

SUBCHAPTER P: FEES AND REPORTING
§§330.671, 330.673, 330.675, 330.677
Effective July 31, 2014

§330.671. Purpose and Applicability.

(a) Purpose.

(1) Fees. The commission is mandated by Texas Health and Safety Code, §361.013, to collect a fee for solid waste disposed of within the state, and from transporters of solid waste who are required to register with the state. Persons desiring to transport or deliver waste in enclosed containers or enclosed vehicles to a Type IV municipal solid waste management facility are subject to special route permit application and maintenance fees set forth and described in §330.103 of this title (relating to Collection and Transportation Requirements). The fee amount may be raised or lowered in accordance with spending levels authorized by the legislature.

(2) Industrial solid waste and hazardous waste fees. The assessment of fees for the generation, treatment, storage, or disposal of industrial solid waste or hazardous waste is governed by regulations contained in Chapter 335, Subchapter J of this title (relating to Hazardous Waste Generation, Facility and Disposal Fee System).

(3) Reports. The commission requires reports in order to track the amount of waste being stored, treated, processed, or disposed of in the state, to track the amount of processing and disposal capacity and reserve (future) disposal capacity, and to enable equitable assessment and collection of fees.

(b) Applicability.

(1) Fees. Each operator of a municipal solid waste disposal facility or process for disposal is required to pay a fee to the agency based upon the amount of waste received for disposal. For the purpose of this subchapter, "waste received for disposal" means the total amount of the waste (measured in tons or cubic yards, or determined by the population equivalent method specified in §330.675(a)(3) of this title (relating to Reports) received by a disposal facility at the gate, excluding only those wastes that are recycled or exempted from payment of fees under this subchapter or by law. For the purpose of these sections, landfills, waste incinerators, and sites used for land treatment or disposal of wastes, sites used for land application of sludge or similar waste for beneficial use, composting facilities, and other similar facilities or activities are determined to be disposal facilities or processes. Recycling operations or facilities that process waste for recycling are not considered disposal facilities. Source-separated material processed at a composting or mulch processing facility, including a composting or mulch processing facility located at a permitted landfill, is exempt from the fee

requirements set forth and described in these sections. The agency will credit any fee payment due under this subchapter for any material received and processed to compost or mulch product at the facility. Any compost or mulch product that is produced at a composting or mulch processing facility that is used in the operation of the facility or is disposed of in a landfill or used as landfill daily cover is not exempt from the fee.

(2) Industrial solid waste and hazardous waste fees. A fee for disposal of an industrial solid waste or hazardous waste in a municipal solid waste disposal facility shall be assessed at the rates prescribed under the authority of Chapter 335, Subchapter J of this title. If no fee under Chapter 335, Subchapter J of this title, is applicable to the disposal of an industrial solid waste or hazardous waste, then such waste shall be assessed a fee under this chapter for the disposal of solid waste in a municipal solid waste facility.

(3) Reports. All registered or permitted facility operators are required to submit reports to the executive director covering the types and amounts of waste processed or disposed of at the facility or process location; other pertinent information necessary to track the amount of waste generated and disposed of, recovered, or recycled; and the amount of processing or disposal capacity of facilities. The information requested on forms provided by the executive director shall not be considered confidential or classified information unless specifically authorized by law, and refusal to submit the form complete with accurate information by the applicable deadline shall be considered as a violation of this section and subject to appropriate enforcement action and penalty.

(4) Interest penalty. Owners or operators of a facility failing to make payment of the fees imposed under this subchapter when due shall be assessed penalties and interest in accordance with Chapter 12 of this title (relating to Payment of Fees).

Adopted July 2, 2014

Effective July 31, 2014

§330.673. Fees.

(a) Landfilling. Each operator of a facility in Texas that disposes of municipal solid waste (MSW) by means of landfilling, including landfilling of incinerator ash, is required to pay a fee to the agency for all waste received for disposal. The fee rate for waste disposed of by landfilling is dependent upon the reporting units used.

(1) Fee rates. For purposes of this subsection, uncompacted waste means any waste that is not a liquid or a sludge, has not been mechanically compacted by a collection vehicle, has not been driven over by heavy equipment prior to collection, or has not been compacted subsequent or prior to collection by any type of mechanical device other than small, in-house, compactor devices owned and/or operated by the

generator of the waste. Compacted waste is a liquid, sludge, or similar waste or any waste that has been reduced in volume by a collection vehicle or by any other means including, but not limited to, dewatering, composting, incineration, and similar processes.

(A) Tons. For waste reported in tons, the fee rate is \$0.94 per ton received for disposal.

(B) Cubic yards (compacted). For waste reported in compacted cubic yards, the fee rate is \$0.30 per cubic yard received for disposal.

(C) Cubic yards (uncompacted). For waste reported in uncompacted cubic yards, the fee rate is \$0.19 per cubic yard received for disposal.

(2) Measurement options. The volume or weight reported on the quarterly solid waste summary report must be consistent with the volume or weight of the waste received for disposal, as defined in §330.671(b)(1) of this title (relating to Purpose and Applicability). The volume or weight of the waste received for disposal shall be determined prior to disposal or processing of the waste.

(A) The recommended method for measuring and reporting waste received at the gate is in short tons. The facility operator must accurately measure and report the number of cubic yards or tons of waste received at the gate.

(i) The fee for waste reported in short tons will be calculated by the executive director at an amount equal to \$0.94 per ton.

(ii) The fee for compacted waste reported in cubic yards will be calculated by the executive director at an amount equal to \$0.30 per cubic yard.

(iii) The fee for uncompacted waste reported in cubic yards will be calculated by the executive director at an amount equal to \$0.19 per cubic yard.

(B) If a landfill operator chooses to report the amount of waste received utilizing the population equivalent method authorized in §330.675(a)(3) of this title (relating to Reports), the fee for such waste received shall be calculated by the executive director at an amount equal to \$0.94 per ton.

(3) Fee calculation. The fee shall be calculated by the executive director using information obtained from the quarterly solid waste summary report. The total cubic yards or tonnage reported to the executive director in the quarterly solid waste summary report shall be derived from gate tickets (weight or volume) or invoices, except in the case of operators who are authorized to report utilizing the population equivalent

method in §330.675(a)(3) of this title, and records of recycled materials or any other information deemed relevant by the executive director. A billing statement will be generated quarterly by the executive director and forwarded to the applicable permittee/registrant or a designated representative.

(4) Fee due date. All solid waste fees shall be due within 30 days of the date the payment is requested.

(5) Method of payment. The required fee shall be submitted in the form of a check or money order made payable to the Texas Commission on Environmental Quality and delivered or mailed to the return address designated by the executive director in the billing statement distributed quarterly.

(6) Penalties. Failure of the landfill operator to submit the required fee payment by the due date shall be sufficient cause for the commission to revoke the landfill permit and authorization to process or dispose of waste. The commission may assess interest penalties for late payment of fees and may also assess penalties (fines) in accordance with Texas Water Code, §7.051 (relating to Administrative Penalty), or take any other action authorized by law to secure compliance.

(7) Exemptions.

(A) A fee will not be charged on solid waste resulting from a public entity's effort to protect the public health and safety of the community from the effects of a natural or man-made disaster or from structures that have been contributing to drug trafficking or other crimes if the disposal facility at which that solid waste is offered for disposal has donated to a municipality, county, or other political subdivision the cost of disposing of that waste.

(B) A fee only for the amount determined necessary to reimburse MSW regulatory activities will be charged federal facilities. Prior to the fourth MSW billing quarter following the close of each regular session of the Texas State Legislature, the Texas Commission on Environmental Quality's chief financial officer will determine the percentage of the MSW disposal fee that represents reimbursement for regulatory implementation of the state MSW program and the percentage that represents a state tax. The percentage determination shall be reported to the MSW Permits Section for use in determining fees owed by federal facilities. The MSW Permits Section shall grant federal facilities a credit on their MSW fees equal to the percentage of the fee determined to be a state tax. The credit shall be applied to each billing quarter beginning with the first billing quarter of the state fiscal year.

(b) Incinerators and processes for disposal. Each operator of a facility that disposes of or processes MSW for disposal by means other than landfilling is required to

pay a fee to the agency for all waste received for processing or disposal. Facilities and/or processes included in this category include, but are not limited to, incineration; composting; application of sludge, septic tank waste, or shredded waste to the land; and similar facilities or processes. Not included as a process for disposal is land application of waste that has already been properly composted in one of the facilities named.

(1) Fee rates. For purposes of this subsection, uncompacted waste means any waste that is not a liquid or a sludge, has not been mechanically compacted by a collection vehicle, has not been driven over by heavy equipment prior to collection, or has not been compacted subsequent or prior to collection by any type of mechanical device other than small, in-house, compactor devices owned and/or operated by the generator of the waste. Compacted waste is a liquid, sludge, or similar waste or any waste that has been reduced in volume by a collection vehicle or by any other means including, but not limited to, dewatering, composting, incineration, and similar processes.

(A) Tons. For waste reported in tons, the fee rate is \$0.47 per ton received.

(B) Cubic yards (compacted). For waste reported in compacted cubic yards, the fee rate is \$0.15 per cubic yard received.

(C) Cubic yards (uncompacted). For waste reported in uncompacted cubic yards, the fee rate is \$0.09 and one-half cent per cubic yard received.

(2) Measurement options. The volume or weight reported on the quarterly solid waste summary report must be consistent with the volume or weight of the waste received for disposal, as defined in §330.671(b)(1) of this title. The volume or weight of the waste received for disposal shall be determined prior to disposal or processing of the waste.

(A) The recommended method for measuring and reporting waste received at the gate is in short tons. The operator must accurately measure and report the number of cubic yards or tons of waste received.

(i) The fee for waste reported in short tons will be calculated by the executive director at an amount equal to \$0.47 per ton.

(ii) The fee for compacted waste reported in cubic yards will be calculated by the executive director at an amount equal to \$0.15 per cubic yard.

(iii) The fee for uncompacted waste reported in cubic yards will be calculated by the executive director at an amount equal to \$0.09 and one-half cent per cubic yard.

(B) If a facility operator chooses to report the amount of waste received utilizing the population equivalent method authorized in §330.675(a)(3) of this title, the fee shall be calculated by the executive director at an amount equal to \$0.47 per ton.

(3) Fee calculation. The fee shall be calculated by the executive director using information obtained from the quarterly solid waste summary report. The total cubic yards or tonnage reported to the executive director in the quarterly solid waste summary report shall be derived from gate tickets (weight or volume) or invoices, except in the case of operators who are authorized to report utilizing the population equivalent method in §330.675(a)(3) of this title, and records of recycled materials or any other information deemed relevant by the executive director. A billing statement will be generated quarterly by the executive director and forwarded to the applicable permittee/registrant or a designated representative.

(4) Fee due date. All solid waste fees shall be due within 30 days of the date the payment is requested.

(5) Method of payment. The required fee shall be submitted in the form of a check or money order made payable to the Texas Commission on Environmental Quality and delivered or mailed to the return address designated by the executive director in the billing statement distributed quarterly.

(6) Penalties. Failure of the facility or process operator to submit the required fee payment by the due date shall be sufficient cause for the commission to revoke the permit or registration and authorization to process or dispose of waste. The commission may assess interest penalties for late payment of fees and may also assess penalties (fines) in accordance with Texas Water Code, §7.051, or take any other action authorized by law to secure compliance.

(7) Exemptions. A fee will not be charged on solid waste resulting from a public entity's effort to protect the public health and safety of the community from the effects of a natural or man-made disaster or from structures that have been contributing to drug trafficking or other crimes if the disposal facility at which that solid waste is offered for disposal has donated to a municipality, county, or other political subdivision the cost of disposing of that waste.

(c) Facilities and processes not for disposal. Facilities or processes not included in the scope of subsections (a) and (b) of this section shall be considered as "facilities and

processes not for disposal." Facilities and processes not for disposal are those facilities that are permitted or registered independently from landfill, incinerator, or disposal processing operations and include, but are not limited to, such facilities or processes as transfer stations, shredders, balers, methane extractors, etc. Facilities and processes not for disposal are not required to pay a fee to the agency, but are required to submit reports.

Adopted July 2, 2014

Effective July 31, 2014

§330.675. Reports.

(a) Disposal facilities and processes.

(1) Municipal Solid Waste Fee Report frequency, report form, and report information.

(A) Report frequency. Quarterly, each disposal facility or process operator shall report to the executive director the information requested on the report form for the appropriate reporting period including the amount of source-separated material processed to compost or mulch product. Annually, the operator shall submit a summary of the information to show the yearly totals and year-end status of the facility or process, as requested on the report form, for the appropriate reporting period. An operator shall file a separate report for each facility that has a unique permit, permit application number, or registration number.

(B) Report form. The report shall be on a form furnished by the executive director or reproduced from a form furnished by the executive director or by an electronic form or format furnished by the executive director. Forms reproduced by the facility operator are not recommended because each report form for each reporting period will have two unique numbers on each form. One number will specifically identify the facility for which the report is made; the other number will specifically identify the individual form. To use the wrong form, or the form intended for a different reporting period, will automatically make the data incorrect for that facility report. The operator will receive one form from the executive director for each facility or process prior to the due date. The operator must assure that the data entered on the form are applicable for the particular facility and period for which the data are reported.

(C) Report information. In addition to a statement of the amount of waste received for processing or disposal, the report shall contain other information requested on the form, including the facility operator's name, address, and phone number; the permit number, permit application number, or registration number; the facility type, size, and capacity; and other information the executive director may request.

(2) Reporting units. The amount of waste received for processing or disposal shall be reported in short tons (2,000 pounds) or in cubic yards as received (compacted or uncompacted) at the gate. If accounting of the waste is recorded in cubic yards, then separate accounting must be made for waste that comes to the facility in open vehicles or without compaction, and waste that comes to the facility in compactor vehicles. If scales are not utilized and accounting of the waste received is in cubic yards, gallons, or drums then those volumetric units may be converted to tons for reporting purposes, using the conversion factors set forth in subparagraphs (A) and (B) of this paragraph.

(A) General weight/volume conversion factors for various types of waste shall be as follows:

- (i) one ton = 2,000 pounds;
- (ii) one gallon = 7.5 pounds (grease trap waste);
- (iii) one gallon = 8.5 pounds (wastewater treatment plant sludge or septage);
- (iv) one gallon = 9.0 pounds (grit trap waste); and
- (v) one drum = 55 gallons.

(B) Conversion factors to be used for waste transport vehicles relative to waste volume and weight in vehicles shall be as follows:

- (i) one cubic yard = 400 pounds (no compaction);
 - (ii) one cubic yard = 666.66 pounds (medium compaction);
- and
- (iii) one cubic yard = 800 pounds (heavy compaction).

(3) Use of population equivalent. In determining the amount of waste deposited in a landfill serving less than 5,000 people or the amount of waste processed for disposal at a processing facility serving less than 5,000 people, the owner/operator may use the number of tons calculated or derived from the population served by the facility in lieu of maintaining records of the waste deposited at the facility. The amount of waste shall be calculated on the basis of one ton per person per year. The report shall document the population served by the facility and reflect any changes since the previous report.

(4) Reporting units for beneficial land use application sites. Wastewater treatment plant sludge and septage received for disposal at registered beneficial use land application sites in vacuum or closed tank trucks may be reported in dry weight equivalent units, provided the site operator either produces satisfactory documentation indicating the percent solids present in the received waste materials or uses the dry weight/volume conversion factors set forth in subparagraphs (A) and (B) of this paragraph:

(A) one gallon = 0.5 pounds (sludge - dry weight equivalent); and

(B) one gallon = 0.3 pounds (septage - dry weight equivalent).

(5) Report due date. The required quarterly solid waste summary report shall be submitted to the executive director not later than 20 days following the end of the fiscal quarter for which the report is applicable. The fiscal year begins on September 1, and concludes on August 31.

(6) Method of submission. The required report shall be delivered or mailed to the agency to the return address designated by the executive director in the billing statement distributed quarterly.

(7) Penalties. Failure of the facility or process operator to submit the required report by the due date shall be sufficient cause for the commission to revoke the permit or registration and authorization to process or dispose of waste. The commission may assess interest penalties for late payment of fees and may also assess penalties (fines) in accordance with Texas Water Code, §7.051 (relating to Administrative Penalty) or take any other action authorized by law to secure compliance.

(b) Facilities and processes not for disposal. Facilities and processes not for disposal (as defined in §330.673(c) of this title (relating to Fees)) are subject to reporting requirements, but are not required to pay a fee.

(1) Municipal Solid Waste Annual Summary Report frequency, report form, and report information.

(A) Report frequency. Annually, each facility or process operator shall report to the executive director the information requested on the report form for the appropriate reporting period. An operator shall file a separate report for each facility that has a unique permit, permit application number, or registration number.

(B) Report form. The form of the report shall be in accordance with subsection (a)(1)(B) of this section.

(C) Report information. The information in the report shall be in accordance with subsection (a)(1)(C) of this section.

(2) Reporting units. The units used in reporting shall be in accordance with subsection (a)(2) of this section.

(3) Use of population equivalent. The use of the population equivalent method of reporting waste received or processed shall be in accordance with subsection (a)(3) of this section.

(4) Report due date. The required annual report shall be submitted to the executive director not later than 45 days following the calendar year for which the report is applicable.

(5) Method of submission. The required report shall be delivered or mailed to the agency to the return address designated by the executive director in the billing statement distributed quarterly.

(6) Penalties. Failure of the facility or process operator to submit the required report by the due date shall be sufficient cause for the commission to revoke the permit or registration and authorization to process or dispose of waste. The commission may assess interest penalties for late payment of fees and may also assess penalties (fines) in accordance with Texas Water Code, §7.051 or take any other action authorized by law to secure compliance.

Adopted July 2, 2014

Effective July 31, 2014

§330.677. Composting Refund.

(a) Any compost or product for composting that is not used as compost and is deposited in a landfill or used as daily landfill cover is not exempt from fees due under §330.673 of this title (relating to Fees). In order to be eligible to receive a refund authorized by this subsection, the operator of the facility must submit to the executive director a composting plan and receive written approval of the plan by the executive director.

(b) The operator of a public or privately owned municipal solid waste facility is entitled to a refund of up to 15% of the solid waste fees collected under §330.673 of this title if:

(1) the refunds are used to lease or purchase and operate equipment necessary to compost yard waste or to contract for the on-site composting of yard waste;

(2) composting operations are actually performed; and

(3) the finished compost material produced by the facility is returned to beneficial reuse.

(c) The amount of refund authorized by this subsection shall increase to up to 20% of the total solid waste fees collected by the facility if, in addition to composting the yard waste, the operator of the facility voluntarily bans the disposal of yard waste at the facility.

(d) The total amount of the refund authorized by this subsection shall be limited to the amount identified in the facility's composting plan.

(e) The composting refund is collectable beginning on the date that the first composting operations occur in accordance with the approved composting plan. The executive director will normally allow the composting refund to be applied as a credit against fees required to be collected under §330.673 of this title. The operator is entitled to a refund of a percentage of the fees collected by the facility on or after the date that the executive director approves the composting plan.

(f) The executive director shall conduct an annual assessment of the composting operation to ensure composting activities are conducted in accordance with the approved composting plan. Failure to comply with the composting plan may result in the suspension of the composting refund.

Adopted March 1, 2006

Effective March 27, 2006