


Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** June 30, 2023

Thru: Laurie Gharis, Chief Clerk
Kelly Keel, Interim Executive Director

From: Beth Seaton, Director 
Office of Waste

Docket No.: 2022-1526-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 330, Municipal Solid Waste
Regional Solid Waste Management Plans Approval
Rule Project No. 2022-035-330-WS

Background and reason(s) for the rulemaking:

In Texas, 24 regional planning commissions, also known as councils of governments (COGs), have the primary responsibility under Texas Health and Safety Code (THSC), §363.0615 for regional solid waste management planning. All 24 COGs submitted regional solid waste management plans, approved by their Boards of Directors, to the Texas Commission on Environmental Quality (TCEQ or commission). TCEQ reviewed these plans in accordance with THSC, Chapter 363, Subchapter D. This rulemaking will adopt the approved regional solid waste management plans in accordance with THSC, §363.062(f), which directs the commission to adopt the plans by rule.

The regional solid waste management plans include goals and strategies for implementing and promoting proper waste disposal management, waste diversion from landfills, recycling, and waste minimization, as well as initiatives for reducing illegal dumping of waste in each planning region for the period of 2022-2042. The regional solid waste management plans also describe the regions' current and anticipated activities as required by 30 Texas Administrative Code (TAC) §330.643(a)(3). Plan requirements include documenting and estimating future growth for the region's population and commercial and industrial growth; estimating future solid waste amounts by type; descriptions of current and planned waste management activities; and assessment and adequacy of existing waste management facilities, practices, and programs. The regional solid waste management plans also require assessment of current and future efforts of source reduction and waste minimization activities, as well as reuse and recycling of waste.

The regional solid waste management plans were developed by each COG using the most recent population, business, industry, and solid waste management data available from the State of Texas, universities, and financial and business entities. Local stakeholders were also surveyed to solicit input for the plans.

Notice of the plans' availability for public review were published in local newspapers and/or media pages and public comment meetings were scheduled and held in all 24 COG areas. The final regional solid waste management plans were approved by each COG's Solid Waste Advisory Committee and their Boards of Directors.

Scope of the rulemaking:

This rulemaking will adopt in rule the 24 regional solid waste management plans developed by the COGs. Each regional solid waste management plan has been reviewed by TCEQ technical staff, including the Regional Solid Waste Grants Program, the Municipal Solid Waste Section, and Environmental Law Division attorneys. After technical review, the regional solid waste management plans were approved by Waste Permits Division management. Copies of the adopted regional solid waste management plans are available for public review on the commission's website at www.tceq.texas.gov/goto/wastegrant.

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A.) Summary of what the rulemaking will do:

This rulemaking will revise 30 TAC §330.647 to adopt the 24 approved regional solid waste management plans developed by the COGs for the period 2022-2042.

B.) Scope required by federal regulations or state statutes:

In accordance with THSC, §363.062(f), this rulemaking will adopt the 24 approved regional solid waste management plans.

C.) Additional staff recommendations that are not required by federal rule or state statute:

There are no additional staff recommendations.

Statutory authority:

The rulemaking is adopted under Texas Water Code (TWC), §5.102 (relating to General Powers), which provides the commission the power to perform any acts necessary and convenient to the commission's exercise of its jurisdiction and powers as provided in this code and other laws; TWC, §5.103 (relating to Rules), which authorizes the commission to adopt any rules necessary to carry out its powers and duties under this code and other laws of this state; TWC, §5.105 (relating to General Policy), which provides the commission with the authority to establish and approve by rule all general policy of the commission; the Administrative Procedures Act under Texas Government Code, Chapter 2001, which authorizes the commission as a state agency to adopt rules pursuant to the rulemaking process; and THSC, §363.062 (relating to Regional Solid Waste Management Plan), which authorizes the commission to consider for approval and to adopt by rule an approved regional solid waste management plan that is developed and submitted to the commission for review in accordance with THSC, §363.0615.

Effect on the:

A.) Regulated community: If adopted, public and private solid waste management activities should conform with the applicable regional solid waste management plan, per THSC, §363.066. Currently, public and private solid waste management activities must conform with the applicable existing regional solid waste management plans so this would not create a new group of affected persons.

B.) Public: If adopted, the COGs may implement their regional solid waste management plans. Proper implementation of the approved plans may provide regional planning and coordination of solid waste activities, which could lead to increased access to proper waste disposal, waste diversion, and recycling as well as reduced illegal dumping of waste.

C.) Agency programs: If adopted, the COGs may implement their regional solid waste management plans using various resources, including TCEQ's Regional Solid Waste Management Grants Program.

Stakeholder meetings:

Each COG has a Solid Waste Advisory Committee, composed of staff and elected officials from local cities and counties, educational groups, and industry, that directs their solid waste management program and that reviewed the COG's draft regional solid waste management plan.

In developing the regional solid waste management plans, COGs used surveys to solicit feedback from stakeholders in their regions. Additionally, each COG was required to have at least one meeting to receive comments from the public.

In August 2022, TCEQ provided the public with the opportunity to make informal comments on the draft regional solid waste management plans. No comments were received.

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The commission did not hold any stakeholder meetings related to this rulemaking; however, a rule public hearing was held during the comment period in Austin.

Public Involvement Plan

A public involvement plan was completed for this rulemaking and is available by request.

Alternative Language Requirements

TCEQ Commission Meeting Agenda Items and TCEQ's website for accepting public comments were published in English and Spanish, and the opportunity to request a translator was offered for the public hearing on this rulemaking. No one requested a translator.

Public comment:

The commission held a hybrid public hearing on March 23, 2023. The comment period closed on March 27, 2023. The commission received comments from Harris County Pollution Control Services and one individual. Comments focused on recycling rates and goals; a COG's plan for new and expanding MSW facilities; community partnerships; requirements for a solid waste facility conforming to a COG plan; publication requirements; TCEQ's response to public comments on permitting matters; landfill requirements for reporting data; and mattress recycling. The commenters were neither in support of nor against the proposed rule revisions. The executive director considered all comments. All comments requested changes.

Significant changes from proposal:

There were no changes made to the proposed rulemaking.

Potential controversial concerns and legislative interest:

No controversial concerns are anticipated. The stakeholder process and public meetings to develop the regional solid waste management plans did not reveal any controversial concerns or issues.

Will this rulemaking affect any current policies or require development of new policies? This rulemaking would not have any effect on current policies or require development of new policies.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

If this rulemaking does not go forward, then the 24 COGs will be using regional solid waste management plans with outdated information and goals. This would result in the COGs not having up-to-date, commission-approved strategies to guide solid waste planning in their regions, including how they implement their regional solid waste management grant funding.

Key points in the adoption rulemaking schedule:

Texas Register publication date: February 24, 2023

Anticipated adoption publication date: August 4, 2023

Anticipated effective date: August 10, 2023

Six-month Texas Register filing deadline: August 24, 2023

Agency contacts:

Jessica Uramkin, Project Manager, Waste Permits Division, (512) 239-6685

Heather Haywood, Staff Attorney, Environmental Law Division, (512) 239-5474

Audrey Liter, Staff Attorney, Environmental Law Division, (512) 239-0684

Gwen Ricco, Texas Register Rule/Agenda Coordinator, General Law Division, (512) 239-2678

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Attachments:

None

cc: Chief Clerk, 2 copies
Executive Director's Office
Jim Rizk
Morgan Johnson
Krista Kyle
Office of General Counsel
Jessica Uramkin
Heather Haywood
Audrey Liter
Gwen Ricco