Health and Safety Code, Chapter 361.

§305.70. Municipal Solid Waste Permit and Registration Modifications.

(a) This section applies only to modifications to municipal solid waste (MSW) permits and registrations. Modifications to industrial and hazardous solid waste permits are covered in §305.69 of this title (relating to Solid Waste Permit Modification at the Request of the Permittee). Changes to special conditions in an MSW permit or registration which were specifically ordered by the commission following the contested hearing process or included by the executive director as a result of negotiations between the applicant and interested persons during the permitting/registration process are not eligible for modification under this section.

(b) References to the term “permit” in this section include the permit document and all of the attachments thereto as further defined in Chapter 330, Subchapter E, §§330.50 - 330.64 of this title (relating to Permit Procedures). References to the term “registration” in this section include the registration document and all of the attachments thereto as further defined in Chapter 330, Subchapter E of this title.

(c) Except as provided in subsection (k) of this section, any increase in the landfill capacity authorized for waste disposal or any increase in the permitted or registered daily maximum rate of waste acceptance at a Type V facility shall be subject either to the requirements of §305.62(c)(1) of this title (relating to Amendment) in the case of a permitted facility, or to the requirements of a new registration in the case of a registered facility.

(d) Except as provided in subsection (k) of this section, permit and registration modifications apply to minor changes to an MSW facility or its operation that do not substantially alter the permit or registration conditions and do not reduce the capability of the facility to protect human health and the environment.

(e) A permittee or registrant may implement a modification to an MSW permit or registration provided that the permittee or registrant has received prior written authorization for the modification from the executive director. In order to receive prior written authorization, the permittee or registrant must submit a modification application to the executive director which includes, at a minimum, the following information:

(1) a description of the proposed change;

(2) an explanation detailing why the change is necessary;

(3) appropriate revisions to all applicable narrative pages and drawings of Attachment A of a permit or a registration (i.e., a site development plan, site operating plan, engineering report, or any other approved plan attached to a permit or a registration document). These revisions shall be marked and include revision dates and notes as necessary in accordance with §330.51(e)(4) of this title (relating to Permit Application for Municipal Solid Waste Facilities) and §330.64(b) and (c) of this title (relating to Additional Standard Permit Conditions for Municipal Solid Waste Facilities);

(4) a reference to the specific provision under which the modification application is being made; and

(5) for those modifications submitted in accordance with subsection (l) that the executive director determines that notice is required and for those listed in subsection (k) of this section, an updated landowners map and an updated landowners list as required under §330.52(b)(4)(D) and (b)(5) of this title (relating to Technical Requirements of Part I of the Application).

(f) The permittee or registrant must submit one original and two copies of the modification application in accordance with §305.44 of this title (relating to Signatories to Applications). Failure to submit the modification application with complete information shall result in the application being returned to the permittee or registrant without further action. Engineering documents must be signed

and sealed by the responsible licensed professional engineer as required by §330.51(d) of this title (relating to Permit Application for Municipal Solid Waste Facilities).

(g) If at the end of 60 calendar days after receipt of the permit or registration modification application (and, in the case of modifications requiring notice, after the notice requirements have been met), the executive director has not taken one of the following six steps, the application shall be automatically approved:

(1) approve the application, with or without changes, and modify the permit or registration accordingly;

(2) deny the application;

(3) provide a notice-of-deficiency letter requiring additional or clarified information regarding the proposed change and requiring the resubmittal of a new application;

(4) extend the 60-calendar day review period, if necessary, by notifying the permittee or registrant in writing that additional time is required for the modification review. The letter notifying the permittee or registrant of the review period extension shall include the reason for the extension and the date to which the review period has been extended;

(5) determine that the application does not qualify as a registration modification, and that the requested change requires a new application for registration; or

(6) determine that the application does not qualify as a permit modification and that the requested change requires a major amendment to the permit pursuant to §305.62(c)(1) of this title (relating to Amendment).

(h) If an application for a permit or registration modification is denied by the executive director, the permittee or registrant must comply with the original permit or registration conditions.

(i) If a permit or registration modification is listed in subsection (k) of this section or if a permit or registration modification application is made under subsection (l) of this section and the executive director determines that notice is required, within 15 days of submitting the modification application to the executive director or within 15 days of being notified by the executive director that notice is required for a modification under subsection (l) of this section, the permittee or registrant must prepare and send notice of the modification application in accordance with §39.106 of this title (relating to Application for Modification of a Municipal Solid Waste Permit or Registration). Prior to executive director approval of the modification application, the permittee or registrant must provide certification, on a form prescribed by the executive director, that notice was provided as required by §39.106 of this title.

(j) Paragraphs (1) - (32) of this subsection are permit and registration modifications that, in order to qualify as modifications, must meet the criteria in subsection (d) of this section (i.e., they must apply to minor changes to an MSW facility or its operation that do not substantially alter the permit or registration conditions and do not reduce the capability of the facility to protect human health and the environment):

(1) the establishment of a trench or area that will accept brush and construction demolition waste and rubbish only (also known as a Type IV area) if the trench or area is located within the disposal footprint specified in the site development plan or municipal solid waste landfill (MSWLF) permit;

(2) changes in excavation details for landfills, except for changes that would:

(A) increase the depth or lateral extent of the disposal footprint as described in the site development plan or permit;

(B) result in a change to the Soils and Liner Quality Control Plan (SLQCP); or

(C) increase the disposal capacity of the landfill facility;

(3) changes to the landfill marker systems (e.g., from a grid based upon geographic coordinates to a grid based upon survey coordinates);

(4) changes in sampling frequency (e.g., for groundwater and landfill gas monitoring systems);

(5) submittal of a new SLQCP or changes to an existing SLQCP;

(6) changes in closure or post-closure care plans;

(7) changes to the site layout plan that add or delete a properly registered or exempted facility/activity, provided that the facility/activity either requires a registration or would be exempt were it located offsite (e.g., a used or scrap tire collection area, a compost operation, a recycling collection area, a liquid waste processing facility, a registered transfer station, a citizens' collection area used for collection of non-putrescible recyclable materials either stockpiled or collected in bins, a citizens' collection station, a beneficial landfill gas recovery plant, a brush collection/chipping/mulching area, stockpiles of non-putrescible recyclable materials, etc.);

(8) changes in the site layout, other than entry gate location, that relocate the gatehouse, office or maintenance building locations, or add a wash pad not over the waste fill area or scales to the facility;

(9) changes in the design details for a solidification basin;

(10) changes to a site development plan, site operating plan, engineering report, the Part A application form of a permit or registration, or of any other approved plan that changes operating personnel, operating equipment needs, site name, permittee/registrant name, or makes minor changes in wording that do not alter the design or operations of a facility;

(11) changes in the drainage control plan that alter internal stormwater run-on/run-off control without impacting offsite drainage or increasing landfill disposal capacity. Changes may include revisions to topslopes and sideslopes of landfills which may cause adjustment to approved final contours;

(12) changes to perimeter roadways, perimeter berms, or other features in the buffer zone that result from changes in the facility drainage system design;

(13) changes to the approved final contours and approved final slopes with no height or capacity increase over the maximum permitted height or capacity, due to sequence of development changes that reduce the waste disposal area;

(14) the addition of a construction gate for access to borrow pits or offsite maintenance facilities, provided that the borrow pit or maintenance facility is located on property owned or under lease by the permittee or registrant, is contiguous to the permit or registration boundary and is restricted to use by the contractor or landfill personnel;

(15) a change in the facility records storage area from an onsite to an offsite location;

(16) the addition of a compost plan (a plan containing instructions and procedures to ensure collection of the composting refund, as cited in Texas Health and Safety Code, §361.0135) to the site operating plan of an MSWLF;

(17) new monitoring wells that replace existing monitor wells (e.g., landfill gas or groundwater monitoring wells) that have been damaged or rendered inoperable, with no change to the design or depth of the wells or to the monitoring system design;

(18) changes to an existing leachate collection system design or installation of a new leachate collection system;

(19) installation of a landfill gas monitoring system;

(20) changes to an existing landfill gas monitoring system design;

(21) changes to an existing landfill gas collection system design;

(22) changes to comply with the provisions of §330.203 of this title (relating to Special Conditions (Liner Design Constraints));

(23) submittal of a new Groundwater Sampling and Analysis Plan (GWSAP) or changes to an existing GWSAP such as the addition of constituents to the detection monitoring constituents listed in §330.241 of this title (relating to Constituents for Detection Monitoring); substitution of alternative inorganic indicator constituents in lieu of some or all of the heavy metals in accordance with §330.234(a)(2) of this title (relating to Detection Monitoring Program); deletion of sampling constituents in accordance with §330.234(a)(1) of this title; changes in sampling and analytical methods; and other changes to the GWSAP;

(24) submittal of a new waste acceptance plan or the addition of detailed narrative or design drawings which provide details for the acceptance of waste streams authorized within the permit or registration (e.g., Class 1 nonhazardous industrial waste);

(25) revisions to an existing waste acceptance plan to include waste streams authorized by the permit or registration;

(26) installation of a landfill groundwater monitoring well or system where none had existed before;

(27) upgrade of an existing landfill groundwater monitoring system so long as there is no increase in depth or design of wells or well system or change in groundwater characterization as defined in Chapter 330, Subchapter I of this title (relating to Groundwater Monitoring and Corrective Action), in which case the changes would have to be requested as an amendment under §305.62 of this title;

(28) the plugging of groundwater monitoring wells when the executive director has determined that the plugging of groundwater monitoring wells is appropriate in various situations including, but not limited to, when a facility has completed the post-closure maintenance period, when an obsolete groundwater monitoring system is being replaced with a new groundwater monitoring system, or when a damaged groundwater monitoring well is being replaced;

(29) substitution of an equivalent financial assurance mechanism;

(30) changes to a closure or post-closure cost estimate that result in an increase in the amount of financial assurance required if the increase in the cost estimate is due to an increase in the maximum area requiring closure or to the addition of registered or exempted facilities;

(31) changes to a closure or post-closure cost estimate that result in a decrease in the amount of financial assurance required if the decrease in the cost estimate is due to a reduction in the total area requiring closure; and

(32) changes in the amount of financial assurance required as the result of corrective action.

(k) Paragraphs (1) - (10) of this subsection are modifications which require notice. For those modifications requiring notice, the permittee or registrant must send notice of the modification application by first-class mail in accordance with §39.106 of this title and to all persons listed in §39.413 of this title (relating to Mailed Notice):

(1) the changes in the sequence of landfill development:

(A) changes to the direction of fill sequence;

(B) the opening of a dedicated trench or area that will accept Class 1 nonhazardous industrial waste, provided that the landfill permit authorizes the acceptance of that waste; the dedicated trench or area is located within the disposal footprint specified in the site development plan or MSWLF permit; and the landfill permit does not already fully address the requirements of §330.137 of this title (relating to the Disposal of Industrial Wastes);

(2) changes in the metes and bounds description of the permit or registration boundary that reduce the size of the facility and that do not result in permit or registration acreage beyond the original permit or registration boundary;

(3) the use of an alternate daily cover material on a permanent basis in accordance with §330.133(c) of this title (relating to Landfill Cover);

(4) changes to the entry gate location that do not alter access traffic patterns delineated in the permit or registration;

(5) an increase in the height of a landfill over the maximum permitted height of the landfill in accordance with the following criteria:

(A) Authorization to increase the height of a landfill may only be granted as a modification one time per facility. Subsequent applications for an increase in height require a major permit amendment in accordance with §305.62 of this title.

(B) A height increase shall be limited to ten feet at any one or several points above the originally permitted final contour elevations for the purpose of improving drainage.

(C) A revised final contour plan shall be prepared and submitted with the application. The plan must detail the revised final contours and include design calculations demonstrating that the proposed design provides the necessary runoff capability and controls, including erosion controls.

(D) The waste disposal area may not be expanded beyond the disposal footprint specified in the landfill permit.

(E) A height increase cannot result in a rate of waste disposal greater than noted in the landfill permit.

(F) A height increase can only be granted for one of the following situations:

(i) the entire facility will cease the receipt of solid waste within 365 days of the approval of the height increase (including the additional fill authorized by the height increase) and initiate formal closure of the entire facility;

(ii) the height increase is requested solely for the purpose of improving the surface water drainage from the fill area;

(6) a modification in the operation of a landfill that will change the incoming waste stream to a more restrictive waste stream (i.e., a change from a Type I, II, or III landfill operation to a Type IV landfill operation) may be granted, provided the receipt of waste under the present operation ceases once the modification is approved; the filled portion of the landfill will be closed in accordance with Chapter 330, Subchapter J of this title (relating to Closure and Post-Closure); and the modification application details changes to the site development plan and site operating plan as appropriate to reflect the proposed change in operation;

(7) changes to post-closure use of a landfill during the post-closure care period;

(8) upgrade of a permitted landfill facility to meet the requirements of 40 Code of Federal Regulations Part 258 (relating to Criteria for Municipal Solid Waste Landfills), provided there are no outstanding notices of deficiency on the modification application on May 19, 2003. Incomplete applications remaining and upgrade applications received after May 19, 2003 require a major amendment to the permit under to §305.62(c)(1) of this title. No more than three notice-of-deficiency letters are authorized, after which time the change can only be made through a permit amendment under §305.62(c)(1) of this title;

(9) installation of a landfill gas collection system not already authorized in the permit;

(10) changes to a site layout plan that add, delete, or relocate a facility/activity, provided that the facility/activity does not require registration within the boundaries of a permitted landfill, but would not be exempt were it located outside the boundaries of a permitted landfill (e.g., a liquid waste solidification facility, a petroleum-contaminated soil stabilization area, stockpiles of putrescible recyclable materials, or a pesticide-container collection area).

(l) In case of an application for a permit or registration modification for a change not listed in subsection (j) or (k) of this section, the executive director shall make a determination as to whether the change is eligible to be processed as a permit or registration modification and if the change requires public notice in accordance with subsection (k) of this section. In making this determination, the

executive director shall consider if the requested change meets the criteria in subsections (d) and (e) of this section.

(m) In order to obtain a temporary authorization, a permittee or registrant shall request a temporary authorization and include in the application a specific description of the activities to be conducted, an explanation of why the authorization is necessary, and how long the authorization is needed. The executive director may approve a temporary authorization for a term of not more than 180 days, and may reissue the temporary authorization once for an additional 180 days, if circumstances warrant the extension. Temporary authorizations must be in accordance with subsections (d) and (e)(1), (2), and (4) of this section (i.e., they must apply to minor changes to an MSW facility or its operation that do not substantially alter the permit or registration conditions; do not reduce the capability of the facility to protect human health and the environment; etc.). Examples of temporary authorizations include:

(1) the use of an alternate daily cover material on a trial basis not to exceed six months, with one six-month extension allowable;

(2) temporary changes in operating hours to address natural disaster situations, accommodate special community events, or prevent disruption of waste services due to holidays;

(n) The applicant, public interest counsel, or other person may file with the chief clerk a motion to overturn the executive director's action on a modification application in accordance with §50.139 of this title (relating to Motion to Overturn Executive Director's Decision).