The Texas Natural Resource Conservation Commission (commission) proposes amendments to §§335.1, 335.17, 335.24, 335.29, 335.221, and 335.431 concerning industrial solid waste and municipal hazardous waste.

EXPLANATION OF PROPOSED RULES

The primary purpose of the proposed amendments is to revise the state rules to conform to certain federal regulations, either by incorporating the federal regulations by reference or by introducing language into the state rules which corresponds to the federal regulations. Under Title 40 Code of Federal Regulations (CFR) §271.21(e), states having final Resource Conservation and Recovery Act (RCRA) authorization, such as the State of Texas, must modify their programs to reflect federal program changes and submit the modifications to the United States Environmental Protection Agency (EPA) for approval. Establishing equivalency with federal regulations will enable the commission to retain authorization to operate aspects of the hazardous waste program in lieu of EPA. The federal regulations to which these proposed rules are being conformed include those promulgated by the EPA on June 17, 1997 at 62 FedReg 32974, July 14, 1997 at 62 FedReg 37694, August 28,1997 at 62 FedReg 45568, May 4, 1998 at 63 FedReg 24596, May 26, 1998 at 63 FedReg 28556, June 8, 1998 at 63 FedReg 31266, June 29, 1998 at 63 FedReg 35147, August 6, 1998 at 63 FedReg 42110, August 10, 1998 at 63 FedReg 42580, and August 31, 1998 at 63 FedReg 46332 under the authority of RCRA.

The June 17, 1997 federal promulgation included revisions to 40 CFR Part 261 relating to the identification and listing of certain carbamate industry production wastes, and revisions to the land

disposal restrictions under 40 CFR Part 268 concerning these wastes, to conform with the federal appeals court ruling in *Dithiocarbamate Task Force v. EPA,* 98 F.3d 1394 (D.C.Cir. 1996). The July 14, 1997 federal promulgation provided an emergency extension of the K088 national capacity variance. The August 28, 1997 promulgation was an emergency revision of the carbamate land disposal restrictions. The May 4, 1998 federal promulgation included revisions to 40 CFR Part 261 relating to the identification and listing of certain organobromine production wastes, and revisions to the land disposal restrictions under 40 CFR Part 268 concerning these wastes. The May 26, 1998 federal promulgation set forth Phase IV land disposal restrictions for metal-bearing wastes, including toxicity characteristic metal wastes, land disposal restrictions for hazardous wastes from mineral processing, identification of which mineral processing secondary materials are considered to be wastes, treatment standards for soil contaminated with hazardous waste, a clarification concerning the shredded circuit board and scrap metal exemptions with regard to certain whole used circuit boards, and an exclusion from the definition of solid waste for certain materials reused in wood preserving operations. The June 8, 1998 federal promulgation included a correction to the May 26, 1998 promulgation. The June 29, 1998 federal promulgation included technical amendments to the land disposal restrictions relating to organobromine production hazardous wastes. The August 6, 1998 federal promulgation included revisions to 40 CFR Parts 261, 266, and 268 related to petroleum refining process wastes. The August 10, 1998 federal promulgation included corrections and technical amendments to the previous promulgations of May 4, May 26, and June 29, 1998. The August 31, 1998 federal promulgation included a stay of the Phase IV rule as it applied to treatment standards for hazardous constituent metals in certain zinc-containing fertilizers.

Section 335.1 is proposed to be amended at the definition of solid waste. Under proposed §335.1(119)(A)(iv), certain revised and new federal solid waste exclusions would be incorporated. The revised exclusions are under 40 CFR §261.4(a)(9) and §261.4(a)(12), and the new exclusions are under 40 CFR §§261.4(a)(16), 261.4(a)(18), and 261.4(a)(19). Also, there is a clarification of the exclusions for shredded circuit boards and scrap metal relating to whole circuit boards that is proposed to be incorporated, although no changes to the actual rule language are necessary. The revision to 40 CFR §261.4(a)(9) was promulgated May 26, 1998 at 63 FedReg 28556, and includes a conditional exclusion for certain wood preserving wastewaters and spent wood preserving solutions being managed prior to reuse. The revision to 40 CFR §261.4(a)(12) was promulgated August 6, 1998 at 63 FedReg 42110. It includes an exclusion from the definition of solid waste for oil-bearing hazardous secondary materials generated within the petroleum refining sector, and for "recovered oil" from normal petroleum industry practices such as refining, exploration and development, bulk storage, and related transportation, when they are to be inserted into the petroleum refining process, including into the petroleum coker, provided they are not placed on the land or speculatively accumulated before being recycled. The clarification of the exclusions for shredded circuit boards and scrap metal relating to whole circuit boards is proposed to be incorporated in accordance with the following language from 63 FedReg 28629-28630. "In the May 12, 1997 final rule on Land Disposal Restrictions, the EPA excluded shredded circuit boards from the definition of solid waste conditioned on containerized storage prior to recovery. To be covered by this exclusion shredded circuit boards must be free of mercury switches, mercury relays, nickel-cadmium batteries or lithium batteries. On a related issue, current Agency policy states that whole circuit boards may meet the definition of scrap metal and therefore be exempt from hazardous waste regulation. In a parenthetical statement in the May 12, 1997 rule, the Agency asserted that whole

used circuit boards which contain mercury switches, mercury relays, nickel-cadmium batteries, or lithium batteries also do not meet the definition of scrap metal because mercury (being a liquid metal) and batteries are not within the scope of the definition of scrap metal. The preamble cited 50 FR 614, 624 (1985). Members of the electronics industry expressed concern to the Agency about the preamble statement regarding the regulatory status of whole used circuit boards which contain mercury switches, mercury relays, nickel-cadmium batteries, or lithium batteries. The electronics industry indicated that its member[s] have developed a sophisticated asset/materials recovery system to collect and transport whole used circuit boards to processing facilities. The industry explained that the boards are sent to processing facilities for evaluation (continued use, reuse or reclamation) where the switches and the types of batteries are generally removed by persons with the appropriate knowledge and tools for removing these materials. Once these materials are removed from the boards, they become a newly generated waste subject to a hazardous waste determination. If they fail a hazardous waste characteristic, they are handled as hazardous waste, otherwise they are managed as a solid waste. Information was also provided regarding the quantity of mercury on these switches and on the physical state in which they are found on the boards. The information indicates that the mercury switches and relays on circuit boards from some typical applications contain between 0.02-0.08 grams of mercury and are encased in metal which is then coated in epoxy prior to attachment to the boards. In today's final rule, the Agency recognizes that the preamble statement in the May 12, 1997 final rule is overly broad in that it suggested that the scrap metal exemption would not apply to whole used circuit boards containing the kind of minor battery or mercury switch components and that are being sent for continued use, reuse, or recovery. It is not the Agency's current intent to regulate under RCRA circuit boards containing minimal quantities of mercury and batteries that are protectively packaged to

minimize dispersion of metal constituents. Once these materials are removed from the boards, they become a newly generated waste subject to a hazardous waste determination. If they meet the criteria to be classified as a hazardous waste, they must be handled as hazardous waste, otherwise they must be managed as a solid waste." The new exclusion from the definition of solid waste under 40 CFR §261.4(a)(16) was promulgated May 26, 1998 at 63 FedReg 28556, and includes a conditional exclusion for secondary materials (other than hazardous wastes listed in 40 CFR Part 261, Subpart D) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered. The new exclusions from the definition of solid waste under 40 CFR §261.4(a)(18) and §261.4(a)(19) were promulgated August 6, 1998, at 63 FedReg 42110. These include conditional exclusions for petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, and for caustic from liquid treating operations when used as a feedstock to make certain chemical products (i.e., cresylic or naphthenic acid). Elsewhere within the definition of "solid waste," the term "Code of Federal Regulations" is proposed to be replaced with "CFR." See §335.1(119)(D)(i)(II), 335.1(119)(D)(ii)(II), 335.1(119)(E), 335.1(119)(G)(iv), and 335.1(119)(I). The definition of "solid waste" is also proposed to be amended to conform to the federal regulations promulgated May 26, 1998 at 63 FedReg 28556, concerning materials generated and reclaimed within the primary mineral processing industry. Proposed §335.1(119)(D)(iii) reflects 40 CFR §261.2(c)(3), and sets forth that materials noted with an asterisk in Column 3 of Table 1 are solid wastes when reclaimed (except as provided under 40 CFR §261.4(a)(16)), while materials without an asterisk in Column 3 of Table 1 are not solid wastes when reclaimed (except as provided under 40 CFR §261.4(a)(16)). This amendment is proposed to account

for the conditional exclusion for secondary materials (other than hazardous wastes listed in 40 CFR Part 261, Subpart D) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered. Proposed §335.1(119)(F)(iii) reflects 40 CFR §261.2(e)(1)(iii), and adds a sentence to indicate that there are special provisions relating to reclamation within the mineral processing industry, as follows: "In cases where the materials are generated and reclaimed within the primary mineral processing industry, the conditions of the exclusion found at 40 CFR §261.4(a)(16) apply rather than this provision." Another proposed amendment to the definition of "solid waste" under §335.1(119) to conform the state definition with changes to its federal counterpart is within Table 1, adding a footnote to match the language regarding reclamation in Table 1 of the corresponding federal regulation under 40 CFR §261.2 which states "Except as provided in 40 CFR §261.4(a)(16) for mineral processing secondary materials."

Section 335.17 is proposed to be amended to correct the cross-reference to 40 CFR §261.4(a)(13) under §335.17(a)(10). The correct cross-reference is 40 CFR §261.4(a)(14). See 63 FedReg 28622.

Proposed §335.24 contains a conforming change to reflect the federal regulations promulgated August 6, 1998 at 63 FedReg 42110, under which §261.6(a)(3)(v) was removed. The corresponding state rule change is the proposed deletion of §335.24(c)(5) regarding the exemption for petroleum coke produced from petroleum refinery hazardous wastes containing oil by the same person who generated the waste, unless the resulting coke product exceeds one or more of the characteristics of hazardous waste in 40 CFR Part 261, Subpart C. The reason for the removal of this exemption is because it was superseded by the revised exclusion from the definition of solid waste at 40 CFR §261.4(a)(12).

According to EPA in the August 6, 1998 promulgation at 63 FedReg 42127, "[t]he Agency is maintaining the condition that only those oil-bearing secondary materials that result in a coke product that does not exhibit a characteristic of hazardous waste be subject to the exclusion. This condition mirrors the statutory provision stating that petroleum coke produced from petroleum industry hazardous wastes is not subject to Subtitle C regulation provided the coke does not exhibit a characteristic of hazardous waste (see RCRA section 3004(q)(2)(A)). This condition (coupled with the industry's own product specifications) will serve to ensure that the coke product does not degrade such that the secondary materials used in producing the coke will become a part of the waste disposal problem. As a result of this condition and the fact that this exclusion is limited to refinery wastes, today's exclusion in §261.4(a)(12) supersedes the existing exemption in §261.6(a)(3)(v); therefore, the regulations are being amended to remove §261.6(a)(3)(v)."

Proposed §335.29 contains updates to the adoption of appendices by reference. Under §335.29(4), it is proposed to adopt by reference 40 CFR Part 261, Appendix VII - Basis for Listing Hazardous Waste, as amended through August 6, 1998 at 63 FedReg 42110. This proposed revision to §335.29(4) would incorporate changes to the federal regulations, including those promulgated on June 17, 1997 at 62 FedReg 32974, May 4, 1998 at 63 FedReg 24596, and August 6, 1998 at 63 FedReg 42110. The June 17, 1997 promulgation amended Appendix VII by removing the entire entry for EPA hazardous waste number K160. The May 4, 1998 promulgation added 2,4,6-tribromophenol as the hazardous constituent for which EPA hazardous waste number K140 (floor sweepings, off-specification product and spent filter media from the production of 2,4,6-tribromophenol) was listed. The August 6, 1998 promulgation added benzene as the hazardous constituent for which EPA hazardous waste number K169

(crude oil storage tank sediment from petroleum refining operations) was listed; benzo(a)pyrene, dibenz(a,h)anthracene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, 3-methylcholanthrene, and 7,12-dimethylbenz(a)anthracene as the hazardous constituents for which EPA hazardous waste number K170 (clarified slurry oil tank sediment and/or in-line filter/separation solids from petroleum refining operations) was listed; benzene and arsenic as the hazardous constituents for which EPA hazardous waste number K171 (spent hydrotreating catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors, excluding inert support media) was listed; and benzene and arsenic as the hazardous constituents for which EPA hazardous waste number K172 (spent hydrorefining catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors, excluding inert support media) was listed. Under §335.29(5), it is proposed to adopt by reference 40 CFR Part 261, Appendix VIII - Hazardous Constituents, as amended through May 4, 1998 at 63 FedReg 24596, which added 2,4,6-tribromophenol to the list of hazardous constituents. This also includes amendments to 40 CFR, Appendix VIII promulgated June 17, 1997 which removed the entries for potassium hyroxymethyl-n-methyl-dithiocarbamate and tetrabutylthiuram monosulfide, and revised and added the following entries: bis(pentamethylene)-thiuram tetrasulfide; butylate; copper dimethyldithiocarbamate; cycloate; dazomet; disulfiram; EPTC; ethyl ziram; ferbam; 3-iodo-2-propynyl n-butylcarbamate; metam sodium; molinate; pebulate; potassium dimethyldithiocarbamate; potassium n-hydroxymethyl-n-methyl-dithiocarbamate; potassium n-methyldithiocarbamate; selenium, tetrakis(dimethyl-dithiocarbamate); sodium dibutyldithiocarbamate; sodium diethyldithiocarbamate; sodium dimethyldithiocarbamate; sulfallate, tetrabutylthiuram disulfide; tetramethylthiuram monosulfide; and vernolate.

Proposed §335.221(b)(2) is a conforming change to revisions in the federal regulations under §266.100(b)(3), as promulgated August 6, 1998 at 63 FedReg 42110. This change reflects the deletion of §335.24(c)(5) as proposed today. Section 335.221 concerns applicability and standards relating to hazardous waste burned for energy recovery. Under §335.221(b), hazardous wastes and facilities which are not regulated under the rules relating to hazardous waste burned for energy recovery (i.e., §§335.221 - 335.229) are described, including certain hazardous wastes otherwise exempt from regulation. Under proposed §335.221(b)(2), the following hazardous wastes are not regulated under §§335.221 - 335.229: hazardous wastes that are exempt from regulation under the provisions of 40 CFR §261.4 and §335.24(c)(3) - (4). The proposed rule deletes the reference to §335.24(c)(5) because §335.24(c)(5) is proposed for deletion. As described earlier in this preamble, proposed §335.24 contains a conforming change to reflect the federal regulations promulgated August 6, 1998 at 63 FedReg 42110, under which §261.6(a)(3)(v) was removed. The corresponding state rule change is the proposed deletion of §335.24(c)(5) regarding the exemption for petroleum coke produced from petroleum refinery hazardous wastes containing oil by the same person who generated the waste, unless the resulting coke product exceeds one or more of the characteristics of hazardous waste in 40 CFR Part 261, Subpart C. Therefore, since §335.24(c)(5) would no longer exist under this proposal, it is necessary to delete the reference to §335.24(c)(5) under proposed §335.221(b)(2).

Proposed §335.431(c)(1) is proposed to be amended to adopt by reference additional federal land disposal restriction (LDR) regulations. Under this proposal, subject to the provisions of §335.431(c)(1), the regulations contained in 40 CFR Part 268, as amended through August 31, 1998 at 63 FedReg 46332 would be adopted by reference. This proposal would incorporate changes made to 40

CFR Part 268, including those promulgated by the EPA on June 17, 1997 at 62 FedReg 32974, July 14, 1997 at 62 FedReg 37694, August 28, 1997 at 62 FedReg 45568, May 4, 1998 at 63 FedReg 24596, May 26, 1998 at 63 FedReg 28556, June 8, 1998 at 63 FedReg 31266, June 29, 1998 at 63 FedReg 35147, August 6, 1998 at 63 FedReg 42110, August 10, 1998 at 63 FedReg 42580, and August 31, 1998 at 63 FedReg 46332. The June 17, 1997 federal promulgation includes revisions to the land disposal restrictions under 40 CFR Part 268 to remove land disposal restrictions for K160, U277, U365, U366, U375, U376, U377, U378, U379, U381, U382, U383, U384, U385, U386, U390, U391, U392, U393, U396, U400, U401, U402, U403, and U407. In addition, the descriptions of the K156, K157, and K158 wastes in 40 CFR §268.40 are amended in the June 17, 1997 promulgation to reflect the fact that they do not apply to wastes from production of 3-iodo-2-propynyl n-butylcarbamate. The July 14, 1997 federal promulgation includes the three-month extension of the national capacity variance for spent potliners from primary aluminum production (hazardous waste number K088), under 40 CFR §268.39(c). The August 28, 1997 federal promulgation includes the one-year extension of the alternate carbamate treatment standards under 40 CFR §§268.40(g) and §268.48(a). The May 4, 1998 federal promulgation includes revisions to the land disposal restrictions under 40 CFR Part 268 concerning certain organobromine production wastes, and applies the universal treatment standards (UTS) to these wastes. The May 26, 1998 federal promulgation includes Phase IV land disposal restrictions concerning treatment standards for metal wastes and mineral processing wastes and treatment standards for hazardous soils. It applies the universal treatment standards to newly identified characteristic mineral processing wastes. As noted by EPA at 63 FedReg 28572, "[i]n earlier rules and a Report to Congress, EPA has determined which mineral processing wastes are not excluded in the Bevill Amendment and are thus considered 'newly identified' wastes subject to RCRA regulations. (See 54 FR

36592, September 1, 1989; 55 FR 2322, January 23, 1990; and Report to Congress on Special Wastes from Mineral Processing, USEPA, July 31, 1990.) The treatment standards being promulgated today are located in the table 'Treatment Standards for Hazardous Wastes' at §268.40 in the regulatory language for today's rule. The wastes are identified by characteristic waste code (e.g. D002 corrosive waste, or D008 TC lead waste); there is no separate section in that table for characteristic mineral processing wastes." In the May 26, 1998 promulgation, EPA finalized LDR metal treatment standards in two ways. First, EPA revised the UTS levels for ten metal constituents in nonwastewater forms of hazardous wastes (i.e., antimony, barium, beryllium, cadmium, chromium, lead, nickel, selenium, silver, and thallium). In addition, EPA applied the UTS for the first time to eight toxicity characteristic (TC) metal wastes (i.e., arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver. It should be noted that the UTS apply to both wastewater and nonwastewater forms of the TC wastes (except for TC arsenic wastes, for which the UTS apply to wastewater forms only), and to both organic and metal underlying hazardous constituents in them. The EPA also adjusted the treatment standards for vanadium in P019 and P020 nonwastewaters as well as zinc in K061 nonwastewaters. Finally, the May 26, 1998 federal promulgation also establishes LDR standards for a new treatability group, contaminated soils. Generators of contaminated soil have the option of complying with either the existing treatment standards for industrial hazardous waste (i.e., the universal treatment standards) or the soil treatment standards. These alternative LDR treatment standards for soil were promulgated under 40 CFR §268.49, and generally require 90 percent reduction in constituent concentrations, except that when any constituent subject to treatment to the 90 percent reduction standard would result in a concentration less than 10 times the UTS for that constituent, treatment to achieve constituent concentrations less than 10 times the UTS is not required. UTS are identified in 40 CFR §268.48. The

June 8, 1998 federal promulgation includes a correction to page 28751 of the May 26, 1998 promulgation, inserting the word "adding" in amendatory instruction 19, just before the phrase "two entries for waste code F035." The June 29, 1998 federal promulgation includes technical amendments to the land disposal restrictions relating to organobromine production hazardous wastes, correcting purely technical errors under 40 CFR §268.33 and §268.40. The August 6, 1998 federal promulgation includes revisions to 40 CFR Part 268 related to petroleum refining process wastes, and applies the UTS to the petroleum refining process wastes listed in the August 6, 1998 rulemaking (i.e., K169 - crude oil tank sediment from petroleum refining operations, K170 - clarified slurry oil tank sediment and/or in-line filter/separation solids from petroleum refining operations, K171 - spent hydrotreating catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors, excluding inert support media, and K172 - spent hydrorefining catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors, excluding inert support media). In 40 CFR §268.40, the Table of Treatment Standards was amended under the aforementioned August 6, 1998 federal promulgation to add the following regulated hazardous constituents for the petroleum refining process wastes, as follows: K169 (benz(a)anthracene, benzene, benzo(g,h,i)perylene, chrysene, ethyl benzene, fluorene, naphthalene, phenanthrene, pyrene, toluene, and xylene(s) (total)); K170 (benz(a)anthracene, benzene, benzo(g,h,i)perylene, chrysene, dibenz(a,h)anthracene, ethyl benzene, fluorene, indeno(1,2,3,-cd)pyrene, naphthalene, phenanthrene, pyrene, toluene, and xylene(s) (total)); K171 (arsenic, benz(a)anthracene, benzene, chrysene, ethyl benzene, naphthalene, nickel, phenanthrene, pyrene, reactive sulfides, toluene, vanadium, and xylene(s) (total)); K172 (antimony, arsenic, benzene, ethyl benzene, nickel, reactive sulfides, toluene, vanadium, and xylene(s) (total)). The August 10, 1998 federal promulgation includes corrections and technical

amendments to the previous promulgations of May 4, May 26, and June 29, 1998. No new regulatory requirements were added by the August 10, 1998 promulgation. Rather, it clarified requirements by correcting a number of errors in the aforementioned previous promulgations, including corrections to certain effective dates and withdrawal of certain previous amendments as follows: amendment 10 to 40 CFR §268.40 and amendment 11 to 40 CFR §268.48 on pages 24625 and 24626 in the rule published May 4, 1998, and amendment 5 on page 35149 in the rule published June 29, 1998 were withdrawn. The August 31, 1998 federal promulgation includes an amendment to 40 CFR §268.40 by adding new paragraph (i), which in effect stays the Phase IV rule insofar as it applies treatment standards for hazardous constituent metals in zinc-containing fertilizers that are produced from hazardous wastes which exhibit the toxicity characteristic.

FISCAL NOTE

Jeffrey Horvath, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections as proposed are in effect, there will be no significant fiscal implications for state or local government as a result of administration or enforcement of the sections.

PUBLIC BENEFIT

Mr. Horvath has also determined that for the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be simplification of existing regulations, enhanced consistency between federal and state waste regulatory requirements, more cost-effective regulation of waste management activities, and improvements in the management of hazardous waste and hazardous waste facilities. The proposed amendments generally

incorporate existing federal regulations and certain streamlining provisions. There are no significant economic costs anticipated to any person, including any small business, required to comply with the sections as proposed.

DRAFT REGULATORY IMPACT ANALYSIS

The commission has reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has 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. Furthermore, it does not meet any of the four applicability requirements listed in §2001.0225(a). Although this rule is proposed to protect the environment and reduce the risk to human health from environmental exposure, this is not a major environmental rule because it does not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The rule will not 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 rule updates the state's hazardous waste regulations, which in turn provides an overall benefit to the affected economy, sectors of the economy, productivity, competition, jobs, the environment, and the public health and safety of the state and affected sectors of the state, as explained below. This overall benefit from updating the hazardous waste regulations is derived, for example, from adopting more recent federal land disposal restriction regulations, certain of which provide improved treatment standards for soil contaminated with hazardous waste and which contain revised and new exclusions from the definition of "solid waste." By using the improved treatment standards for soil contaminated with hazardous waste, the

environment and public health and safety is beneficially affected because these improved standards are designed to expedite cleanups. The revised and new exclusions from the definition of solid waste provide a benefit to the economy, sectors of the economy, productivity, competition, and jobs by lessening regulatory requirements, thus costing certain companies less. Furthermore, reducing costs in this area allows more funds to be expended to protect the environment, thus providing a benefit to the environment and public health and safety. The rule also provides benefit, as opposed to an adverse effect in a material way, to the environment and the public health and safety of the state and affected sectors of the state by providing for enhanced consistency between federal and state waste regulatory requirements, which leads to improvements in the management of hazardous waste and hazardous waste facilities. By the very nature of being an improvement, the environment and public health and safety are benefitted. Another way of explaining this environmental and public health benefit is that the more recent federal regulations are generally more protective of the environment and public health and safety than the older regulations they replaced. Furthermore, enhanced consistency between the federal and state programs tends to free up resources that would otherwise be spent on determining which requirement (i.e., state or federal) applies to particular aspects of a company's waste management operations. Thus, not only is there an economic benefit by not having to keep track of which requirements apply to what, but an environmental and public health benefit as well, because this allows more funds to be expended to protect the environment. The rule provides a benefit, as opposed to an adverse effect in a material way, to the economy, a sector of the economy, productivity, competition, and jobs, by providing for enhanced consistency between federal and state waste regulatory requirements, which leads to more cost-effective regulation of waste management activities, as discussed above. In addition, by advancing the rules to allow for further authorization by the EPA, the

regulated community is faced with less dual regulation, which in turn frees up resources and fosters the concomitant economic and environmental benefits discussed above. An analysis of the specific regulations under this proposal shows that the rule will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs of the state or a sector of the state because either the regulation is less stringent than the regulation it is replacing, or the regulation is a promulgation under the Hazardous and Solid Waste Amendments of 1984 (HSWA) and, as such, the U.S. EPA is implementing the regulation. Therefore, there are no additional costs incurred by affected owners and operators because they are already having to comply with this rule, if applicable to them. The reason there is no adverse effect in a material way on the environment, or the public health and safety of the state or a sector of the state is because these proposed rules are designed to protect the environment, the public health, and the public safety of the state and all sectors of the state. In addition, this proposed rule does not exceed a standard set by federal law, exceed an express requirement of state law, exceed a requirement of a delegation agreement, or propose to adopt a rule solely under the general powers of the agency. This proposal does not exceed a standard set by federal law because the purpose of this proposal is to adopt state rules which are equivalent to the corresponding federal regulations. This proposal does not exceed an express requirement of state law because either there are no express requirements in state law under which these rules are proposed or because the express requirements of state law are being matched in this proposal (e.g., the definition of "solid waste" under proposed §335.119(A)(iv)). This proposal does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program because the express purpose of this proposal is to help maintain RCRA authorization. The delegation agreement between the commission and the U.S.

Environmental Protection Agency expressly requires the commission to maintain RCRA authorization. This proposal does not adopt a rule solely under the general powers of the agency (e.g., Texas Water Code §5.103 and §5.105), but rather under a specific state law (i.e., Texas Health and Safety Code, Solid Waste Disposal Act, §361.017 and §361.024).

TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for these proposed rules pursuant to Texas Government Code Annotated §2007.043. The following is a summary of that assessment. The specific purpose of these proposed rules is to ensure that Texas' state hazardous waste rules are equivalent to the federal regulations after which they are patterned, thus enabling the state to retain authorization to operate its own hazardous waste program in lieu of the corresponding federal program. The proposed rules would substantially advance this stated purpose by adopting federal regulations by reference or by introducing language intended to ensure that state rules are equivalent to the corresponding federal regulations. Promulgation and enforcement of these proposed rules would not affect private real property which is the subject of the rules because the proposed rule language consists of updates to bring certain state hazardous waste regulations into equivalence with more recent federal regulations. There is no burden on private real property because 42 U.S.C. 6926(g) immediately imposes on the regulated community any new requirements and prohibitions under the Hazardous and Solid Waste Amendments of 1984 that are more stringent than state rules, on the effective date of the federal regulation. In other words, under federal law, the regulated community must comply with such new requirements and prohibitions that are more stringent, beginning on the effective date of the federal regulation. Since these more stringent rules are the ones which could present a burden on private real

property; since the portions of this proposal which are more stringent than existing rules are imposed by the Hazardous and Solid Waste Amendments of 1984; and since the regulated community is already required to comply with these more stringent rules, there is no such burden if and when the state adopts these proposed rules. The subject proposed regulations do not affect a landowner's rights in private real property. Also, the following exception to the application of Chapter 2007 of the Texas Government Code listed in Texas Gov't Code Sec. 2007.003(b) applies to these rules: this action is reasonably taken to fulfill an obligation mandated by federal law.

COASTAL MANAGEMENT PROGRAM

The commission has reviewed this rulemaking and found that the proposal is a rulemaking subject to the 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 pursuant to 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 construction and operation of solid waste treatment, storage, and disposal facilities, such that new solid waste facilities and areal expansions of existing 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 Solid Waste Disposal Act, 42 United States Code Annotated, §§6901 et seq. Promulgation and enforcement of this proposed rule would be consistent with the

applicable CMP goals and policies because the rule amendments would update and enhance the commission's rules concerning hazardous and industrial solid waste, thereby serving to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of CNRAs, and also thereby serving to ensure that new solid waste facilities and areal expansions of existing solid waste facilities are 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 Solid Waste Disposal Act, 42 United States Code Annotated, §§6901 et seq. In addition, the proposed rule does not violate any applicable provisions of the CMP's stated goals and policies. The commission invites public comment on the consistency of the proposed rule.

SUBMITTAL OF COMMENTS

Written comments may be submitted by mail to Bettie Bell, Office of Policy and Regulatory Development, MC-205, P.O. Box 13087, Austin, Texas 78711-3087; or by fax at (512) 239-4808. All comments must be received by December 21, 1998, and should reference Rule Log No. 98041-335-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 Ray Henry Austin at (512) 239-6814.

STATUTORY AUTHORITY

The amendments are proposed under Texas Water Code §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code or other laws of this state; and under Texas Health and Safety

Code, Solid Waste Disposal Act, §361.017 and §361.024, which authorize the commission to regulate industrial solid waste and municipal hazardous waste and to adopt rules consistent with the general intent and purposes of the Act.

The proposed amendments and new language implement Texas Health and Safety Code Chapter 361.

SUBCHAPTER A : INDUSTRIAL SOLID WASTE AND MUNICIPAL HAZARDOUS WASTE IN GENERAL

§335.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly requires otherwise.

(1) - (118) (No change.)

(119) **Solid Waste** -

(A) Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities, but does not include:

(i) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued pursuant to the Texas Water Code, Chapter 26 (an exclusion applicable only to the actual point source discharge that does not exclude industrial wastewaters while they are being collected, stored or

processed before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment);

(ii) uncontaminated soil, dirt, rock, sand and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements. The material serving as fill may also serve as a surface improvement such as a structure foundation, a road, soil erosion control, and flood protection. Man-made materials exempted under this provision shall only be deposited at sites where the construction is in progress or imminent such that rights to the land are secured and engineering, architectural, or other necessary planning have been initiated. Waste disposal shall be considered to have occurred on any land which has been filled with man-made inert materials under this provision if the land is sold, leased, or otherwise conveyed prior to the completion of construction of the surface improvement. Under such conditions, deed recordation shall be required. The deed recordation shall include the information required under §335.5(a) of this title (relating to Deed Recordation), prior to sale or other conveyance of the property;

(iii) waste materials which result from activities associated with the exploration, development, or production of oil or gas or geothermal resources, as those activities are defined in this section, and any other substance or material regulated by the Railroad Commission of Texas pursuant to the Natural Resources Code, §91.101, unless such waste, substance, or material results from activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants and is a hazardous waste as defined by the

administrator of the United States Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code §6901 et seq., as amended; or

(iv) a material excluded by 40 Code of Federal Regulations (CFR) §261.4(a)(1) - (14), as amended through August 6, 1998[May 12, 1997], at 63 FedReg 42110[62 FedReg 25998], by 40 CFR §261.4(a)(16), as amended through May 26, 1998 at 63 FedReg 28556, by 40 CFR §261.4(a)(18) - (19), as amended through August 6, 1998, at 63 FedReg 42110, or by variance granted under §335.18 of this title (relating to Variances from Classification as a Solid Waste) and §335.19 of this title (relating to Standards and Criteria for Variances from Classification as a Solid Waste).

(B) A discarded material is any material which is:

(i) abandoned, as explained in subparagraph (C) of this paragraph;

(ii) recycled, as explained in subparagraph (D) of this paragraph; or

(iii) considered inherently waste-like, as explained in subparagraph (E) of this paragraph.

(C) Materials are solid wastes if they are abandoned by being:

(i) disposed of;

(ii) burned or incinerated; or

(iii) accumulated, stored, or processed (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

(D) Materials are solid wastes if they are "recycled" or accumulated, stored, or processed before recycling as specified in this subparagraph. The chart referred to as Table 1 indicates only which materials are considered to be solid wastes when they are recycled and is not intended to supersede the definition of solid waste provided in subparagraph (A) of this paragraph.

(i) Used in a manner constituting disposal. Materials noted with an asterisk in Column 1 of Table 1 are solid wastes when they are:

(I) applied to or placed on the land in a manner that constitutes disposal; or

(II) used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land (in which cases the product itself remains a solid waste). However, commercial chemical products listed in 40 CFR

[Code of Federal Regulations] §261.33 are not solid wastes if they are applied to the land and that is their ordinary manner of use.

(ii) Burning for energy recovery. Materials noted with an asterisk in Column 2 of Table 1 are solid wastes when they are:

(I) burned to recover energy; or

(II) used to produce a fuel or are otherwise contained in fuels (in which cases the fuel itself remains a solid waste). However, commercial chemical products, which are listed in 40 CFR [Code of Federal Regulations] §261.33, not listed in §261.33 but that exhibit one or more of the hazardous waste characteristics, or would be considered nonhazardous waste if disposed, are not solid wastes if they are fuels themselves and burned for energy recovery.

(iii) Reclaimed. Materials noted with an asterisk in Column 3 of Table 1 are solid wastes when reclaimed (except as provided under 40 CFR §261.4(a)(16)). Materials without an asterisk in Column 3 of Table 1 are not solid wastes when reclaimed (except as provided under 40 CFR §261.4(a)(16).

(iv) Accumulated speculatively. Materials noted with an asterisk in Column 4 of Table 1 are solid wastes when accumulated speculatively. Figure 1: 30 TAC §335.1(D)(iv)

(E) Materials that are identified by the administrator of the EPA as inherently waste-like materials under 40 CFR [Code of Federal Regulations] §261.2(d) are solid wastes when they are recycled in any manner.

(F) Materials are not solid wastes when they can be shown to be recycled by being:

(i) used or reused as ingredients in an industrial process to make a product, provided the materials are not being reclaimed;

(ii) used or reused as effective substitutes for commercial products; or

(iii) returned to the original process from which they were generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on the land. In cases where the materials are generated and reclaimed within the primary mineral processing industry, the conditions of the exclusion found at 40 CFR §261.4(a)(16) apply rather than this provision.

(iv) secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(I) only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(II) reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(III) the secondary materials are never accumulated in such tanks for over twelve months without being reclaimed; and

(IV) the reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

(G) The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process, as described in subparagraph (F) of this paragraph:

(i) materials used in a manner constituting disposal, or used to produce products that are applied to the land;

(ii) materials burned for energy recovery, used to produce a fuel, or contained in fuels;

(iii) materials accumulated speculatively; or

(iv) materials deemed to be inherently waste-like by the administrator of the Environmental Protection Agency, as described in 40 CFR [Code of Federal Regulations] §261.2(d)(1) - §261.2(d)(2).

(H) Respondents in actions to enforce the industrial solid waste regulations who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so and that the recycling activity is legitimate and beneficial.

(I) Materials that are reclaimed from solid wastes and that are used beneficially are not solid wastes and hence are not hazardous wastes under 40 CFR [Code of Federal Regulations] §261.3(c) unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(J) Other portions of this chapter that relate to solid wastes that are recycled include §335.6 of this title (relating to Notification Requirements), §335.17 of this title (relating to Special Definitions for Recyclable Materials and Nonhazardous Recyclable Materials), §335.18 of this title (relating to Variances from Classification as a Solid Waste), §335.19 of this title (relating to Standards and Criteria for Variances from Classification as a Solid Waste), §335.24 of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials), and Subchapter H (relating to Standards for the Management of Specific Wastes and Specific Types of Materials).

(120) - (149) (No change.)

§335.17. Special Definitions for Recyclable Materials and Nonhazardous Recyclable Materials.

(a) For the purposes of the definition of solid waste in §335.1 of this title (relating to Definitions) and §335.24 of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials):

(1) - (9) (No change.)

(10) Processed scrap metal is scrap metal which has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to scrap metal which has been baled,

shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and, fines, drosses and related materials which have been agglomerated. (Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (40 Code of Federal Regulations §261.4(a)(14[3])).

(11) - (12) (No change.)

(b) (No change.)

§335.24. Requirements For Recyclable Materials and Nonhazardous Recyclable Materials.

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

(c) The following recyclable materials are not subject to regulation under Subchapters B-I or O of this chapter (relating to Hazardous Waste Management General Provisions; Standards Applicable to Generators of Hazardous Waste; Standards Applicable to Transporters of Hazardous Waste; Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Interim Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities; Location Standards for Hazardous Waste Storage, Processing, or Disposal; Standards for the Management of Specific Wastes and Specific Types of Facilities; Prohibition on Open Dumps; and Land Disposal Restrictions); Chapter 1 of this title (relating to Purpose of Rules, General Provisions);

Chapter 3 of this title (relating to Definitions); Chapter 10 of this title (relating to Commission Meetings); Chapter 20 of this title (relating to Rulemaking); Chapter 37 of this title (relating to Financial Assurance); Chapter 39 of this title (relating to Public Notice); Chapter 40 of this title (relating to Alternative Dispute Resolution Procedures); Chapter 50 of this title (relating to Action on Applications); Chapter 55 of this title (relating to Request for Contested Case Hearings); Chapter 70 of this title (relating to Enforcement); Chapter 80 of this title (relating to Contested Case Hearings); Chapter 86 of this title (relating to Special Provisions for Contested Case Hearings; Chapter 261 of this title (relating to Introductory Provisions); Chapter 277 of this title (relating to Use Determinations for Tax Exemption for Pollution Control Property) or Chapter 305 of this title (relating to Consolidated Permits), except as provided in subsections (g) and (h) of this section:

(1) - (2) (No change.)

(3) fuels produced from the refining of oil-bearing hazardous waste along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under 40 Code of Federal Regulations §261.4(a)(12)); <u>and</u>

(4) the following hazardous waste fuels:

(A) Hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production or transportation practices, or produced from oil reclaimed from such hazardous wastes where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under 40 CFR §279.11 and so long as no other hazardous wastes are used to produce the hazardous waste fuel;

(B) Hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under 40 CFR §279.11;

(C) Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under 40 CFR §279.11[; and

(5) petroleum coke produced from petroleum refinery hazardous wastes containing oil by the same person who generated the waste, unless the resulting coke product exceeds one or more of the characteristics of hazardous waste in 40 CFR Part 261, Subpart C].

(d) - (m) (No change.)

§335.29. Adoption of Appendices by Reference.

The following appendices contained in 40 Code of Federal Regulations Part 261 are adopted by reference as amended and adopted through April 1, 1987, and as further amended as indicated in each paragraph:

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

(4) Appendix VII - Basis for Listing Hazardous Waste (as amended through August 6, 1998 [February 9, 1995], at 63 FedReg 42110 [60 FedReg 7824]);

(5) Appendix VIII--Hazardous Constituents (as amended through May 4, 1998 [April 17, 1995], at 63 FedReg 24596 [60 FedReg 19165]); and

(6) (No change.)

SUBCHAPTER H : STANDARDS FOR THE MANAGEMENT OF SPECIFIC WASTES AND SPECIFIC TYPES OF FACILITIES

DIVISION 1 : HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY

§§335.211, 335.213-335.214, 335.221, 335.241, 335.251, 335.261

STATUTORY AUTHORITY

The amendments are proposed under Texas Water Code §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code or other laws of this state; and under Texas Health and Safety Code, Solid Waste Disposal Act, §361.017 and §361.024, which authorize the commission to regulate industrial solid waste and municipal hazardous waste and to adopt rules consistent with the general intent and purposes of the Act.

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

§335.221. Applicability and Standards.

(a) (No change.)

(b) The following hazardous wastes and facilities are not regulated under §§335.221-335.229 of this title (relating to Hazardous Waste Burned in Boilers and Industrial Furnaces):

(1) (No change.)

(2) hazardous wastes that are exempt from regulation under the provisions of 40 CFR §261.4 and §335.24(c)(3)-(4[5]) of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials), and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under the provisions of §335.78 of this title (relating to Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators);

(3) -(4) (No change.)

SUBCHAPTER O : LAND DISPOSAL RESTRICTIONS

§335.431

STATUTORY AUTHORITY

The amendment is 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; and under Texas Health and Safety Code, Solid Waste Disposal Act, §361.017 and §361.024, which authorize the commission to regulate industrial solid waste and municipal hazardous waste and to adopt rules consistent with the general intent and purposes of the Act.

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

§335.431. Purpose, Scope, and Applicability.

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

(c) Adoption by Reference.

(1) except as provided in paragraph (2) of this subsection, and subject to the changes indicated in subsection (d) of this section, the regulations contained in 40 CFR, Part 268, as amended

through August 31, 1998, in 63 FedReg 46332[May 12, 1997, in 62 FedReg 25998] are adopted by reference.

(2) - (3) (No change.)

(d) (No change.)

Figure 1: 30 TAC §335.1(D)(iv)

TABLE 1

	Use Constituting Disposal	Energy Recovery/Fuel	Reclamation	Speculative Accumulation[2]
	S.W. Def. (D)(i)	S.W. Def. (D)(ii)	S.W. Def. (D)(iii)	S.W. Def. (D)(iv)
	(1)	(2)	(3)	(4)
Spent materials (listed hazardous & not listed characteristically hazardous)	*	*	*	*
Spent materials (nonhazardous)[1]	*	*	*	*
Sludges (listed hazardous in 40 CFR §261.31 or §261.32)	*	*	*	*
Sludges (not listed characteristically hazardous)	*	*		*
Sludges (nonhazardous)[1]	*	*		*
By-products (listed hazardous in 40 CFR §261.31 or §261.32)	*	*	*	*
By-products (not listed characteristically hazardous)	*	*		*
By-products (nonhazardous)[1]	*	*		*
Commercial chemical products (listed, not listed characteristically hazardous, and nonhazardous)	*	*		

Scrap metal other than excluded scrap metal (see §335.17(9)) (hazardous)	*	*	*	*
Scrap metal other than excluded scrap metal (see §335.17(9)) (nonhazardous)[1]	*	*	*	*

NOTE: The terms "spent materials", "sludges", "by-products", "scrap metal" and “excluded scrap metal” are defined in §335.17 of this title (relating to Special Definitions for Recyclable Materials and Nonhazardous Recyclable Materials).

[1]These materials are governed by the provisions of §335.24(h) only.

[2]Except as provided in 40 CFR §261.4(a)(16) for mineral processing secondary materials