

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** January 20, 2023

**Thru:** Laurie Gharis, Chief Clerk  
Erin E. Chancellor, Interim Executive Director

**From:** Brent Wade, Director  
Office of Waste

**Docket No.:** 2022-1526-RUL

**Subject:** Commission Approval for Proposed Rulemaking  
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 would 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 2022-2024. 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 would 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.

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**A.) Summary of what the rulemaking would do:**

This rulemaking would 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 would 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 proposed 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. Implementing the 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 will be 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 would be published in English and Spanish, and a translator may be requested for the public hearing on this 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 concerns or controversial issues.

**Would 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 proposal rulemaking schedule:**

**Anticipated proposal date:** February 8, 2023

**Anticipated *Texas Register* publication date:** February 24, 2023

**Anticipated public hearing date:** March 23, 2023

**Anticipated public comment period:** February 24, 2023 to March 27, 2023

**Anticipated adoption date:** July 19, 2023

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**Attachments:**

None

cc: Chief Clerk, 2 copies  
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