

# **Texas Commission on Environmental Quality Industrial and Hazardous Waste Permits Stakeholder Meeting Handout May 13, 2025**

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## **TCEQ Staff Present**

Ms. Charly Fritz

Mr. Martin Torres

Ms. Danielle Lesikar

Mr. Sri Venkat

Ms. Jarita Sepulvado

Mr. Lance Christian

## **Agenda**

10:00 am – Welcome and Introduction – Mr. Lance Christian

10:10 am – Presentation of Discussion Topics – Ms. Jarita Sepulvado

10:40 am – Stakeholder Comments

Stakeholders may provide verbal comments during the meeting. We will start with the topics in the handout and then proceed to new topics brought forth by stakeholders. Verbal comments will be limited to five minutes while others are waiting to speak. You may continue your verbal comments after others have been provided an opportunity to speak.

Written comments and supporting documentation may be submitted to IHW Permits at [IHWRules@tceq.texas.gov](mailto:IHWRules@tceq.texas.gov). Written comments may be submitted until June 13, 2025.

## **Discussion Topics**

### Acronyms

- ASTM – American Society for Testing and Materials
- CFR – Code of Federal Regulations
- EPA – United States Environmental Protection Agency
- IHW – Industrial Hazardous Waste
- IHW Permits – Industrial Hazardous Waste Permits Section
- MCL – Maximum Contaminant Level
- RCRA – Resource Conservation and Recovery Act
- SB – Senate Bill
- SW-846 – Test Methods for Evaluating Solid Waste, Physical/Chemical Methods
- TAC – Texas Administrative Code
- TCEQ – Texas Commission on Environmental Quality
- THSC – Texas Health and Safety Code

Unless otherwise noted, all rules listed below are from 30 Texas Administrative Code

Chapter 305: [https://texas-sos.appianportalsgov.com/rules-and-meetings?chapter=305&interface=VIEW\\_TAC&part=1&title=30#](https://texas-sos.appianportalsgov.com/rules-and-meetings?chapter=305&interface=VIEW_TAC&part=1&title=30#)

Chapter 335: [https://texas-sos.appianportalsgov.com/rules-and-meetings?chapter=335&interface=VIEW\\_TAC&part=1&title=30#](https://texas-sos.appianportalsgov.com/rules-and-meetings?chapter=335&interface=VIEW_TAC&part=1&title=30#)

### ***Zinc Fertilizers Made from Recycled Hazardous Secondary Materials (EPA Checklist 200)***

EPA's federal rule established a more consistent regulatory framework for the practice of making zinc fertilizer products from recycled hazardous secondary materials. More specifically, it established conditions for excluding hazardous secondary materials used to make zinc fertilizers from the regulatory definition of solid waste. The rule also established new product specifications for contaminants in zinc fertilizers made from those secondary materials.

This revision to state rules was unintentionally excluded during the original rule adoption and must be corrected to bring the state rule into equivalency with federal rules for RCRA authorization purposes. While the original checklist was optional, since TCEQ has partially adopted the zinc fertilizer rule, TCEQ will seek final authorization of the zinc fertilizer rules and will need to adopt the rest of these federal rules. IHW Permits is alerting stakeholders to this future rule change.

More information from EPA: <https://www.epa.gov/rcra/state-authorization-rule-checklists-200-through-202-hazardous-waste-rulemakings-published>

### ***Modernizing Ignitable Liquids Determinations (EPA Checklist 243)***

EPA's federal rule finalized updates to the flash point test methods from 1978, 1979, and 1980 (required for determining if a liquid waste is an ignitable hazardous waste) to include current ASTM International standards. EPA also finalized the codification of existing guidance to define "aqueous" as "50% water by weight." EPA finalized updates to correct cross references to U.S. DOT regulations and to remove obsolete information in the ignitability regulation. Lastly, EPA finalized alternatives to the use of mercury thermometers in the air sampling and stack emissions methods 0010, 0011, 0020, 0023A, and 0051 in SW-846.

State implementation of this checklist is optional. IHW Permits is looking for feedback on the necessity of these changes and updates to the acceptable methods.

More information from EPA: <https://www.epa.gov/rcra/state-authorization-rule-checklist-243-hazardous-waste-rulemakings-published-between-july-2020>

### ***Conforming Changes to Canada-Specific Hazardous Waste Import-Export Recovery and Disposal Operation Codes (EPA Checklist 244)***

EPA's federal rule made conforming changes to regulations related to twelve hazardous waste import-export recovery and disposal operations used in hazardous waste export and import notices submitted to EPA by U.S. exporters and importers, and in movement documents that accompany export and import shipments. The changes to regulations related to these twelve recovery and disposal operations are needed to reflect changes to regulations related to

Canadian import-export recovery and disposal operations that Canada promulgated in the Canada Gazette Part II on March 17, 2021, and that became effective in Canada on October 31, 2021.

State implementation of this checklist is required to maintain equivalency with EPA federal rules. As a required rule revision, IHW Permits is alerting stakeholders to this future rule change.

More information from EPA: <https://www.epa.gov/rcra/state-authorization-rule-checklist-244-hazardous-waste-rulemakings-published-between-july-2021>

## ***Test Method for Standards to Control Organic Emissions (EPA Checklist 245)***

EPA's federal rule finalized editorial and technical revisions to EPA's Method 23 (Determination of Polychlorinated Dibenzo-p-Dioxins, Polychlorinated Dibenzofurans, and Polycyclic Aromatic Hydrocarbons from Stationary Sources) and specified that it can be used instead of SW-846 method 0023A.

State implementation of this checklist is optional. IHW Permits is seeking stakeholder feedback on these federal revisions and on using SW-846 method 0023A without prior approval.

More information from EPA: <https://www.epa.gov/rcra/state-authorization-rule-checklist-245-hazardous-waste-rulemakings-published-between-july-2022>

## ***Applicability of Waste Management Activities in Ch. 305***

### ***§305.1(a) - Consolidated Permits, General Provisions, Scope and Applicability***

[§305.1\(a\)](#), the first clause of Chapter 305, describes the purpose of Chapter 305 as the standards and requirements for applications and permits for the "management of waste disposal activities". Confusion has arisen because the description of the waste management activities includes "disposal" and not all waste management activities, such as treatment and storage.

IHW Permits interprets Chapter 305 to apply to both solid waste disposal and other solid waste management activities, such as treatment and storage. IHW Permits seeks feedback on this interpretation and input on any unintended consequences if "disposal" is removed.

## ***Number of Paper Copies Required for Applications***

### ***§305.50(a)(1) - Consolidated Permits, Additional Requirements for an Application for a Hazardous or Industrial Solid Waste Permit and for a Post-Closure Order***

[§305.50\(a\)\(1\)](#) lists requirements to apply for a permit to process, store, or dispose of solid waste. The rule presently requires one original and three copies of the permit application, but [§281.5\(b\)](#) was amended in November 2024 to require an accurate duplicate of the application in electronic format (November 8, 2024; 49 Texas Register 8924); therefore, [§305.50\(a\)\(1\)](#) must be amended to reflect that new requirement.

IHW Permits must receive at least one original paper application due to Cross-Media Electronic Reporting Rule (CROMERR), which has certain requirements for electronic reporting.

IHW Permits seeks stakeholders' concurrence and feedback on the number of copies and allowing or requiring electronic copies for industrial and hazardous waste applications.

## ***Flexibility in Financial Capability Demonstrations***

### ***§305.50(a)(4)(B) - Additional Requirements for an Application for a Hazardous or Industrial Solid Waste Permit and for a Post-Closure Order***

In 1991, the 72nd Texas Legislature (SB 1099) amended THSC §361.085(a) and required the commission request information to demonstrate that an applicant has sufficient financial resources to construct, operate, and close a facility prior to issuing, amending, or renewing a hazardous waste permit. This is informally referred to as a financial capability demonstration.

THSC §361.085(a) states an entity can submit balance sheets, financial statements, disclosure of investor information, or financial assurance information. TCEQ rule, §305.50(a)(4)(B), implements the statute and describes the necessary documents to complete a financial capability demonstration but does not allow entities to use financial assurance documents.

Financial assurance is required as part of the RCRA hazardous waste program for all active hazardous waste facilities to ensure the entity will have the financial resources to properly close the facility and provide sufficient emergency response. The commission rules require applicants to submit a financial assurance demonstration and a financial capability demonstration, but the financial assurance demonstration cannot take the place of the financial capability demonstration.

The rule as written does not provide an entity the ability when amending, modifying, transferring, or renewing an existing permit (i.e., an entity that has previously submitted and received approval on a financial capability demonstration) the flexibility to use financial assurance documents to satisfy the financial capability demonstration. The current process delays permit processing and makes the applications for transfer of ownership of a permit with financial assurance inefficient.

IHW Permits is looking for input on whether to allow certain entities to use financial assurance documents for the financial capability demonstration.

## ***Public Participation Rules for Class 3 Modifications***

### ***§305.69(d) - Solid Waste Permit Modification at the Request of the Permittee***

Applicant-held public meeting requirements currently listed in §305.69(d) are outdated. Legislation passed in 1999 changed the public participation procedures for major applications, including Class 3 modifications. The language in §305.69 was not updated to match the new procedures and has created some confusion among the public and regulated entities. The current rule language is misleading and may lead an applicant to follow improper meeting procedures.

IHW Permits is seeking feedback on how to best clarify the applicant-held public meeting requirements for applications received after 1999.

## ***Timing of Environmental Audits for Commercial Hazardous Waste Permitted Facilities***

### ***§305.147 - Monitoring of Commercial Hazardous Waste Management Facility Operations***

A question arose whether a commercial, hazardous-waste-permitted facility had to perform an environmental audit if it received no public request to do so during the notice period for the facility's permit renewal. The current rules are vague as to when a facility must perform an environmental audit. This leads to confusion and the possibility of varying interpretations of this topic for all interested parties.

The requirement for a facility to perform an environmental audit is not necessary in subsequent years if:

- (1) an initial notice and requirements of §305.147 are met, and
- (2) the facility did not submit any modification, amendment, or renewal, and
- (3) TCEQ did not take any action on the application following the initial action.

However, the commercial, hazardous waste permitted facility is required to meet the requirements again if an application for an amendment, modification, or renewal is submitted during the life of the permit.

The current language in §305.147 has caused confusion and is not precise in defining when an environmental audit is required, which has caused compliance delays by permitted facilities.

IHW Permits seeks feedback on how to improve and clarify the environmental audit rules.

## ***Class 1 Waste Reporting***

### ***§335.10(c) - Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class 1 Waste***

Class 1 generators formerly were required to submit an exception report regarding missing shipping manifests for transported Class 1 waste. This reporting requirement is necessary and useful to track missing hazardous or Class 1 waste shipments. Presently, there is an information divide for regulators due to the repealed reporting requirements. Additionally, language is missing from §335.10(c) that would specify how Class 1 generators will comply with the 60-day federal reporting requirement.

IHW Permits intends to update these rules to fix this omission and is alerting stakeholders to this future rule change.

## ***Elementary Neutralization Unit Definition***

### ***§335.41(d)(1) - Purpose, Scope and Applicability***

Both federal (§264.1(g)(6)) and state (§335.41(d)(1)) exemptions exist for elementary neutralization units, but these rules differ slightly. The federal exemption includes verbiage referencing *both* elementary neutralization units (ENUs) and wastewater treatment units (WTUs) within the same rule. This creates confusion in the federal rule because the rule includes language that refers to diluting ignitable (D001) waste and reactive (D003) waste before land applying. However, this language only applies to waste being treated in a WTU. It does *not* apply to waste being treated in an ENU.

TCEQ has simplified this issue to a degree by splitting the ENU exemption (§335.41(d)(1)) and the WTU (§335.41(d)(5)) exemption into individual rules. The two rules were created as near duplicates, first excluding the WTU from rule §335.41(d)(1) and excluding the ENU from rule §335.41(d)(5). As a result, rule §335.41(d)(1) includes the same language that refers to diluting ignitable (D001) waste and reactive (D003) waste that is contained in the federal rule and in state rule §335.4(d)(5). However, this language regarding D001 and D003 wastes is not relevant

to an ENU, which only processes corrosive (D002) waste. Therefore, the state rule (§335.41(d)(1)) incorrectly contains the reference to ignitable (D001) and reactive (D003) wastes for a unit which is not allowed to process those two wastes. This language may create confusion by implying that an owner/operator of an ENU can process ignitable (D001) and/or reactive (D003) waste, which is not correct.

IHW Permits seeks confirmation that ignitable and reactive wastes are incorrectly applied to ENUs and input on clarification of these two rules.

## ***Management of Ink Wastes***

### ***§335.262(b) – Universal Waste Rule, Standards for Management of Paint and Paint-Related Waste***

Under §335.1, paint and paint-related waste is defined as used or unused paint and paint-related material which is hazardous waste, as determined by the criteria in §335.504 (relating to hazardous waste determination), and that qualifies as paint" or "paint-related waste" under §335.262(b). Paint and paint-related waste that meets these criteria can be managed as Universal Waste. The Universal Waste regulations for paint and paint-related waste in Texas streamline the hazardous waste management standards for certain categories of hazardous paint and paint-related waste that are commonly generated by a wide variety of establishments.

There may be a limited number of circumstances in which ink can be regarded as a “paint and paint related waste” within the scope of §335.262(b) (relating to Standards for Management of Paint and Paint-Related Waste); however, several issues must be considered when addressing this question.

- Whether the ink is a hazardous waste;
- Whether the pigments(s) in ink and its liquid carriers from a printing and industrial applications have a chemical composition similar enough to paint to qualify as paint;
- Whether the common mode of applying the ink to a surface is by spreading it onto the surface as would normally be the case with painting activities; and
- The extent to which ink meets the criteria contained in the dictionary definition for paint.

Additionally, §335.262(b) contains the word “spread” (brushed or rolled), which strongly suggests that only through a typical application method can a waste be considered a Universal Waste. Some printing processes do use rollers to meter the ink; however, there are other printing processes where the ink is not metered through a series of rollers.

IHW Permits seeks input and feedback on whether waste ink meets the same criteria as paint and paint-related waste. If so, would that ink waste would be handled as Universal Waste under the “paint and paint-related waste” rules (§335.262(b)) or another new section of the Universal Waste Rule.

## ***Maximum Contaminant Levels***

### ***§335.521(a)(3) – Appendix 1: Table 3***

Rule §335.507 contains the requirements for an industrial solid waste to be classified as a Class 3 waste. Two characteristics that the waste must exhibit to be considered a Class 3 waste are: 1) insoluble and 2) inert. The waste must undergo a seven-day distilled water leachate test, and the resulting leachate must not contain constituents that exceed the National Primary

Drinking Water Regulations, Maximum Contaminant Level concentrations listed in Appendix 1, Table 3 located in [§335.521\(a\)\(3\)](#). The Maximum Contaminant Level concentrations are periodically updated at the federal level and correspondingly must be updated at the state level as well.

The MCLs for arsenic and lead were updated. IHW Permits seeks concurrence from stakeholders that these values should be updated.

## ***Recycling of Organic Material***

Over the last five years, IHW Permits has seen a significant increase in the amount of recycling requests for organic materials, including industrial food wastes, solids from wastewater treatment plants, solids from industrial process units, etc. Recycling methods include existing and emerging technologies.

TCEQ invites stakeholder input on the beneficial reuse of organic recyclable materials, specifically regarding its applicability, waste type, management and operational methods, and other factors that should be considered during evaluation and processing recycling notification. Of particular interest is recycling through land application of organic materials.