The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§335.10, 335.29, 335.31, 335.41, 335.45, 335.53, 335.58, 335.112, 335.152, 335.177, 335.202, 335.211, 335.221, 335.303, 335.328, 335.504, 335.509, and 335.521. The commission also proposes to repeal §335.181 and §335.251. The commission further proposes new §335.251.

Background and Summary of the Factual Basis for the Proposed Rules

The federal hazardous waste program is authorized under the federal Resource Conservation and Recovery Act of 1976 (RCRA), §3006. States may obtain authorization from the United States Environmental Protection Agency (EPA) to administer the hazardous waste program. State authorization is a rulemaking process through which EPA delegates the primary responsibility of implementing the RCRA hazardous waste program to individual states. This process ensures national consistency and minimum standards while providing flexibility to states in implementing rules. State RCRA programs must always be at least as stringent as the federal requirements.

Texas received authorization of its hazardous waste "base program" under RCRA on December 26, 1984, and has continuously participated in EPA's authorization program. To maintain the RCRA authorization, the commission must adopt regulations to meet the minimum standards of federal programs administered by EPA. Because the federal regulations undergo regular revision, the commission must adopt new regulations regularly to meet the changing federal regulations.

The commission proposes to adopt portions of the RCRA Rule Clusters XIII, XXIX, XXX, XXXI that implement revisions to the federal hazardous waste program promulgated by EPA on July 24, 2002, and between July 7, 2020, and March 20, 2023. The proposed rulemaking includes adoption of both mandatory and optional federal regulation changes within these clusters. Although adoption of the optional provisions is not required to maintain authorization, EPA recommends that states incorporate these provisions to ensure consistency with the federal program. In addition, the commission proposes revisions to correct typographical errors and incorporate inadvertently omitted rule language from previously adopted RCRA Rule Clusters that implemented EPA-requested revisions necessary to maintain authorization. Maintaining equivalency with federal regulations will enable Texas to continue operating all delegated aspects of the federal hazardous waste program in lieu of EPA.

Zinc Fertilizers Made from Recycled Hazardous Secondary Materials

In the April 13, 2012, issue of the *Federal Register* (77 FR 22229) EPA revised 40 Code of Federal Regulations (CFR) §266.20, including amendments to §266.20(b) and the addition of §266.20(d). The commission has not previously adopted these revisions. This rulemaking amends 30 Texas Administrative Code (TAC) Chapter 335 to complete adoption of 40 CFR §266.20 relating to zinc fertilizers products made from recycled hazardous secondary materials. The federal regulation established a consistent regulatory framework for producing zinc fertilizers from recycled hazardous secondary materials. Specifically, it established conditions for excluding hazardous

secondary materials used to make zinc fertilizers from the regulatory definition of solid waste. The federal regulation also established new product specifications for contaminants in zinc fertilizers made from those secondary materials. To obtain final authorization for this federal regulation, the commission proposes corresponding revisions to 30 TAC §335.211.

Modernizing Ignitable Liquids Determinations

In the July 7, 2020, issue of the *Federal Register* (85 FR 40594) EPA finalized updates to modernize the flash point test methods in 40 CFR §261.21 by incorporating current American Society for Testing and Materials (ASTM) International standards. The federal updates also finalized the aqueous alcohol definition in §261.21(a)(1) by replacing the term "aqueous" with "at least 50 percent water by weight" and defining "alcohol."

EPA also made technical corrections to update definitions and references for ignitable compressed gases and explosives, specifying ASTM Standard E681-85 as the approved test method for ignitable compressed gases, aligning definitions with current United States Department of Transportation (DOT) regulations for flammable gases and aerosols, and revising cross-references to explosives to reflect DOT's Division 1.1, 1.2, and 1.3 classification system. In addition, EPA deleted outdated notes in §261.21 that referenced obsolete agencies, historical information, or superseded regulations.

Finally, EPA finalized alternatives to the use of mercury thermometers in SW-846 air sampling and stack emissions Methods 0010, 0011, 0020, 0023A, and 0051, without

changing the underlying test technology or affecting precision or accuracy. To maintain equivalency with federal RCRA regulations, the commission proposes to incorporate these federal revisions by reference in 30 TAC §§335.29, 335.31, and 335.504(a)(3).

Canada Import-Export Recovery and Disposal Code Changes

In the October 1, 2021, issue of the *Federal Register* (86 FR 54381) EPA issued a final rule effective nationally October 31, 2021. The federal revisions contained 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 from Canada. The changes to regulations related to these twelve recovery and disposal operations reflected 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, which became effective in Canada on October 31, 2021. EPA determined that there was good cause to issue the rule without prior proposal and public comment and made the rule effective October 31, 2021, so that the changes coincided with the Canadian effective date. The commission is proposing to incorporate the revisions by reference in §335.58, §335.112, and §335.152.

Test Method for Standards to Control Organic Emissions

In the March 20, 2023, issue of the *Federal Register* (88 FR 16732) EPA finalized

revisions and updated reference EPA Method 23 (Determination of Polychlorinated Dibenzo-p-Dioxins, Polychlorinated Dibenzofurans, and Polycyclic Aromatic Hydrocarbons from Stationary Sources) used to determine the quantity of polychlorinated dibenzo-p-dioxins (PCDD) and polychlorinated dibenzofurans (PCDF) emitted from stationary sources. The updated method now incorporates isotope dilution using carbon-13 labeled compounds for quantification, expands the list of target compounds to include polycyclic aromatic hydrocarbons (PAHs) and polychlorinated biphenyls (PCBs), and adopts a performance-based quality control approach. Additionally, the method has been reformatted to align with current EPA guidelines, and new sections on definitions and interferences have been added to enhance clarity and usability. Finally, revisions specified that Method 23 can be used instead of SW-846 method 0023A. The commission is proposing to incorporate the revisions by reference in §335.221.

Administrative Amendments

In addition to the proposed incorporation of revisions to federal regulations, the commission proposes to make revisions to Chapter 335 repealing rules, revising definitions to bring clarity, correcting rule references, updating cross-references, updating the commission name Texas Natural Resource Conservation Commission to Texas Commission on Environmental Quality, updating references to Texas State Agencies, and making typographical, spelling, grammatical, and other administrative corrections, where appropriate.

A stakeholder meeting to collect informal comments was conducted on May 13, 2025, with a subsequent 30-day comment period. No informal comments were received related to 30 TAC Chapter 335. Instructions for submitting formal comments regarding rule changes proposed in this rulemaking can be found in the *Submittal of Comments* section of this preamble.

All proposed repeals, new rules, and rule changes are discussed further in the Section by Section discussion portion of this preamble.

As part of this rulemaking the commission is proposing revisions to 30 TAC Chapter 305, Consolidated Permits, concurrently in this issue of the *Texas Register*.

Section by Section Discussion

Subchapter A: Industrial Solid Waste and Municipal Hazardous Waste in General

§335.10, Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class 1 Waste

The commission proposes to amend §335.10(a) to include a reference to §335.56 (Recordkeeping and Reporting Applicable to Small and Large Quantity Generators) which was inadvertently omitted in the previous rulemaking. The proposed rulemaking would include the existing exception reporting requirements by adding the reference to §335.56 back into the list of sections in §335.10(a) with which generators must comply.

The commission proposes to amend §335.10(b) to include a missing citation to §335.54 in the rule. Current §335.10(b) states the manifesting and marking requirements of §335.55. However, §335.55 currently includes only the 'marking requirements' from the "Pre-Transport Requirements Applicable to Small and Large Quantity Generators" but does not include the 'manifesting requirements' of §335.54. This amendment will correct the missing reference.

The commission proposes to amend §335.10(c) to address manifest exception for Class 1 wastes by adding a reference to exception reporting under §335.56 which was inadvertently omitted in the previous rulemaking. Currently, Class 1 generators are required to submit an exception report regarding missing shipping manifests for transported Class 1 wastes and this requirement was inadvertently removed during the previous rulemaking. This reporting requirement is necessary and useful to track missing hazardous or Class 1 waste shipments and is being proposed as part of this rulemaking. Section 335.56 is the location where the commission adopted 40 CFR Part 262, Subpart D, §§262.40 - 262.44. However, Class 1 generators are only subject to the exception reporting requirements found in 40 CFR §262.42. They are not, and were not previously, subject to the requirements in 40 CFR §262.40 (Recordkeeping), §262.41 (Biennial report for large quantity generators), or §262.44 (Recordkeeping for small quantity generators) which are also adopted under §335.56.

Additionally, proposed §335.10(c)(8) would specify how Class 1 generators will comply with the 60-day exception reporting requirements for the manifest. The proposed

revision will add a 60-day reporting deadline and will require the agency to specify the reporting method.

§335.29, Adoption of Appendices by Reference

The commission proposes to amend the *Federal Register* citation in §335.29(1) to replace "Federal Register" with "FR." The abbreviation "FR" is the standard reference used for the *Federal Register.* This amendment would comply with rule drafting standards and provide consistency across Industrial and Hazardous Waste rules within Chapter 335.

The commission proposes to amend §335.29(4) to incorporate by reference revisions to federal regulations associated with EPA's *Modernizing Ignitable Liquids Determinations* rulemaking, as further described in the *Background and Summary of the Factual Basis* section of this preamble. This amendment will ensure the state rule remains equivalent to the federal requirements for RCRA authorization purposes.

§335.31, Incorporation of References

The commission proposes to amend §335.31 to incorporate by reference revisions to federal regulations associated with EPA's *Modernizing Ignitable Liquids Determinations* rulemaking, as further described in the *Background and Summary of the Factual Basis* section of this preamble. This amendment will ensure the state rule remains equivalent to the federal requirements for RCRA authorization purposes.

Subchapter B: Hazardous Waste Management General Provisions

§335.41, Purpose, Scope and Applicability

The commission proposes to amend §335.41(d)(1) to remove language referencing ignitable (D001) and reactive (D003) wastes. This amendment clarifies that Elementary Neutralization Units (ENUs) are limited to the treatment of corrosive (D002) waste and may not treat D001 or D003 wastes. The change will align the rule with the intended scope of the federal ENU exemption and reduce confusion for regulated entities.

Both federal (40 CFR §264.1(g)(6)) and state (§335.41(d)(1)) regulations exempt ENUs from most hazardous waste requirements, but the federal regulation also references Wastewater Treatment Units (WTUs) and includes language allowing dilution of D001 and D003 wastes as part of legitimate wastewater treatment under 40 CFR §268.3(a). Texas separated the ENU and WTU exemptions into separate provisions but retained the D001 and D003 language in §335.41(d)(1), where it does not apply. Removing this language ensures ENUs are correctly limited to D002 wastes and avoids implying they may treat ignitable or reactive waste. The proposed change will align the rule language with the intended scope of the ENU exemption and reduce potential confusion for regulated entities.

§335.45, Effect on Existing Facilities

The commission proposes to amend §335.45(b) to replace the reference to the Texas Natural Resource Conservation Commission with the current agency name, the Texas Commission on Environmental Quality, to ensure the rule language is current and accurate.

Subchapter C: Standards Applicable to Generators of Hazardous Waste

§335.53, General Standards Applicable to Generators of Hazardous Waste

The commission proposes to amend §335.53(b)(5) to add a reference to §335.24(f) in addition to the existing §335.24(g) reference. The addition of §335.24(f) specifically addresses owners or operators of facilities that recycle recyclable materials without storing them before recycling. This change updates the reference from a federal regulation to a state rule, providing clarity on additional state reporting requirements and prohibitions.

§335.58, Transboundary Movements of Hazardous Waste for Recovery or Disposal

The commission proposes to amend §335.58 to incorporate by reference revisions to federal regulations associated with EPA's *Canada Import-Export Recovery and Disposal Code Changes* rulemaking, as further described in the *Background and Summary of the Factual Basis* section of this preamble. This amendment will ensure the state rule remains equivalent to the federal requirements for RCRA authorization purposes.

Subchapter E: Interim Standards for Owners and Operators of Hazardous Waste Treatment, Storage, or Disposal Facilities

§335.112, Standards

The commission proposes to amend §335.112(a)(1) to incorporate by reference revisions to federal regulations associated with EPA's *Canada Import-Export Recovery and Disposal Code Changes* rulemaking, as further described in the *Background and*

Summary of the Factual Basis section of this preamble. This amendment will ensure the state rule remains equivalent to the federal requirements for RCRA authorization purposes.

Subchapter F: Permitting Standards for Owners and Operators of Hazardous Waste Treatment, Storage, or Disposal Facilities

§335.152, Standards

The commission proposes to amend §335.152(a)(1) to incorporate by reference revisions to federal regulations associated with EPA's *Canada Import-Export Recovery and Disposal Code Changes* rulemaking, as further described in the *Background and Summary of the Factual Basis* section of this preamble. This amendment will ensure the state rule remains equivalent to the federal requirements for RCRA authorization purposes.

§335.177, General Performance Standard

The commission proposes to amend §335.177(1) to replace the reference to the Texas Natural Resource Conservation Commission with the current agency name, the Texas Commission on Environmental Quality, to ensure the rule language is current and accurate.

§335.181, Need for Specific Commercial Hazardous Waste Management Technologies

The commission proposes to repeal §335.181. This section was originally based on Texas Health and Safety Code (THSC) §361.0232, which was repealed by the 78th Legislature in 2003 (effective January 11, 2004). Therefore, this proposed rulemaking

would repeal §335.181 since it is no longer based on any THSC statute.

Subchapter G: Location Standards for Hazardous Waste Storage, Processing, or Disposal

§335.202, Definitions

The commission proposes to amend §335.202(13) to replace the reference to the Texas Natural Resource Conservation Commission with the current agency name, the Texas Commission on Environmental Quality, to ensure the rule language is current and accurate. In addition, a reference will be added to clarify the current internet location of Report 238- Ground-Water Availability in Texas, as the Texas Department of Water Resources no longer exists.

Subchapter H: Standards for the Management of Specific Wastes and Specific Types of Facilities

Division 1: Recyclable Materials Used in a Manner Constituting Disposal

§335.211, Applicability

The commission proposes to amend §335.211(b) by removing language related to commercial fertilizers and proposes §335.211(d) to revise the zinc fertilizer rule to be equivalent with federal revisions made in EPA's *Zinc Fertilizers Made from Recycled Hazardous Secondary Materials* rulemaking, as further described in the *Background and Summary of the Factual Basis* section of this preamble. This revision was unintentionally omitted during the original state rule adoption and must be corrected to bring the state rule to be equivalent with the federal regulation for RCRA

authorization purposes.

Division 2: Hazardous Waste Burned for Energy Recovery

§335.221, Applicability and Standards

The commission proposes to amend §335.221(a)(15) to incorporate revisions to federal regulations associated with EPA's *Test Method for Standards to Control Organic Emissions*, which updates the test method for controlling organic emissions as further described in the *Background and Summary of the Factual Basis* section of this preamble. This revision ensures the state rule remains equivalent to the federal requirements for RCRA authorization purposes.

Division 4: Spent Lead-Acid Batteries Being Reclaimed

§335.251, Applicability and Requirements

The commission proposes to repeal the existing §335.251. The section is proposed to be replaced under proposed §335.251.

The commission proposes new §335.251, concerning the reclamation of spent lead-acid batteries, to improve clarity and readability. The existing state rule reiterates federal requirements for equivalency purposes but is written in a continuous text format that may be difficult for generators of lead-acid batteries to navigate and follow. Proposed new §335.251 would add Figure: 30 TAC §335.251(a), which would present the requirements in a table format, which is similar and consistent with 40 CFR §266.80 (Applicability and Requirements). The commission expects that this

change will improve readability, simplify compliance, and reduce confusion between the federal and state rules for the lead-acid battery program.

Subchapter I: Prohibition on Open Dumps

§335.303, Criteria for Classification of Solid Waste Disposal Facilities and Practices

The commission proposes to amend §335.303 to replace the reference to the Texas Natural Resource Conservation Commission with the current agency name, the Texas Commission on Environmental Quality, to ensure the rule language is current and accurate.

Subchapter J: Hazardous Waste Generation, Facility and Disposal Fee System

§335.328, Fees Payment

The commission proposes to amend §335.328(a) and (b) to replace the reference to the Texas Natural Resource Conservation Commission with the current agency name, the Texas Commission on Environmental Quality, to ensure the rule language is current and accurate. In addition, the commission proposes to further amend §335.328(a) and (b) to include "electronic funds transfer" as an additional mode of payment to remit the fees. This will make §335.328(a) and (b) current and consistent with other commission rules on collection of fees.

Subchapter R: Waste Classification

§335.504, Hazardous Waste Determination

The commission proposes to amend §335.504(a)(3) to incorporate by reference

revisions to federal regulations associated with EPA's *Modernizing Ignitable Liquids Determinations* rulemaking, as further described in the *Background and Summary of the Factual Basis* section of this preamble. This amendment will ensure the state rule remains equivalent to the federal requirements for RCRA authorization purposes.

§335.509, Waste Analysis

The commission proposes to amend §335.509(a) to update the reference to the EPA manual Methods for Chemical Analysis of Water and Wastes. The manual was originally published in 1979 under EPA publication number EPA-600/4-79/020. The proposed amendment updates the publication number to reflect the current EPA publication numbering system EPA-600/4-79-020. This change is administrative in nature and does not change the content of the manual.

§335.521, Appendices

The commission proposes to amend §335.521(a)(1) Appendix 1, Table 1, titled Constituents of Concern and Their Maximum Leachable Concentrations, to add the figure citation (Figure: 30 TAC §335.521(a)(1)) and appendix heading (Appendix 1, Table 1) for additional clarity and consistency with other appendices.

The commission proposes to amend §335.521(a)(2) Appendix 1, Table 2, titled Examples of Ignitable Solids, to remove an unnecessary extra right parenthesis at the end of the introductory paragraph to correct a grammatical error.

The commission proposes to amend §335.521(a)(3) Appendix 1, Table 3, titled Maximum Contaminant Levels (MCLs), to update the MCLs for barium and arsenic, and action level for lead to reflect the current federal MCL and action level, ensuring equivalence between the state and federal values. The commission also proposes to add a zero before the decimal point in the entry for Heptachlor. In addition, the commission proposes to revise the appendix header referenced in §335.521(a)(3) to add the figure citation (Figure: 30 TAC §335.521(a)(3)) and appendix heading (Appendix 1, Table 3) for improved clarity and consistency with other appendices.

The commission proposes to amend §335.521(b) Appendix 2, to remove a duplicate occurrence of the word “Commission” to accurately reflect the name of the Texas Commission on Environmental Quality.

The commission proposes to amend §335.521(c) Appendix 3, titled Form Codes, to add the greater than symbol (≥) in 18 locations, and one less than symbol (<) where the symbols were previously omitted.

All tables in Appendix 1 and 2 have been formatted with uniform format for titles, headers for consistency.

Fiscal Note: Costs to State and Local Government

Kyle Girten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rule is in effect, no fiscal implications are

anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule.

Public Benefits and Costs

Mr. Girten determined that for each year of the first five years the proposed rules are in effect, the public benefit will be rule language that is consistent with current state and federal regulatory requirements. Additionally, other clarifications, minor corrections, and nonsubstantive changes are proposed that would increase the understanding of applicable requirements for regulated entities and the public. The proposed rulemaking is not anticipated to result in fiscal implications for individuals or businesses during the first five-year period the proposed rule is in effect.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Written comments concerning the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of the Texas Government Code, §2001.0225, and determined that the action is not subject to Texas Government Code, §2001.0225, because it would not meet the definition of a "Major environmental rule" as defined in that statute. A "Major environmental rule" is a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may 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 proposed rulemaking would incorporate changes to federal RCRA regulations (specifically Clusters XIII, XXIX, XXX, and XXXI) and would implement program-initiated revisions to Chapters 305 and 335, including financial capability demonstration rules, programmatic updates, and the repeal of obsolete rules. The proposed rulemaking is administrative, technical, and procedural in nature. While the hazardous waste program generally protects the environment, these specific revisions are intended to

maintain state program authorization, provide regulatory flexibility, and streamline the financial capability demonstration process. The proposed changes would not impose new substantial costs; rather, they would align state rules with federal standards and improve agency efficiency. Therefore, these proposed changes are not specifically intended to protect the environment or reduce risks to human health in a way that would 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.

Texas Government Code, §2001.0225, applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; 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; or adopt a rule solely under the general authority of the commission. The proposed rulemaking would not exceed an express requirement of state law or a requirement of a delegation agreement and was not developed solely under the general powers of the agency but would be authorized by specific sections of the Texas Water Code and Texas Health and Safety Code (THSC) that are cited in the Statutory Authority section of this preamble. Therefore, this proposed rulemaking would not be subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b).

The commission invites public comment regarding the Draft Regulatory Impact Analysis during the public comment period. Written comments on the Draft Regulatory Impact Analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The commission evaluated the proposed rulemaking and performed an analysis of whether Texas Government Code, Chapter 2007, is applicable. The proposed rulemaking would incorporate federal RCRA updates and would streamline state administrative procedures, such as financial capability demonstrations and permit application processes. The proposed rulemaking would not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of governmental action. Consequently, this rulemaking action would not meet the definition of a taking under Texas Government Code, §2007.002(5). The proposed rulemaking would not directly prevent a nuisance or prevent an immediate threat to life or property. Therefore, this proposed rulemaking action would not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found the proposal is a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(4), relating to rules subject to the Coastal Management Program, and will, therefore, require that goals and policies of the Texas Coastal Management Program

(CMP) be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Advisory Committee and determined that the rulemaking is procedural, administrative, and editorial in nature and will have no substantive effect on commission actions subject to the CMP and is, therefore, consistent with CMP goals and policies.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on September 22, 2026, at 10:00 am in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 9:30 am.

Individuals who plan to attend the hearing virtually and want to provide oral

comments and/or want their attendance on record must register by September 18, 2026. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on September 21, 2026, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:
https://events.teams.microsoft.com/event/53edb30d-abc0-4b50-8f31-c42454893872@871a83a4-a1ce-4b7a-8156-3bcd93a08fba
Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Vanessa Onyskow-Lang, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov*. Electronic comments may be submitted at: https://tceq.commentinput.com/comment/search. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2026-011-335-WS. The comment

period closes at 11:59 pm on September 29, 2026. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at *https://www.tceq.texas.gov/rules/propose_adopt.html*. For further information, please contact Jarita Sepulvado, Waste Permits Division, (512) 239-4413.

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

§335.10, §335.29, §335.31

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed rulemaking implements THSC, Chapter 361.

§335.10. Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class 1 Waste.

(a) Except as provided in paragraph (2) of this subsection, no person who generates, transports, processes, stores, or disposes of hazardous waste shall cause,

suffer, allow, or permit the shipment of hazardous waste unless the person complies with this subsection, §335.12 of this title (relating to Shipping Requirements Applicable to Owners or Operators of Treatment, Storage, or Disposal Facilities), §335.13 of this title (relating to Recordkeeping and Reporting Procedures Applicable to Generators Shipping Hazardous Waste or Class 1 Waste), §335.54 of this title (relating to Hazardous Waste Manifest), §335.56 of this title (relating to Recordkeeping and Reporting Applicable to Small and Large Quantity Generators), and §335.58 of this title (relating to Transboundary Movements of Hazardous Waste for Recovery or Disposal).

(1) In addition, generators and owners or operators of treatment, storage, or disposal facilities shall include a Texas waste code for each hazardous waste itemized on the manifest.

(2) The manifest required by this subsection is not required for the transportation of hazardous waste when all of the conditions of an applicable exemption from manifesting have been met, including and not limited to the exemptions in this paragraph and subsection (b) of this section.

(A) The manifesting requirements of this section are not applicable to the transportation of hazardous waste generated by a very small quantity generator (VSQG) that meets the conditions for exemption in 40 Code of Federal Regulations (CFR) §262.14 as adopted in §335.53 of this title (relating to General Standards Applicable to Generators of Hazardous Waste).

(B) The manifesting requirements of this section are not applicable to the transportation of potentially creditable hazardous waste pharmaceuticals from a healthcare facility or a reverse distributor to a reverse distributor in compliance with §335.769 of this title (relating to Shipping Potentially Creditable Hazardous Waste Pharmaceuticals from a Healthcare Facility or a Reverse Distributor to a Reverse Distributor).

(b) The manifesting requirements of §335.54 of this title and marking requirements of §335.55 of this title (relating to Pre-Transport Requirements Applicable to Small and Large Quantity Generators) are not applicable to the transportation of hazardous waste on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. However, in the event of a hazardous waste discharge on a public or private right-of-way, the generator or transporter must comply with the requirements of §335.93 of this title (relating to Hazardous Waste Discharges).

(c) Except as provided in subsections (d) and (e) of this section, persons who generate, transport, process, store, or dispose of Class 1 waste shall not cause, suffer, allow, or permit the shipment of Class 1 waste unless the person complies with the manifest requirements adopted in §335.54 and exception reporting requirements adopted in §335.56 of this title with the following changes and additions:

(1) when Class 1 waste is itemized on the manifest, either the Texas Commission on Environmental Quality solid waste registration (SWR) number or the United States Environmental Protection Agency (EPA) identification number must identify the generator, transporter, and designated facility; and the Texas waste code, instead of the EPA waste code, must identify the waste;

(2) when both hazardous and Class 1 waste are itemized on the same manifest, the EPA identification numbers, not SWR numbers, must identify the generator, transporter, and designated facility; and the Texas waste codes must identify each waste itemized on the manifest;

(3) the term "Designated facility" has the meaning in §335.1 of this title (relating to Definitions);

(4) the term "Hazardous waste" is replaced by the term "Class 1 waste";

(5) the exceptions for hazardous waste being reclaimed under 40 CFR §262.20(e) are not applicable to transportation of Class 1 waste;

(6) in the event of a discharge on a public right of way, the generator or transporter must comply with Chapter 327 of this title (relating to Spill Prevention and

Control) and §335.93 of this title instead of complying with 40 CFR §263.30 and §263.31 as required by 40 CFR §262.20(f); [and]

(7) waste minimization certification required by 40 CFR §262.27 is not applicable to Class 1 waste; and

(8) persons subject to this subsection must submit an exception report using the method approved by the executive director if a copy of the manifest with the signatures of the owner or operator of the designated facility has not been received within 60 days of the date that the Class 1 waste was accepted by the initial transporter.

(d) No manifest is required for the shipment of Class 1 waste generated by a person that generated less than 100 kilograms of Class 1 waste during the calendar month in which the subject Class 1 waste was generated.

(e) No manifest is required for the shipment of Class 1 waste to property owned or otherwise effectively controlled by the owner or operator of an industrial plant, manufacturing plant, mining operation, or agricultural operation from which the waste results or is produced, provided that:

(1) the property is within 50 miles of the plant or operation;

(2) the waste is not commingled with waste from any other source or sources. An industrial plant, manufacturing plant, mining operation, or agricultural operation owned by one person shall not be considered another source with respect to other plants or operations owned by the same person; and

(3) the owner or operator of a facility that receives and stores, processes, or disposes Class 1 waste from off-site in compliance with an exception from permit required in §335.2(d)(1) or (2) of this title (relating to Permit Required) must report Class 1 industrial waste received from off-site in the Annual Waste Summary submitted for the receiving facility in accordance with §335.9 of this title (relating to Recordkeeping and Annual Reporting Procedures Applicable to Generators).

§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) Appendix I--Representative Sampling Methods (as amended through August 1, 2005 (70 FR 44150)) [(70 Federal Register (FR) 44150))];

(2) Appendix VII--Basis for Listing Hazardous Waste (as amended through February 24, 2005 (70 FR 9138));

(3) Appendix VIII--Hazardous Constituents (as amended through December 17, 2010 (75 FR 78918)); and

(4) Appendix IX--Wastes Excluded Under §260.20 and §260.22 (as amended through July 7, 2020 (85 FR 40594)) [July 14, 2006 (71 FR 40254))].

§335.31. Incorporation of References.

When used in this chapter, the references contained in 40 Code of Federal Regulations (CFR) §260.11 are incorporated by reference as amended and adopted in the CFR through July 7, 2020 (85 FR 40594) [November 28, 2016 (81 FR 85732)].

SUBCHAPTER B: HAZARDOUS WASTE MANAGEMENT GENERAL PROVISIONS

§335.41, §335.45

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed rulemaking implements THSC, Chapter 361.

§335.41. Purpose, Scope and Applicability.

(a) The purpose of this chapter is to implement a state hazardous waste program which controls from point of generation to ultimate disposal those wastes which have been identified by the administrator of the United States Environmental Protection Agency (EPA) in 40 Code of Federal Regulations (CFR) Part 261.

(b) Subchapter E of this chapter (relating to Interim Standards for Owners and Operators of Hazardous Waste Treatment, Storage, or Disposal Facilities); Subchapter F of this chapter (relating to Permitting Standards for Owners and Operators of Hazardous Waste, Treatment, Storage, or Disposal Facilities); §335.12 of this title (relating to Shipping Requirements Applicable to Owners or Operators of Treatment, Storage, or Disposal Facilities); and §335.15 of this title (relating to Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Treatment, Storage, or Disposal Facilities) do not apply to an owner or operator of a totally enclosed treatment facility, as defined in §335.1 of this title (relating to Definitions).

(c) Except as provided in §335.47 of this title (relating to Special Requirements for Persons Eligible for a Federal Permit by Rule), Subchapters E and F of this chapter do not apply to the owner or operator of a publicly owned treatment works (POTW) that processes, stores, or disposes of hazardous waste.

(d) Subchapters E and F of this chapter do not apply to:

(1) the owner or operator of an elementary neutralization unit, as defined in §335.1 of this title, provided that if the owner or operator is neutralizing wastes [diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory as defined in 40 CFR §268.40, Table Treatment Standards for Hazardous

Wastes), or reactive (D003) waste,] to remove the characteristic before land disposal, the owner/operator must comply with the requirements in 40 CFR §264.17(b);

(2) persons engaged in processing or containment activities during immediate response to a discharge of a hazardous waste; an imminent and substantial threat of discharge of hazardous waste; a discharge of a material which, when discharged, becomes a hazardous waste; or an immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in §335.1 of this title, except that:

(A) an owner or operator of a facility otherwise regulated under Subchapter E of this chapter must comply with all applicable requirements of §335.112(a)(2) and (3) of this title (relating to Standards) and §335.113 of this title (relating to Reporting of Emergency Situations by Emergency Coordinator);

(B) an owner or operator of a facility otherwise regulated under Subchapter F of this chapter must comply with all applicable requirements of §335.152(a)(2) and (3) of this title (relating to Standards) and §335.153 of this title (relating to Reporting of Emergency Situations by Emergency Coordinator);

(C) any person who continues or initiates hazardous waste processing or containment activities after the immediate response is over is subject to all applicable requirements of Subchapters E and F of this chapter and Chapter 305 of this title (relating to Consolidated Permits); and

(D) in the case of an explosives or munitions emergency response, if a federal, state, tribal, or local official acting within the scope of his or her official responsibilities, or an explosives or emergency response specialist, determines that immediate removal of the material is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition;

(3) persons adding absorbent material to waste in a container, as defined in §335.1 of this title and persons adding waste to absorbent material in a container, provided that these actions occur at the time that waste is first placed in the container, and that in the case of permitted facilities, 40 CFR §§264.17(b), 264.171, and 264.172 are complied with, and for all other facilities, 40 CFR §§265.17(b), 265.171, and 265.172 are complied with;

(4) a farmer disposing of waste pesticides from the farmer's own use in compliance with 40 CFR §262.70 as adopted under §335.57 of this title (relating to Farmers);

(5) the owner or operator of a wastewater treatment unit, as defined in §335.1 of this title, provided that the wastewater is discharged in accordance with a Texas Pollutant Discharge Elimination System authorization issued under Texas Water Code, Chapter 26, and if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory as defined in 40 CFR §268.40) or reactive (D003) waste to remove the characteristic before land disposal, must comply with the requirements in 40 CFR §264.17(b);

(6) the owner or operator of a wastewater treatment unit, as defined in §335.1 of this title, located at a noncommercial solid waste management facility that discharges to a publicly owned treatment works, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory as defined in 40 CFR §268.40) or reactive (D003) waste to remove the characteristic before land disposal, must comply with the requirements in 40 CFR §264.17(b);

(7) the owner or operator of a wastewater treatment unit, as defined in §335.1 of this title, located at a municipal solid waste facility or commercial industrial solid waste landfill disposal facility that discharges to a publicly owned treatment

works liquid wastes that are incidental to the handling, processing, storage, or disposal of solid wastes, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory as defined in 40 CFR §268.40) or reactive (D003) waste to remove the characteristic before land disposal, must comply with the requirements in 40 CFR §264.17(b);

(8) the owner or operator of a wastewater treatment unit, as defined in §335.1 of this title, located at a commercial industrial solid waste facility that receives waste for discharge to a publicly owned treatment works, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory as defined in 40 CFR §268.40) or reactive (D003) waste to remove the characteristic before land disposal, must comply with the requirements in 40 CFR §264.17(b), but is subject to the permitting requirements of §335.2(n) of this title (relating to Permit Required);

(9) the owner or operator of a facility permitted, licensed, or registered by a state to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this chapter by 40 CFR §262.14 as adopted under §335.53 of this title (relating to General Standards Applicable to Generators of Hazardous Waste);

(10) a generator accumulating waste on-site in compliance with applicable conditions for exemption in 40 CFR §§262.14, 262.15, 262.16, or 262.17 as adopted

under §335.53 of this title except to the extent the requirements of Subchapter E or F of this chapter are included in 40 CFR §§262.14 - 262.17; or

(11) a reverse distributor accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, in compliance with Subchapter W of this chapter (relating to Management Standards for Hazardous Waste Pharmaceuticals).

(e) Subchapter E of this chapter does not apply to:

(1) a very small quantity generator that meets the conditions for exemption for a very small quantity generator in 40 CFR §262.14 as adopted under §335.53 of this title that stores, processes, or disposes of hazardous waste on-site; or

(2) A generator accumulating waste on-site in compliance with applicable conditions for exemption in and 40 CFR Part 262, Subparts K and L as adopted under §335.59 and §335.60 of this title (relating to Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities; and Alternative Standards for Episodic Generation), except to the extent the requirements of Subchapter E of this chapter are included in 40 CFR Part 262, Subparts K and L.

(f) The following requirements apply to residues of hazardous waste in containers.

(1) Subchapters B - F and 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; Interim Standards for Owners and Operators of Hazardous Waste Treatment, Storage, or Disposal Facilities; Permitting Standards for Owners and Operators of Hazardous Waste, Treatment, Storage, or Disposal Facilities; and Land Disposal Restrictions) do not apply to any hazardous waste remaining in either an empty container or an inner liner removed from an empty container, as defined in paragraph (2) of this subsection. This exemption does not apply to any hazardous waste in either a container that is not empty or an inner liner removed from a container that is not empty.

(2) For purposes of determining whether a container is empty under this subsection, the following provisions apply:

(A) a container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in 40 CFR §§261.31, 261.32, or 261.33(e) is empty if:

(i) all wastes have been removed that can be using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating; and

(ii) no more than 2.5 centimeters (one inch) of residue remains on the bottom of the container or inner liner; or

(iii) no more than 3.0% by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 119 gallons in size, or no more than 0.3% by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 119 gallons in size;

(B) a container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmosphere;

(C) a container or an inner liner removed from a container that has held an acute hazardous waste listed in 40 CFR §§261.31, 261.32, or 261.33(e) is empty if:

(i) the container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

(ii) the container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(iii) in the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed.

(D) A container of hazardous waste pharmaceuticals is subject to §335.765 of this title (relating to Residues of Hazardous Waste Pharmaceuticals in Empty Containers) instead of this section for determining when it is considered empty, except as provided by §335.765(c) and (d) of this title.

(g) Subchapters B - F and O of this chapter do not apply to hazardous waste that is managed as a recyclable material described in §335.24(b) and (c) of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials), except to the extent that requirements of these subchapters are referred to in Subchapter H of this chapter and Chapter 324 of this title (relating to Used Oil Standards).

(h) Subchapters E and F of this chapter apply to owners or operators of all facilities that treat, store, or dispose of hazardous waste referred to in Subchapter O of this chapter.

(i) Except as provided in §335.47 of this title, Subchapter F of this chapter does not apply to persons disposing of hazardous waste by means of underground injection. However, Subchapter F of this chapter does apply to the aboveground storage or processing of hazardous waste before it is injected underground.

(j) Except as specified in Subchapter H, Division 5 of this chapter (relating to Universal Waste Rule), Subchapters B - F and O of this chapter and Chapter 305 of this title do not apply to universal wastes, universal waste handlers, or universal waste transporters as defined in §335.261 of this title (relating to Universal Waste Rule). Universal wastes are not fully regulated hazardous wastes, but are subject to regulation under Subchapter H, Division 5 of this chapter.

§335.45. Effect on Existing Facilities.

(a) Effect on permitted off-site facilities. Subchapters B - E of this chapter (relating to Hazardous Waste Management General Provisions; Standards Applicable to Generators of Hazardous Waste; Standards Applicable to Transporters of Hazardous Waste; and Interim Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities), provide minimum requirements applicable to all persons generating, transporting, storing, processing, and disposing of hazardous waste. All persons holding permits or any other authorizations from the commission or its predecessor agencies, which relate to hazardous waste, shall meet the requirements of Subchapter E of this chapter until final administrative disposition of their permit application pursuant to standards prescribed by Subchapter F of this

chapter (relating to Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities) is made. However, where the permit or authorization specifies additional or more stringent requirements, the provisions of the permit or authorization shall be complied with.

(b) Effect on off-site facilities without a permit to re-use, recycle, or reclaim hazardous waste, or to burn hazardous waste in boilers or industrial furnaces. Any person who has commenced the off-site storage, processing, or disposal of hazardous wastes, or activities that are listed, identified or described by the administrator of the United States Environmental Protection Agency in 40 Code of Federal Regulations Part 261, on or before the effective date of statutory or regulatory amendments under the Resource Conservation and Recovery Act of 1976, as amended, 42 United States Code §§6901 et seq., concerning the re-use, recycling, or reclamation of hazardous waste, or relating to the burning of hazardous waste in boilers or industrial furnaces, that render such wastes or activities subject to the requirements to have a hazardous waste permit, shall file an application with the commission on or before the effective date of such amendments, which includes the applicable information required by §335.44 of this title (relating to Application for Existing On-site Facilities). Any person who has commenced off-site storage, processing, or disposal of hazardous waste on or before the effective date of such amendments, who has filed a hazardous waste permit application with the commission on or before the effective date of such amendments in accordance with the rules and regulations of the commission, and who complies with requirements in this chapter applicable to such activities, may continue the off-

site storage, processing, or disposal of the newly listed or identified wastes or waste activities until such time as the Texas Commission on Environmental Quality [Texas Natural Resource Conservation Commission] approves or denies the application. In cases where the aforementioned federal statutory or regulatory amendments become effective prior to the effective date of state statutory or regulatory amendments under Texas Health and Safety Code, Chapter 361, submittal to the executive director of a copy of the properly filed EPA permit application within 30 days of the effective date of the applicable state statutory or regulatory requirements shall constitute compliance with this subsection with regard to application filing requirements. Facilities that have received a permit for the re-use, recycling, or reclamation of hazardous waste in accordance with Subchapter F of this chapter are not required to comply with this subsection and may operate pursuant to their existing permit. Such permits, however, are subject to amendment under §305.62 of this title (relating to Amendment) or to modification under §305.69 of this title (relating to Solid Waste Permit Modification at the Request of the Permittee) to reflect new regulatory requirements.

SUBCHAPTER C: STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

§335.53, §335.58

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed rulemaking implements THSC, Chapter 361.

§335.53. General Standards Applicable to Generators of Hazardous Waste.

(a) The commission adopts by reference the regulations contained in 40 Code of Federal Regulations (CFR) §262.11(e) - (g) (Hazardous waste determination and record

keeping) as adopted and amended in the *Federal Register* through November 28, 2016 (81 FR 85732), subject to the changes in this subsection.

(1) In 40 CFR §262.11(e), "parts 261, 264, 265, 266, 267, 268, and 273 of this chapter" is changed to "Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste)."

(2) In 40 CFR §262.11(f), "40 CFR 261.3" means as this section is adopted under §335.504 of this title (relating to Hazardous Waste Determination); "paragraphs (c) and (d) of this section" are changed to "§335.504(a)(2) and (3) of this title"; "paragraph (d)(1)" is changed to "§335.504(a)(3)(A) of this title"; and the term "Administrator" is changed to the term "executive director."

(3) In 40 CFR §262.11(g), "subparts C and D of part 261 of this chapter" is changed to "40 CFR Part 261, Subparts C and D, as adopted by reference under §335.504 of this title"; and "§262.32" is changed to "40 CFR §262.32 as adopted by reference under §335.55 of this title (relating to Pre-Transport Requirements Applicable to Small and Large Quantity Generators)."

(b) The commission adopts by reference the regulations contained in 40 CFR §262.13 (Generator category determination), including Table 1, as adopted in the *Federal Register* on November 28, 2016 (81 FR 85732), and amended in the *Federal*

Register through February 22, 2019 (84 FR 5816) subject to the changes in this subsection.

(1) In the introductory text to 40 CFR §262.13, "§260.10 of this chapter" is changed to "§335.1 of this title (relating to Definitions)."

(2) In 40 CFR §262.13(c), "this part" is changed to "this chapter."

(3) In 40 CFR §262.13(c)(1), "40 CFR 261.4(c) through (f), 261.6(a)(3), or 261.7(a)(1)" is changed to "§335.2(f) and (g) of this title (relating to Permit Required), §335.24(c)(1) - (4) of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials), and §335.41(f) of this title (relating to Purpose, Scope and Applicability)."

(4) In 40 CFR §262.13(c)(2), "40 CFR 260.10" is changed to "§335.1 of this title."

(5) In 40 CFR §262.13(c)(3), "40 CFR 261.6(c)(2)" is changed to "§335.24(f) and §335.24(g) of this title."

(6) In 40 CFR §262.13(c)(4), "40 CFR 261.6(a)(4) and 40 CFR part 279" is changed to "§335.24(m) of this title and Chapter 324 of this title (relating to Used Oil Standards)."

(7) In 40 CFR §262.13(c)(5), "40 CFR part 266 subpart G" is changed to "Subchapter H, Division 4 of this chapter (relating to Spent Lead-Acid Batteries Being Reclaimed)."

(8) In 40 CFR §262.13(c)(6), "40 CFR 261.9 and 40 CFR part 273" is changed to "40 CFR §261.9 as adopted under §335.504(a)(1) of this title and Subchapter H, Division 5 of this chapter (relating to Universal Waste Rule)."

(9) In 40 CFR §262.13(c)(7), "listed in 40 CFR part 261 subpart D or exhibiting one or more characteristics in 40 CFR part 261 subpart C" is changed to "listed in 40 CFR Part 261, Subpart D or exhibiting one or more characteristics in 40 CFR Part 261, Subpart C as adopted under §335.504 of this title"; "§262.213" is changed to "§335.59 of this title (relating to Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities)"; and "§262.200" is changed to "40 CFR §262.200 as adopted under §335.59 of this title."

(10) In 40 CFR §262.13(c)(8), "subpart L of this part" is changed to "§335.60 of this title (relating to Alternative Standards for Episodic Generation)."

(11) In 40 CFR §262.13(c)(9), "§266.500" is changed to "§335.751 of this title (relating to Definitions); "40 CFR part 266 subpart P" is changed to "Subchapter W

of this chapter (relating to Management Standards for Hazardous Waste Pharmaceuticals)"; and "§266.506" is changed to "§335.763 of this title (relating to Conditional Exemptions for Hazardous Waste Pharmaceuticals that are Controlled Substances and Household Waste Pharmaceuticals Collected in a Take-back Event or Program)."

(12) In 40 CFR §262.13(e), "§262.10" is changed to "§335.52 of this title (relating to Purpose, Scope, and Applicability)"; and "§§262.14, 262.15, 262.16 or 262.17" is changed to "40 CFR §§262.14, 262.15, 262.16 or 262.17 as adopted under subsections (c) - (f) of this section."

(13) In 40 CFR §262.13(f)(1)(i):

(A) "§262.14" is changed to "40 CFR §262.14 as adopted in subsection (c) of this section";

(B) "§260.10 of this chapter" is changed to "§335.1 of this title"; and

(C) "part 261 subpart C of this chapter" is changed to "40 CFR Part 261, Subpart C as adopted under §335.504 of this title."

(14) In 40 CFR §262.13(f)(1)(ii), "40 CFR 260.10 of this chapter" is changed to "§335.1 of this title."

(15) In 40 CFR §262.13(f)(1)(iii), "40 CFR part 279" is changed to "Chapter 324 of this title."

(16) In 40 CFR §262.13(f)(2)(i):

(A) "§§261.3(a)(2)(iv), (b)(2) and (3), and (g)(2)(i)" are changed to "40 CFR §§261.3(a)(2)(iv), (b)(2) and (3), and (g)(2)(i) as adopted under §335.504 of this title";

(B) "§268.3(a)" is changed to "40 CFR §268.3(a), as adopted under §335.431(c) of this title (relating to Purpose, Scope, and Applicability)";

(C) "§268.40" is changed to "40 CFR §268.40 as adopted under §335.431(c) of this title"; and

(D) "§262.11" is changed to "§335.504 of this title and 40 CFR §262.11(e) - (g) as adopted under subsection (a) of this section."

(17) In 40 CFR §262.13(f)(2)(ii), "§260.10 of this chapter" is changed to "§335.1 of this title."

(c) The commission adopts by reference the regulations contained in 40 CFR §262.14, as adopted in the *Federal Register* on November 28, 2016 (81 FR 85732), and amended in the *Federal Register* through February 22, 2019 (84 FR 5816) subject to the changes in this subsection.

(1) In 40 CFR §262.14(a), "parts 124, 262 (except §§262.10 - 262.14) through 268 and 270 of this chapter" is changed to "40 CFR Part 262, except §§262.10 - 262.14, as adopted in this subchapter; §335.2 of this title (relating to Permit Required); Subchapters D - H and O of this chapter (relating to Standards Applicable to Transporters of Hazardous Waste; Interim Standards for Owners and Operators of Hazardous Waste Treatment, Storage, or Disposal Facilities; Permitting Standards for Owners and Operators of Hazardous Waste Treatment, Storage, or Disposal Facilities; Location Standards for Hazardous Waste Storage, Processing, or Disposal; Standards for the Management of Specific Wastes and Specific Types of Facilities; and Land Disposal Restrictions); and Chapters 37, 39, and 305 of this title (relating to Financial Assurance; Public Notice; and Consolidated Permits)."

(2) In 40 CFR §262.14(a)(1), "§260.10 of this chapter" is changed to "§335.1 of this title (relating to Definitions)."

(3) In 40 CFR §262.14(a)(2), "§262.11(a) through (d)" is changed to "§335.504 of this title."

(4) In 40 CFR §262.14(a)(3), "§§261.31 or 261.33(e) of this chapter" is changed to "40 CFR §261.31 or §261.33(e) as adopted under §335.504 of this title."

(5) In 40 CFR §262.14(a)(3)(ii), "§262.17(a) through (g)" is changed to "40 CFR §262.17(a) - (g) as adopted under subsection (f) of this section."

(6) In 40 CFR §262.14(a)(4)(iii), "§262.16(b)(2) through (f)" is changed to "40 CFR §262.16(b)(2) - (f) as adopted under subsection (e) of this section."

(7) In 40 CFR §262.14(a)(5)(i), "part 270 of this chapter" is changed to "40 CFR Part 270 or Chapter 335 of this title";

(8) In 40 CFR §262.14(a)(5)(ii), "parts 265 and 270 of this chapter" is changed to "40 CFR Parts 265 and 270 or Chapter 335 of this title;"

(9) In 40 CFR §262.14 (a)(5)(vii), after "part 273 of this chapter" is changed to "40 CFR Part 273 or Chapter 335, Subchapter H, Division 5 of this title (relating to Universal Waste Rule)."

(10) In 40 CFR §262.14(a)(5)(viii)(A), "§260.10 of this chapter" is changed to "§3.2 of this title (relating to Definitions)."

(11) In 40 CFR §262.14(a)(5)(ix), "§266.500" is changed to "§335.751 of this title (relating to Definitions)."

(12) In 40 CFR §262.14(a)(5)(x), "§266.500" is changed to "§335.751 of this title"; and "§§266.502(l) and 266.503(b)" is changed to "§335.755(l) and §335.757(b) of this title (relating to Standards for Healthcare Facilities Managing Non-Creditable Hazardous Waste Pharmaceuticals; and Standards for Healthcare Facilities Managing Potentially Creditable Hazardous Waste Pharmaceuticals)."

(13) In 40 CFR §262.14(a)(5)(xi), "§261.4(j) of this chapter" is changed to "§335.281 of this title (relating to Airbag Waste)."

(14) In 40 CFR §262.14(c), "subpart L of this part" is changed to "§335.60 of this title (relating to Alternative Standards for Episodic Generation))"; and "§§262.15, 262.16, and 262.17" is changed to "40 CFR §§262.15, 262.16 and 262.17 as adopted under subsections (d) - (f) of this section."

(d) The commission adopts by reference the regulations contained in 40 CFR §262.15, as adopted in the *Federal Register* on November 28, 2016 (81 FR 85732), subject to the changes in this subsection.

(1) In 40 CFR §262.15(a):

(A) "§261.31 or §261.33(e) of this chapter" is changed to "40 CFR §261.31 or §261.33(e) as adopted under §335.504 of this title";

(B) "parts 124, 264 through 267, and 270 of this chapter" is changed to "§335.2 of this title; Subchapters E - H of this chapter; Chapters 37, 39, and 305 of this title; and Chapter 281 of this title (relating to Consolidated Permits); and

(C) "§262.16(b) or §262.17(a), except as required in §262.15(a)(7) and (8)" is changed to "40 CFR §262.16(b) or §262.17(a), except as required in §262.15(a)(7) and (8) as adopted under subsections (d) - (f) of this section."

(2) In 40 CFR §262.15(a)(1), "§262.16(b) or §262.17(a)" is changed to "40 CFR §262.16(b) or §262.17(a)" as adopted under subsections (e) and (f) of this section.

(3) In 40 CFR §262.15(a)(3)(i), "appendix V of part 265" is changed to "Appendix V of 40 CFR Part 265 as adopted under §335.112(a)(25)(D) of this title (relating to Standards)"; and "§265.17(b) of this chapter" is changed to "40 CFR §265.17(b) as adopted under §335.112(a)(1) of this title."

(4) In 40 CFR §262.15(a)(3)(ii), "appendix V of part 265" is changed to "Appendix V of 40 CFR Part 265 as adopted under §335.112(a)(24)(D) of this title"; and "§265.17(b) of this chapter" is changed to "40 CFR §265.17(b) as adopted under §335.112(a)(1) of this title."

(5) In 40 CFR §262.15(a)(6), "§261.31 or §261.33(e) of this chapter" is changed to "40 CFR §261.31 or §261.33(e) as adopted under §335.504 of this title."

(6) In 40 CFR §262.15(a)(6)(i), "§262.16(b) or §262.17(a)" is changed to "40 CFR §262.16(b) or §262.17(a) as adopted under subsections (e) and (f) of this section."

(7) In 40 CFR §262.15(a)(6)(ii)(A), "§262.16(b) or §262.17(a)" is changed to "40 CFR §262.16(b) or §262.17(a) as adopted under subsections (e) and (f) of this section."

(8) In 40 CFR §262.15(a)(7), "§262.16(b)(8)" is changed to "40 CFR §262.16(b)(8) as adopted under subsection (e) of this section"; and "§262.16(b)(9)" is changed to "40 CFR §262.16(b)(9) as adopted under subsection (e) of this section."

(9) In 40 CFR §262.15(a)(8), "subpart M of this part" is changed to "40 CFR Part 262, Subpart M as adopted under §335.61 of this title (relating to Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators)."

(e) The commission adopts by reference the regulations contained in 40 CFR §262.16, as adopted in the *Federal Register* on November 28, 2016 (81 FR 85732), subject to the changes in this subsection.

(1) In the introductory text to 40 CFR §262.16, "parts 124, 264 through 267, and 270 of this chapter" is changed to "Chapters 37, 39, 281 and 305 of this title, §335.2 of this title and Subchapters E - H of this chapter."

(2) In 40 CFR §262.16(a), "§260.10 of this chapter" is changed to "§335.1 of this title."

(3) In 40 CFR §262.16(b), "paragraphs (d) and (e)" is changed to "paragraphs (c) and (d)";

(4) In 40 CFR §262.16(b)(2)(v)(A), "appendix V of part 265" is changed to "Appendix V of 40 CFR Part 265 as adopted under §335.112(A)(25)(D) of this title"; and "§265.17(b) of this chapter" is changed to "40 CFR §265.17(b) as adopted under §335.112(a)(1) of this title."

(5) In 40 CFR §262.16(b)(2)(v)(B), "appendix V of part 265" is changed to "Appendix V of 40 CFR Part 265 as adopted under §335.112(A)(25)(D) of this title"; and "§265.17(b) of this chapter" is changed to "40 CFR §265.17(b) as adopted under §335.112(a)(1) of this title."

(6) In 40 CFR §262.16(b)(3)(ii)(A), "§265.17(b) of this chapter" is changed to "40 CFR §265.17(b) as adopted under §335.112(a)(1) of this title."

(7) In 40 CFR §262.16(b)(3)(vi), "§261.3(c) or (d) of this chapter" is changed to "40 CFR §261.3(c) or (d) as adopted under 335.504"; and "parts 262, 263, 265 and 268 of this chapter" is changed to "Chapter 335 of this title and all applicable chapters of this title."

(8) In 40 CFR §262.16(b)(3)(vii)(A)(1), "§261.21 or §261.23 of this chapter" is changed to "40 CFR §261.21 or §261.23 as adopted under §335.504 of this title"; and "§265.17(b) of this chapter" is changed to "40 CFR §265.17(b) as adopted under §335.112(a)(1) of this title."

(9) In 40 CFR §262.16(b)(3)(vii)(B), "§260.11" is changed to "40 CFR §260.11, which is incorporated by reference under §335.31 of this title (relating to Incorporation of References)."

(10) In 40 CFR §262.16(b)(3)(vii)(C)(1), "part 265 appendix V " is changed to "Appendix V of 40 CFR Part 265 as adopted under §335.112(A)(24)(D) of this title"; and "§265.17(b) of this chapter" is changed to "40 CFR §265.17(b) as adopted under §335.112(a)(1) of this title."

(11) In 40 CFR §262.16(b)(3)(vii)(C)(2), "§265.17(b) of this chapter" is changed to "40 CFR §265.17(b) as adopted under §335.112(a)(1) of this title."

(12) In 40 CFR §262.16(b)(4)(i), "Subpart W of 40 CFR part 265 (except §265.445 (c))" is changed to "40 CFR Part 265, Subpart W (except §265.445(c)) as adopted under §335.112(a)(18) of this title."

(13) In 40 CFR §262.16(b)(4)(ii), "§262.15" is changed to "40 CFR §262.15 as adopted under subsection (d) of this section."

(14) In 40 CFR §262.16(b)(5), "40 CFR part 265 subpart DD" is changed to "40 CFR Part 265, Subpart DD as adopted under §335.112(a)(22) of this title."

(15) In 40 CFR §262.16(b)(5)(i), "40 CFR 265.1101" is changed to "40 CFR §265.1101 as adopted under §335.112(a)(22) of this title."

(16) In 40 CFR §262.16(b)(7), "40 CFR part 268" is changed to "40 CFR Part 268 as adopted under Subchapter O of this title."

(17) In 40 CFR §262.16(b)(8)(iv)(A) and (B), "(a)(8)(ii)" is changed to "(b)(8)(ii)."

(18) In 40 CFR §262.16(d), "40 CFR parts 264, 265, 267, 268, and 270 of this chapter" is changed to "Chapter 335 of this title and the applicable chapters of this title" and the terms "EPA" and "Regional Administrator" are changed to the term "executive director."

(19) In 40 CFR §262.16(e), "§264.72 or §265.72 of this chapter" is changed to "40 CFR §264.72 or §265.72 as adopted under §§335.112 or 335.152 of this title (relating to Standards and Standards)."

(20) In 40 CFR §262.16(f), "subpart L of this part" is changed to "§335.60 of this title (relating to Alternative Standards for Episodic Generation)"; and "§262.17" is changed to "40 CFR §262.17 as adopted under subsection (f) of this section."

(f) The commission adopts by reference the regulations contained in 40 CFR §262.17, as adopted in the *Federal Register* on November 28, 2016 (81 FR 85732), subject to the changes in this subsection.

(1) In the introductory text to 40 CFR §262.17, "parts 124, 264 through 267, and 270 of this chapter" is changed to "Chapters 37, 39, 281 and 305 of this title, §335.2 of this title, and Subchapters E - H of this chapter."

(2) In 40 CFR §262.17(a)(1)(i), "subparts AA, BB, and CC of 40 CFR part 265" is changed to "40 CFR Part 265, Subparts AA, BB, and CC as adopted under §335.112(a)(19) - (21) of this title (relating to Standards)."

(3) In 40 CFR §262.17(a)(1)(vii)(A), "appendix V of part 265" is changed to "Appendix V of 40 CFR Part 265 as adopted under §335.112(A)(25)(D) of this title"; and

"§265.17(b) of this chapter" is changed to "40 CFR §265.17(b) as adopted under §335.112(a)(1) of this title."

(4) In 40 CFR §262.17(a)(1)(vii)(B), "appendix V of part 265" is changed to "Appendix V of 40 CFR Part 265 as adopted under §335.112(A)(24)(D) of this title"; and "§265.17(b) of this chapter" is changed to "40 CFR §265.17(b) as adopted under §335.112(a)(1) of this title."

(5) In 40 CFR §262.17(a)(2), "subparts J, except §265.197(c) of Closure and post-closure care and §265.200" is changed to "40 CFR Part 265, Subpart J, except §265.197(c) of Closure and post-closure care and §265.200 as adopted under §335.112(a)(9) of this title"; and "AA, BB, and CC of 40 CFR part 265" is changed to "40 CFR Part 265, Subparts AA, BB, and CC as adopted under §335.112(a)(19) - (21) of this title."

(6) In 40 CFR §262.17(a)(3)(i), "Subpart W of 40 CFR part 265 " is changed to "40 CFR Part 265, Subpart W as adopted under §335.112(a)(18) of this title."

(7) In 40 CFR §262.17(a)(3)(ii), "§262.15" is changed to "40 CFR §262.15 as adopted under subsection (d) of this section."

(8) In 40 CFR §262.17(a)(4), "40 CFR part 265 subpart DD" is changed to "40 CFR Part 265, Subpart DD as adopted under §335.112(a)(22) of this title."

(9) In 40 CFR §262.17(a)(4)(i), "40 CFR 265.1101" is changed to "40 CFR §265.1101 as adopted under §335.112(a)(22) of this title."

(10) In 40 CFR §262.17(a)(6), "subpart M of this part" is changed to "40 CFR Part 262, Subpart M as adopted under §335.61."

(11) In 40 CFR §262.17(a)(7)(i)(A), "(a)(7)(iv)" is changed to "(a)(7)(iv)(C)."

(12) In 40 CFR §262.17(a)(8)(ii)(B), "§265.310 of this chapter" is changed to "40 CFR §265.310 as adopted under §335.112(a)(13) of this title"; and "§265.445(b)" is changed to "40 CFR §265.445(b) as adopted under §335.112(a)(18) of this title."

(13) In 40 CFR §262.17(a)(8)(iii)(A)(2), "§261.3(d) of this chapter" is changed to "40 CFR §261.3(d) as adopted under §335.504 of this title."

(14) In 40 CFR §262.17(a)(8)(iii)(A)(3), "parts 262, 263, 265 and 268 of this chapter" is changed to "Chapter 335 of this title, and all applicable chapters of this title."

(15) In 40 CFR §262.17(a)(8)(iii)(A)(4), "(a)(8)(ii)(A)(2)" is changed to "(a)(8)(iii)(A)(2)"; "§265.310 of this chapter" is changed to "40 CFR §265.310 as adopted under §335.112(a)(13) of this title"; and "subparts G and H of part 265 of this chapter"

is changed to "40 CFR Part 265, Subparts G and H as adopted under §335.112(a)(6) and (7) of this title."

(16) In 40 CFR §262.17(a)(8)(iv), "§265.445(a) and (b) of this chapter" is changed to "40 CFR §265.445(a) and (b) as adopted under §335.112(a)(18) of this title."

(17) In 40 CFR §262.17(a)(9), "40 CFR part 268" is changed to "40 CFR Part 268 as adopted under Subchapter O of this title."

(18) In 40 CFR §262.17(b), "40 CFR parts 124, 264 through 268, and part 270 of this chapter" is changed to "Chapters 37, 39, 281 and 305 of this title, §335.2 of this title and Subchapters E - H and O of this chapter" and the terms "EPA" and "Regional Administrator" are changed to the term "executive director."

(19) In 40 CFR §262.17(c), "parts 124, 264 through 267 and part 270 of this chapter" is changed to "Chapters 37, 39, 281 and 305 of this title, §335.2 of this title and Subchapters E - H and O of this chapter."

(20) In 40 CFR §262.17(c)(4)(i)(C), "subpart DD of 40 CFR part 265" is changed to "40 CFR Part 265, Subpart DD as adopted under §335.112(a)(22) of this title"; and "40 CFR 265.1101" is changed to "40 CFR §265.1101 as adopted under §335.112(a)(22) of this title."

(21) In 40 CFR §262.17(c)(4)(ii), "subparts G and H of part 265" is changed to "40 CFR Part 265, Subparts G and H as adopted under §335.112(a)(6) and (7) of this title."

(22) In 40 CFR §262.17(d), "parts 124, 264 through 267, 270" is changed to "Chapters 37, 39, 281 and 305 of this title, §335.2 of this title and Subchapters E - H of this chapter."

(23) In 40 CFR §262.17(e), "40 CFR parts 124, 264 through 268, and 270 of this chapter" is changed to "Chapters 37, 39, 281 and 305 of this title, §335.2 of this title and Subchapters E - H and O of this chapter"; and the terms "EPA" and "Regional Administrator" are changed to the term "executive director."

(24) In 40 CFR §262.17(f), "§260.10 of this chapter" is changed to "§3.2 of this title (relating to Definitions)" and "parts 124, 264 through 268, and 270 of this chapter" is changed to "Chapters 37, 39, 281 and 305 of this title, §335.2 of this title and Subchapters E - H and O of this chapter."

(25) In 40 CFR §262.17(f)(1), "EPA" is changed to "TCEQ"; and "EPA Form 8700-12" is changed to "a method approved by the executive director."

(26) In 40 CFR §262.17(f)(1)(ii), "Site ID form (EPA Form 8700-12)" is changed to "notification using a method approved by the executive director."

(27) In 40 CFR §262.17(f)(3), "§262.10(a)(1)(iii)" is changed to "§335.52(a)(1)(C) of this title (relating to Purpose, Scope, and Applicability)."

(28) In 40 CFR §262.17(g), "§264.72 or §265.72 of this chapter" is changed to "40 CFR §264.72 or §265.72 as adopted under §§335.112 or 335.152 of this title."

(g) The commission adopts by reference the regulations contained in 40 CFR §262.18 (EPA identification numbers and re-notification for small quantity generators and large quantity generators), as adopted in the *Federal Register* on November 28, 2016 (81 FR 85732), subject to the changes in this subsection.

(1) The term "Administrator" is changed to the term "executive director."

(2) The generator shall provide the information required by the RCRA Site Identification Form (EPA Form 8700-12) using a method approved by the executive director.

(3) In 40 CFR §262.18(d)(1), the re-notification required of a small and large quantity generator must be made to the executive director instead of the EPA.

(4) In 40 CFR §262.18(d)(2), "Biennial Report required under §262.41" is changed to "Biennial Report required under 40 CFR §262.41 as adopted under §335.56

of this title (relating to Recordkeeping and Reporting Applicable to Small and Large Quantity Generators).

§335.58. Transboundary Movements of Hazardous Waste for Recovery or Disposal.

The commission adopts by reference the regulations contained in 40 Code of Federal Regulations Part 262, Subpart H, §§262.80 - 262.84 as amended in the *Federal Register* through October 1, 2021 (86 FR 54381)[August 6, 2018 (83 FR 38262)]. Availability and confidentiality of hazardous waste export, import, and transit information is subject to 40 CFR §260.2(d) as adopted under §335.46(c) of this title (relating to Sharing of Information).

SUBCHAPTER E: INTERIM STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES

§335.112

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed rulemaking implements THSC, Chapter 361.

§335.112. Standards.

(a) The following regulations contained in 40 Code of Federal Regulations (CFR) Part 265 (including all appendices to 40 CFR Part 265) (except as otherwise specified in this section) are adopted by reference as amended in the *Federal Register* through June

1, 1990 (55 FR 22685) and as further amended as indicated in each paragraph of this subsection:

(1) Subpart B - General Facility Standards (as amended in the *Federal Register* through October 1, 2021 (86 FR 54381)) [November 28, 2016 (81 FR 85732))];

(2) Subpart C - Preparedness and Prevention;

(3) Subpart D - Contingency Plan and Emergency Procedures (as amended in the *Federal Register* through March 18, 2010 (75 FR 12989)), except 40 CFR §265.56(d);

(4) Subpart E - Manifest System, Recordkeeping, and Reporting (as amended in the *Federal Register* through January 3, 2018 (83 FR 420)), except 40 CFR §265.76 and §265.77;

(5) Subpart F - Groundwater Monitoring (as amended in the *Federal Register* through April 4, 2006 (71 FR 16862)), except 40 CFR §265.90 and §265.94;

(6) Subpart G - Closure and Post-Closure (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254)); except 40 CFR §265.112(d)(3) and (4) and §265.118(e) and (f);

(7) Subpart H - Financial Requirements (as amended in the *Federal Register* through September 16, 1992 (57 FR 42832)); except 40 CFR §§265.140, 265.141, 265.142(a)(2), (b) and (c), 265.143(a) - (g), 265.144(b) and (c), 265.145(a) - (g), 265.146, 265.147(a) - (d), and (f) - (k), and 265.148 - 265.150;

(8) Subpart I - Use and Management of Containers (as amended in the *Federal Register* through November 28, 2016 (81 FR 85732));

(9) Subpart J - Tank Systems (as amended in the *Federal Register* through November 28, 2016 (81 FR 85732));

(10) Subpart K - Surface Impoundments (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254));

(11) Subpart L - Waste Piles (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254)), except 40 CFR §265.253;

(12) Subpart M - Land Treatment (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254)) except, 40 CFR §§265.272, 265.279, and 265.280;

(13) Subpart N - Landfills (as amended in the *Federal Register* through March 18, 2010 (75 FR 12989)), except 40 CFR §§265.301(f) - (i), 265.314, and 265.315;

(14) Subpart O - Incinerators (as amended in the *Federal Register* through October 12, 2005 (70 FR 59402));

(15) Subpart P - Thermal Treatment (as amended in the *Federal Register* through July 17, 1991 (56 FR 32692));

(16) Subpart Q - Chemical, Physical, and Biological Treatment (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254));

(17) Subpart R - Underground Injection;

(18) Subpart W - Drip Pads (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254));

(19) Subpart AA - Air Emission Standards for Process Vents (as amended in the *Federal Register* through November 28, 2016 (81 FR 85732));

(20) Subpart BB - Air Emission Standards for Equipment Leaks (as amended in the *Federal Register* through November 28, 2016 (81 FR 85732));

(21) Subpart CC - Air Emission Standards for Tanks, Surface Impoundments, and Containers (as amended in the *Federal Register* through January 3, 2018 (83 FR 420));

(22) Subpart DD - Containment Buildings (as amended in the *Federal Register* through November 28, 2016 (81 FR 85732));

(23) Subpart EE - Hazardous Waste Munitions and Explosives Storage (as amended in the *Federal Register* through February 12, 1997 (62 FR 6622));

(24) Subpart FF - Fees for the Electronic Hazardous Waste Manifest Program (as amended in the *Federal Register* through January 3, 2018 (83 FR 420); and

(25) the following appendices contained in 40 CFR Part 265:

(A) Appendix I - Recordkeeping Instructions (as amended in the *Federal Register* through March 24, 1994 (59 FR 13891));

(B) Appendix III - EPA Interim Primary Drinking Water Standards;

(C) Appendix IV - Tests for Significance;

(D) Appendix V - Examples of Potentially Incompatible Waste; and

(E) Appendix VI - Compounds With Henry's Law Constant Less Than 0.1 Y/X.

(b) Except in 40 CFR §265.71 adopted under subsection (a)(4) of this section and 40 CFR Part 265, Subpart FF adopted under subsection (a)(24) of this section, the regulations of the United States Environmental Protection Agency (EPA) that are adopted by reference in this section are adopted subject to the following changes.

(1) The term "regional administrator" is changed to the "executive director" of the Texas Commission on Environmental Quality or to the commission, consistent with the organization of the commission as set out in Texas Water Code, Chapter 5, Subchapter B.

(2) The term "treatment" is changed to "processing."

(3) Reference to Resource Conservation and Recovery Act, §3008(h) is changed to Texas Water Code, §7.031(c) - (e) (Corrective Action Relating to Hazardous Waste).

(4) Reference to:

(A) 40 CFR §260.10 is changed to §335.1 of this title (relating to Definitions);

(B) 40 CFR §264.90 is changed to §335.156 of this title (relating to Applicability of Groundwater Monitoring and Response);

(C) 40 CFR §264.101 is changed to §335.167 of this title (relating to Corrective Action for Solid Waste Management Units);

(D) 40 CFR §264.310 is changed to §335.174 of this title (relating to Closure and Post-Closure Care (Landfills));

(E) 40 CFR §265.1 is changed to §335.111 of this title (relating to Purpose, Scope, and Applicability);

(F) 40 CFR §265.90 is changed to §335.116 of this title (relating to Applicability of Groundwater Monitoring Requirements);

(G) 40 CFR §265.94 is changed to §335.117 of this title (relating to Recordkeeping and Reporting);

(H) 40 CFR §265.314 is changed to §335.125 of this title (relating to Special Requirements for Bulk and Containerized Waste);

(I) 40 CFR §270.1 is changed to §335.2 of this title (relating to Permit Required);

(J) 40 CFR §270.28 is changed to §305.50 of this title (relating to Additional Requirements for an Application for a Hazardous or Industrial Solid Waste Permit and for a Post-Closure Order);

(K) 40 CFR §270.41 is changed to §305.62 of this title (relating to Amendments);

(L) 40 CFR §270.42 is changed to §305.69 of this title (relating to Solid Waste Permit Modification at the Request of the Permittee); and

(M) Qualified professional engineer is changed to Texas licensed professional engineer.

(5) 40 CFR Parts 260 - 270 means the commission's rules including, but not limited to, Chapters 50, 305, and 335 of this title (relating to Action on Applications and Other Authorizations; Consolidated Permits; and Industrial Solid Waste and Municipal Hazardous Waste), as applicable.

(6) Reference to 40 CFR Part 265, Subpart D (Contingency Plan and Emergency Procedures) is changed to §335.112(a)(3) of this title (relating to Standards) and §335.113 of this title (relating to Reporting of Emergency Situations by Emergency Coordinator).

(7) References to 40 CFR §265.76 and §265.77 are changed to §335.15(3) of this title (relating to Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Treatment, Storage, or Disposal Facilities), and §335.115 of this title (relating to Additional Reports), respectively.

(8) Reference to 40 CFR Part 264, Subpart F is changed to §335.156 of this title, §335.157 of this title (relating to Required Programs), §335.158 of this title (relating to Groundwater Protection Standard), §335.159 of this title (relating to Hazardous Constituents), §335.160 of this title (relating to Concentration Limits), §335.161 of this title (relating to Point of Compliance), §335.162 of this title (relating to Compliance Period), §335.163 of this title (relating to General Groundwater Monitoring Requirements), §335.164 of this title (relating to Detection Monitoring Program), §335.165 of this title (relating to Compliance Monitoring Program), §335.166 of this title (relating to Corrective Action Program), and §335.167 of this title.

(9) Reference to 40 CFR Part 265, Subpart F is changed to include §335.116 and §335.117 of this title, in addition to the reference to 40 CFR Part 265, Subpart F, except §265.90 and §265.94.

(10) Reference to the EPA is changed to the Texas Commission on Environmental Quality.

SUBCHAPTER F: PERMITTING STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES

§335.152, §335.177

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed rulemaking implements THSC, Chapter 361.

§335.152. Standards.

(a) The following regulations contained in 40 Code of Federal Regulations (CFR) Part 264 (including all appendices to Part 264) are adopted by reference as amended in

the *Federal Register* through June 1, 1990 (55 FR 22685) and as further amended and adopted as indicated in each paragraph of this subsection:

(1) Subpart B--General Facility Standards (as amended in the *Federal Register* through October 1, 2021 (86 FR 54381)) [November 28, 2016 (81 FR 85732))]; in addition, the facilities which are subject to 40 CFR Part 264, Subpart X, are subject to regulation under 40 CFR §264.15(b)(4) and §264.18(b)(1)(ii);

(2) Subpart C--Preparedness and Prevention;

(3) Subpart D--Contingency Plan and Emergency Procedures (as amended in the *Federal Register* through March 18, 2010 (75 FR 12989)), except 40 CFR §264.56(d);

(4) Subpart E--Manifest System, Recordkeeping and Reporting (as amended in the *Federal Register* through January 3, 2018 (83 FR 420)), except 40 CFR §264.76 and §264.77; facilities which are subject to 40 CFR Part 264, Subpart X, are subject to 40 CFR §264.73(b)(6);

(5) Subpart G--Closure and Post-Closure (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254)); facilities which are subject to 40 CFR Part 264, Subpart X, are subject to 40 CFR §§264.90(d), 264.111(c), 264.112(a)(2), 264.114, 264.117(a)(1)(i) and (ii), and 264.118(b)(1) and (2)(i) and (ii);

(6) Subpart H--Financial Requirements (as amended in the *Federal Register* through April 4, 2006 (71 FR 16862)); except 40 CFR §§264.140, 264.141, 264.142(a)(2), (b) and (c), 264.143(a) - (h), 264.144(b) and (c), 264.145(a) - (h), 264.146, 264.147(a) - (d), and (f) - (k), and 264.148 - 264.151; and subject to the following limitations: facilities which are subject to 40 CFR Part 264, Subpart X, are subject to 40 CFR§264.142(a) and §264.144(a), and §37.6031(c) of this title (relating to Financial Assurance Requirements for Liability);

(7) Subpart I--Use and Management of Containers (as amended in the *Federal Register* through November 28, 2016 (81 FR 85732));

(8) Subpart J--Tank Systems (as amended in the *Federal Register* through November 28, 2016 (81 FR 85732));

(9) Subpart K--Surface Impoundments (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254)), except 40 CFR §264.221 and §264.228:

(A) reference to 40 CFR §264.221 is changed to §335.168 of this title (relating to Design and Operating Requirements (Surface Impoundments));

(B) reference to 40 CFR §264.228 is changed to §335.169 of this title (relating to Closure and Post-Closure Care (Surface Impoundments));

(10) Subpart L--Waste Piles (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254)), except 40 CFR §264.251;

(11) Subpart M--Land Treatment (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254)), except 40 CFR §264.273 and §264.280;

(12) Subpart N--Landfills (as amended in the *Federal Register* through March 18, 2010 (75 FR 12989)), except 40 CFR §§264.301, 264.310, 264.314, and 264.315;

(13) Subpart O--Incinerators (as amended in the *Federal Register* through April 8, 2008 (73 FR 18970));

(14) Subpart S--Special Provisions for Cleanup (as amended in the *Federal Register* through March 18, 2010 (75 FR 12989));

(15) Subpart W--Drip Pads (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254));

(16) Subpart X--Miscellaneous Units (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254));

(17) Subpart AA--Air Emission Standards for Process Vents (as amended in the *Federal Register* through November 28, 2016 (81 FR 85732) with the reference to "40 CFR 262.34(a)" replaced with "40 CFR §262.17 as adopted under §335.53 of this title (relating to General Standards Applicable to Generators of Hazardous Waste)");

(18) Subpart BB--Air Emission Standards for Equipment Leaks (as amended in the *Federal Register* through November 28, 2016 (81 FR 85732) with the reference to "40 CFR 262.34(a)" replaced with "40 CFR §262.17 as adopted under §335.53 of this title (relating to General Standards Applicable to Generators of Hazardous Waste)");

(19) Subpart CC--Air Emission Standards for Tanks, Surface Impoundments, and Containers (as amended in the *Federal Register* through January 3, 2018 (83 FR 420));

(20) Subpart DD--Containment Buildings (as amended in the *Federal Register* through November 28, 2016 (81 FR 85732));

(21) Subpart EE--Hazardous Waste Munitions and Explosives Storage (as amended in the *Federal Register* through August 1, 2005 (70 FR 44150));

(22) Subpart FF--Fees for the Electronic Hazardous Waste Manifest Program (as amended in the *Federal Register* through January 3, 2018 (83 FR 420); and

(23) the following appendices contained in 40 CFR Part 264:

(A) Appendix I--Recordkeeping Instructions (as amended in the *Federal Register* through March 24, 1994 (59 FR 13891));

(B) Appendix IV--Cochron's Approximation to the Behrens-Fisher Students' T-Test;

(C) Appendix V--Examples of Potentially Incompatible Waste;

(D) Appendix VI--Political Jurisdictions in Which Compliance With §264.18(a) Must Be Demonstrated; and

(E) Appendix IX--Ground-Water Monitoring List (as amended in the *Federal Register* through June 13, 1997 (62 FR 32451)).

(b) The provisions of 40 CFR §264.18(b) are applicable to owners and operators of hazardous waste management facilities, for which a permit is being sought, which are not subject to the requirements of §§335.201 - 335.206 of this title (relating to Purpose, Scope, and Applicability; Definitions; Site Selection to Protect Groundwater or Surface Water; Unsuitable Site Characteristics; Prohibition of Permit Issuance; and Petitions for Rulemaking).

(c) Except in 40 CFR §264.71 adopted under subsection (a)(4) of this section and 40 CFR Part 264, Subpart FF adopted under subsection (a)(22) of this section, the regulations of the United States Environmental Protection Agency (EPA) that are adopted by reference in this section are adopted subject to the following changes.

(1) The term "regional administrator" is changed to the "executive director" of the Texas Commission on Environmental Quality or to the commission, consistent with the organization of the commission as set out in Texas Water Code, Chapter 5, Subchapter B.

(2) The term "treatment" is changed to "processing."

(3) Reference to Resource Conservation and Recovery Act, §3008(h) is changed to Texas Water Code, §7.031(c) - (e) (Corrective Action Relating to Hazardous Waste).

(4) Reference to:

(A) 40 CFR §260.10 is changed to §335.1 of this title (relating to Definitions);

(B) 40 CFR §264.1 is changed to §335.151 of this title (relating to Purpose, Scope, and Applicability);

(C) 40 CFR §264.280 is changed to §335.172 of this title (relating to Closure and Post-Closure Care (Land Treatment Units));

(D) 40 CFR §264.90 is changed to §335.156 of this title (relating to Applicability of Groundwater Monitoring and Response);

(E) 40 CFR §264.101 is changed to §335.167 of this title (relating to Corrective Action for Solid Waste Management Units);

(F) 40 CFR §264.310 is changed to §335.174 of this title (relating to Closure and Post-Closure Care (Landfills));

(G) 40 CFR §270.41 is changed to §305.62 of this title (relating to Amendments); and

(H) 40 CFR §270.42 is changed to §305.69 of this title (relating to Solid Waste Permit Modification at the Request of the Permittee).

(5) 40 CFR Parts 260 - 270 means the commission's rules including, but not limited to, Chapters 50, 305, and 335 of this title (relating to Action on Applications and Other Authorizations; Consolidated Permits; and Industrial Solid Waste and Municipal Hazardous Waste), as applicable.

(6) Reference to 40 CFR Part 264, Subpart D is changed to §335.152(a)(3) of this title (relating to Standards) and §335.153 of this title (relating to Reporting of Emergency Situations by Emergency Coordinator).

(7) References to 40 CFR §264.76 and §264.77 are changed to §335.15(3) of this title (relating to Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Treatment, Storage, or Disposal Facilities), and §335.155 of this title (relating to Additional Reports), respectively.

(8) Reference to 40 CFR Part 264, Subpart F is changed to §335.156 of this title, §335.157 of this title (relating to Required Programs), §335.158 of this title (relating to Groundwater Protection Standard), §335.159 of this title (relating to Hazardous Constituents), §335.160 of this title (relating to Concentration Limits), §335.161 of this title (relating to Point of Compliance), §335.162 of this title (relating to Compliance Period), §335.163 of this title (relating to General Groundwater Monitoring Requirements), §335.164 of this title (relating to Detection Monitoring Program), §335.165 of this title (relating to Compliance Monitoring Program), §335.166 of this title (relating to Corrective Action Program), and §335.167 of this title.

(9) Reference to 40 CFR Part 265, Subpart F is changed to include §335.116 of this title (relating to Applicability of Groundwater Monitoring Requirements) and §335.117 of this title (relating to Recordkeeping and Reporting), in addition to the reference to 40 CFR Part 265, Subpart F, except §265.90 and §265.94.

(10) Reference to the EPA is changed to the Texas Commission on Environmental Quality.

(11) Reference to qualified professional engineer is changed to Texas licensed professional engineer.

§335.177. General Performance Standard.

No person may cause, suffer, allow, or permit the storage, processing, or disposal of hazardous waste in such a manner so as to cause:

(1) the discharge or imminent threat of discharge of hazardous waste, hazardous or nonhazardous constituents, or any other materials resulting from industrial solid waste activities, including, but not limited to, reaction products, into or adjacent to the waters in the state without specific authorization for such discharge from the Texas Commission on Environmental Quality [Texas Natural Resource Conservation Commission];

(2) the creation and maintenance of a nuisance; or

(3) the endangerment of the public health or welfare.

SUBCHAPTER F: PERMITTING STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES

[§335.181]

Statutory Authority

The repeal is proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed repealed rule implements THSC, Chapter 361.

[§335.181. Need for Specific Commercial Hazardous Waste Management Technologies.]

[In evaluating an application for a new commercial hazardous waste management facility permit, the commission shall determine the need for the specific technology proposed in the facility to manage new or increased volumes of waste generated in the state, in accordance with Texas Health and Safety Code, §361.0232.]

SUBCHAPTER G: LOCATION STANDARDS FOR HAZARDOUS WASTE STORAGE, PROCESSING, OR DISPOSAL

§335.202

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed rulemaking implements THSC, Chapter 361.

§335.202. Definitions.

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

(1) Active geologic processes - Any natural process which alters the surface and/or subsurface of the earth, including, but not limited to, erosion (including shoreline erosion along the coast), submergence, subsidence, faulting, karst formation, flooding in alluvial flood wash zones, meandering river bank cutting, and earthquakes.

(2) Aquifer - A geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs. Portions of formations, such as clay beds, which are not capable of yielding a significant amount of groundwater to wells or springs are not aquifers.

(3) Area subject to active shoreline erosion - A coastal area where shoreline erosion has been documented within historic time.

(4) Areal expansion of an existing facility - The enlargement of a land surface area of an existing hazardous waste management facility from that described in a solid waste permit authorizing the facility.

(5) Areas of direct drainage - Those land areas from which surface water runoff could flow into a lake used to supply public drinking water.

(6) Commercial hazardous waste management facility - Any hazardous waste management facility that accepts hazardous waste or PCBs for a charge, except a captured facility or a facility that accepts waste only from other facilities owned or

effectively controlled by the same person, where "captured facility" means a manufacturing or production facility that generates an industrial solid waste or hazardous waste that is routinely stored, processed, or disposed of on a shared basis in an integrated waste management unit owned, operated by, and located within a contiguous manufacturing complex.

(7) Critical habitat of an endangered species - An area that is determined by the United States Fish and Wildlife Service to be a critical habitat for an endangered species.

(8) Erosion - The group of natural processes, including weathering, deterioration, detachment, dissolution, abrasion, corrasion, wearing away, and transportation, by which earthen or rock material is removed from any part of the earth's surface.

(9) Existing hazardous waste management facility - Any facility used for the storage, processing, or disposal of hazardous waste and which is authorized by a hazardous waste permit. Facilities identified in the following pending applications will also be considered existing hazardous waste management facilities pending final action on the application by the commission:

(A) an application submitted pursuant to §335.2(c) of this title (relating to Permit Required), §335.43(b) of this title (relating to Permit Required), and

§335.45(b) of this title (relating to Effect on Existing Facilities), including any revisions made in accordance with §305.51 of this title (relating to Revision of Applications for Hazardous Waste Permits); or

(B) an application filed pursuant to §335.2(a) of this title which has been submitted in accordance with Chapter 305 of this title (relating to Consolidated Permits) and which has been declared to be administratively complete pursuant to §281.3 of this title (relating to Initial Review) prior to September 1, 1984.

(10) New hazardous waste management facility - Any facility to be used for the storage, processing, or disposal of hazardous waste and which is not an existing hazardous waste management facility.

(11) One hundred-year floodplain - Any land area which is subject to a 1.0% or greater chance of flooding in any given year from any source.

(12) Public water system - A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly services an average of at least 25 individuals daily at least 60 days out of the year.

(13) Regional aquifer - An aquifer which has been identified by the Texas Commission on Environmental Quality [Texas Natural Resource Conservation

Commission] as a major or minor aquifer. Major aquifers yield large quantities of water in large areas of the state. Minor aquifers yield large quantities of water in small areas of the state or small quantities of water in large areas of the state. (These aquifers are identified in Appendix B of the Texas Department of Water Resources Report Number 238, which is available at the Texas Water Development Board).

(14) Residence - The structure and surrounding property within the property boundaries not to exceed 100 feet from the structure in all directions.

(15) Secondary containment - A system designed and constructed to collect rainfall runoff, to prevent rainfall run-on from outside the structure, and to contain waste spills, leaks, or discharges within the structure until such waste can be removed.

(16) Sole-source aquifer - An aquifer designated pursuant to the Safe Drinking Water Act of 1974, §1424(e), which solely or principally supplies drinking water to an area, and which, if contaminated, would create a significant hazard to public health. The Edwards Aquifer has been designated a sole-source aquifer by the EPA. The Edwards Aquifer recharge zone is specifically that area delineated on maps in the offices of the executive director.

(17) Storage surface impoundment - A surface impoundment from which all wastes and waste- contaminated soils are removed at the time of closure of the impoundment.

(18) Wetlands - Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

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

DIVISION 1: RECYCLABLE MATERIALS USED IN A MANNER CONSTITUTING DISPOSAL

§335.211

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed rulemaking implements THSC, Chapter 361.

§335.211. Applicability.

(a) The regulations of this section and §§335.212 - 335.214 of this title (relating to Standards Applicable to Generators and Transporters of Materials Used in a Manner that Constitutes Disposal; Standards Applicable to Storers of Materials That Are To Be Used In a Manner that Constitutes Disposal Who Are Not the Ultimate Users; and Standards Applicable to Users of Materials That Are Used in a Manner that Constitutes Disposal) apply to recyclable materials that are applied to or placed on the land:

(1) without mixing with any other substance(s);

(2) after mixing or combination with any other substance(s). These materials will be referred to throughout this subpart as materials used in a manner that constitutes disposal.

(b) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means and if such products meet the applicable treatment standards in 40 Code of Federal Regulations (CFR), Part 268, Subpart D (or applicable prohibition levels in 40 CFR §268.32 or Resource Conservation Recovery Act, §3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain, and the recycler complies with 40 CFR §268.7(b)(6). [Commercial fertilizers that are produced for the general public's use that contain recyclable

materials also are not presently subject to regulation provided they meet these same treatment standards or prohibition levels for each recyclable material that they contain. However, zinc-containing fertilizers using hazardous waste K061 that are produced for the general public's use are not presently subject to regulation.]

(c) Anti-skid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in subsection (b) of this section and remain subject to regulation.

(d) Fertilizers that contain recyclable materials are not subject to regulation provided that:

(1) They are zinc fertilizers excluded from the definition of solid waste according to 40 CFR §261.4(a)(21) as adopted in §335.504(a)(1) of this title (relating to Hazardous Waste Determination); or

(2) They meet the applicable treatment standards in 40 CFR Part 268, Subpart D as adopted in §335.431 of this title (relating to Purpose, Scope, and Applicability) for each hazardous waste that they contain.

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

DIVISION 2: HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY

§335.221

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed rulemaking implements THSC, Chapter 361.

§335.221. Applicability and Standards.

(a) The following regulations contained in 40 Code of Federal Regulations (CFR) Part 266 (including all appendices to 40 CFR Part 266) are adopted by reference, as amended and adopted in the CFR through April 8, 2008 (73 FR 18970), except as noted in this section:

(1) 40 CFR §266.100--Applicability (as amended through July 14, 2006 (71 FR 40254)), except 40 CFR §266.100(c); and reference to "the applicable requirements of subparts A through H, BB, and CC of parts 264 and 265 of this chapter" is changed to "the applicable requirements of §§335.111 of this title (relating to Purpose, Scope, and Applicability), 335.112(a)(1) - (7), (20), and (21) of this title (relating to Standards), 335.151 of this title (relating to Purpose, Scope, and Applicability), and 335.152(a)(1) - (6), (18), and (19) of this title (relating to Standards)";

(2) 40 CFR §266.102(a)--Permit Standards for Burners - Applicability, excepting those portions of 40 CFR §266.102(a) containing references to 40 CFR §§264.56(d), 264.71 - 264.72, 264.75 - 264.77, 264.90, 264.101, and 264.142(a)(2);

(3) 40 CFR §266.102(b)--Permit Standards for Burners - Hazardous Waste Analysis;

(4) 40 CFR §266.102(c)--Permit Standards for Burners - Emission Standards;

(5) 40 CFR §266.102(d)--Permit Standards for Burners - Permits;

(6) 40 CFR §266.102(e)--Permit Standards for Burners - Operating Requirements (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254));

(7) 40 CFR §266.103 (a)(1) - (3)--Interim Status Standards for Burners - Purpose, Scope, and Applicability--General; Exemptions; and Prohibition on Burning Dioxin-Listed Wastes, respectively, except 40 CFR §266.103(a)(1)(iii) and §266.103(a)(2);

(8) 40 CFR §266.103(a)(4)--Interim Status Standards for Burners--Purpose, Scope, and Applicability--Applicability of Part 265 Standards (as amended in the *Federal Register* through (July 14, 2006 (71 FR 40254))), excepting those portions of 40 CFR §266.103(a)(4) containing references to 40 CFR §§265.56(d), 265.71 - 265.72, 265.75 - 265.77, 265.142(a)(2); facilities qualifying for a corporate guarantee for liability are subject to 40 CFR §265.147(g)(2) and §264.151(h)(2), as amended;

(9) 40 CFR §266.103(a)(5) - (6)--Interim Status Standards for Burners - Purpose, Scope, and Applicability: Special Requirements for Furnaces; and Restrictions on Burning Hazardous Waste That Is Not a Fuel;

(10) 40 CFR §266.103(b)--Interim Status Standards for Burners - Certification of Precompliance (as amended through (July 14, 2006 (71 FR 40254))), except 40 CFR §266.103(b)(1) and (6);

(11) 40 CFR §266.103(c)--Interim Status Standards for Burners - Certification of Compliance (as amended through (July 14, 2006 (71 FR 40254))), except 40 CFR §266.103(c)(3)(i);

(12) 40 CFR §266.103(f)--Interim Status Standards for Burners - Start-Up and Shut-Down;

(13) 40 CFR §266.103(g)(1) - (2)--Interim Status Standards for Burners - Automatic Waste Feed Cutoff (as amended in the *Federal Register* through July 14, 2006 (71 FR 40254));

(14) 40 CFR §266.103(h) - (l)--Interim Status Standards for Burners: Fugitive Emissions; Changes; Monitoring and Inspections; Recordkeeping; and Closure, respectively, as amended in the *Federal Register* through April 4, 2006 (71 FR 16862);

(15) 40 CFR §266.104--Standards to Control Organic Emissions, except 40 CFR §266.104(h), as amended in the *Federal Register* through March 20, 2023 (88 FR 16732);

(16) 40 CFR §266.105--Standards to Control Particulate Matter, except 40 CFR §266.105(d);

(17) 40 CFR §266.106--Standards to Control Metals Emissions (as amended in the *Federal Register* through (July 14, 2006 (71 FR 40254))), except 40 CFR §266.106(i);

(18) §266.107--Standards to Control Hydrogen Chloride (HCl) and Chlorine Gas ($C1_2$) Emissions, except 40 CFR §266.107(h);

(19) 40 CFR §266.108--Small Quantity On-Site Burner Exemption, except §266.108(d), and except that hazardous wastes generated by a very small quantity generator may not be burned in an off-site device under the exemption provided by 40 CFR §266.108;

(20) 40 CFR §266.109--Low-Risk Waste Exemption (as amended in the *Federal Register* through (July 14, 2006 (71 FR 40254)));

(21) 40 CFR §266.110--Waiver of DRE Trial Burn for Boilers;

(22) 40 CFR §266.111--Standards for Direct Transfer; and

(23) 40 CFR §266.112--Regulation of Residues.

(b) The following hazardous wastes and facilities are not regulated under this division:

(1) used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in 40 CFR Part 261, Subpart C, from use versus mixing. Such used oil is subject to regulation by the United States Environmental Protection Agency (EPA) under 40 CFR Part 279 and Chapter 324 of this title (relating to Used Oil Standards). This exception does not apply if the used oil has been made hazardous by mixing with characteristic or listed hazardous waste other than by a generator that meets the conditions for exemption for a very small quantity generator or household generator;

(2) hazardous wastes that are exempt from regulation under 40 CFR §261.4 and §335.24(c)(3) - (4) of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials);

(3) hazardous wastes generated by a very small quantity generator that meets the conditions for exemption of a very small quantity generator;

(4) gas recovered from hazardous or solid waste landfills when such gas is burned for energy recovery; and

(5) coke ovens, if the only hazardous waste burned is EPA Hazardous Waste No. K087, decanter tank tar sludge from coking operations.

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

DIVISION 4: SPENT LEAD-ACID BATTERIES BEING RECLAIMED

§335.251

Statutory Authority

The new section is proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed new section implements THSC, Chapter 361.

§335.251. Applicability and Requirements.

(a) Persons who generate, collect, transport, store, or regenerate lead-acid

batteries for reclamation purposes may be exempt from certain hazardous waste management requirements. Except for certain requirements of this Chapter as described below in this Subsection, the persons are not subject to regulations of Chapter 39 of this title (relating to Public Notice); Chapter 50 of this title (relating to Action on Applications and Other Authorizations); Chapter 55 of this title (relating to Requests for Contested Case Hearings; Public Comment); Chapter 281 (Applications Processing), Chapter 305 of this title (relating to Consolidated Permits) unless required in Subsection (b) below. Use the following table to determine which requirements apply. Alternatively, spent lead-acid batteries may be managed under the "Universal Waste" rule of 40 CFR Part 273 which is adopted by reference in §335.261 (relating to Universal Waste Rule).

Figure: 30 TAC §335.251(a)

If your batteries . . .	And if you . . .	Then you . . .	And you . . .
(1) Will be reclaimed through regeneration (such as by electrolyte replacement)		are exempt from 30 TAC Chapters 39, 50, 55, 281, 305, and this chapter except Subchapter A and §335.504 of this chapter, and the notification requirements at §335.6 of this chapter (§3010 of RCRA)	are subject to Subchapter A and §335.504 of this chapter.
(2) Will be reclaimed other than through regeneration	generate, collect, and/or transport these batteries	are exempt from 30 TAC Chapters 39, 50, 55, 281, 305 and this chapter except Subchapter A and §335.504 of this chapter, and the notification requirements at	are subject to Subchapter A, §335.504, and applicable provisions under

If your batteries . . .	And if you . . .	Then you . . .	And you . . .
		§335.6 of this chapter (§3010 of RCRA)	Subchapter O of this chapter.
(3) Will be reclaimed other than through regeneration	store these batteries but you aren't the reclaimer	are exempt from 30 TAC Chapters 39, 50, 55, 281, 305, and this chapter except Subchapter A and §335.504 of this chapter, and the notification requirements at §335.6 of this chapter (§3010 of RCRA)	are subject to Subchapter A, §335.504, and applicable provisions under Subchapter O of this chapter.
(4) Will be reclaimed other than through regeneration	store these batteries before you reclaim them	must comply with §335.251(b) and as appropriate other regulatory provisions described in §335.251(b)	are subject to Subchapter A, §335.504, and applicable provisions under Subchapter O of this chapter.
(5) Will be reclaimed other than through regeneration	don't store these batteries before you reclaim them	are exempt from 30 TAC Chapters 39, 50, 55, 305, 281, and this chapter except Subchapter A and §335.504 of this chapter, and the notification requirements at §335.6 of this chapter (§3010 of RCRA)	are subject to Subchapter A, §335.504, and applicable provisions under Subchapter O of this chapter.
(6) Will be reclaimed through regeneration or any other means	export these batteries for reclamation in a foreign country	are exempt from 30 TAC Chapters 39, 50, 55, 281, 305, and this chapter except Subchapter A, §335.53(g), §335.58, §335.504 of this chapter, and the notification requirements at §335.6 of this chapter (§3010 of RCRA)	are subject to Subchapter A, §335.53(g), §335.504, and §335.58 of this chapter.
(7) Will be reclaimed through regeneration or any other means	Transport these batteries in the U.S. to export them for reclamation	are exempt from 30 TAC Chapters 39, 50, 55, 281, 305, and this chapter except Subchapter A of this chapter, and the notification requirements at §335.6 of this chapter (§3010 of RCRA)	must comply with applicable requirements in §335.58 of this chapter.

If your batteries . . .	And if you . . .	Then you . . .	And you . . .
	in a foreign country		
(8) Will be reclaimed other than through regeneration	Import these batteries from a foreign country and store these batteries but you aren't the reclaimer	are exempt from 30 TAC Chapters 39, 50, 55, 281, 305, and this chapter except Subchapter A, §335.53(g), §335.58, §335.504 of this chapter, and the notification requirements at §335.6 of this chapter (§3010 of RCRA)	are subject to Subchapter A, §335.53(g), §335.504, and §335.58 and applicable requirements of Subchapter O of this chapter.
(9) Will be reclaimed other than through regeneration	Import these batteries from a foreign country and store these batteries before you reclaim them	must comply with §335.251(b) and as appropriate other regulatory provisions described in §335.251(b) (40 CFR §266.80(b))	are subject to Subchapter A, §335.53(g), §335.504, and §335.58 and applicable requirements of Subchapter O of this chapter.
(10) Will be reclaimed other than through regeneration	Import these batteries from a foreign country and don't store these batteries before you reclaim them	are exempt from 30 TAC Chapters 39, 50, 55, 281, 305, and this chapter except Subchapter A, §335.504, §335.53(g), §335.58 of this chapter, and the notification requirements at §335.6 (§3010 of RCRA)	are subject to Subchapter A, §335.53(g), §335.504, and §335.58 and applicable requirements of Subchapter O of this chapter.

(b) The requirements of this section apply if spent lead-acid batteries are going to be stored before it is reclaimed other than through regeneration. The requirements are slightly different depending on the Hazardous Waste (Resource Conservation and Recovery Act (RCRA)) permit status.

(1) For Interim Status facilities, you must comply with:

(A) Notification requirements under §335.6 of this title (relating to Notification Requirements).

(B) All applicable provisions in §335.41 of this title (relating to Purpose, Scope and Applicability), §335.111(a) - (c) of this title (relating to Purpose, Scope, And Applicability), §335.271(a) of this title (relating to Purpose, Scope, and Applicability), and §335.272 of this title (relating to Standards).

(C) All applicable provisions in §335.112(a)(1) of this title (relating to Standards) except waste analysis.

(D) All applicable provisions in §335.112(a)(2) - (3) of this title.

(E) All applicable provisions in §335.112(a)(4) of this title.

(F) All applicable provisions in §335.112(a)(5) - (11) of this title.

(G) All applicable provisions in Chapters 39, 50, 55, 281, and 305 of this title.

(H) All applicable provisions in Chapter 335, Subchapter U of this title (relating to Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standard Permit).

(2) For permitted facilities:

(A) Notification requirements under RCRA §3010.

(B) All applicable provisions in §335.41 of this title, §335.151 of this title (relating to Purpose, Scope, and Applicability) and §335.152 of this title (relating to Standards).

(C) All applicable provisions in §335.152(a)(1) of this title except waste analysis.

(D) All applicable provisions in §335.152(a)(2) and (a)(3) of this title.

(E) All applicable provisions in §335.152(a)(4) of this title.

(F) All applicable provisions in §335.112(a)(5) - (10) of this title and §§335.156 - 335.167 of this title.

(G) All applicable provisions in Chapters 39, 50, 55, 281, and 305 of this title.

(H) All applicable provisions in Chapter 335, Subchapter U of this title.

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

DIVISION 4: SPENT LEAD-ACID BATTERIES BEING RECLAIMED

[§335.251]

Statutory Authority

The repealed rule is proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed repealed rule implements THSC, Chapter 361.

[§335.251. Applicability and Requirements.]

[(a) The regulations of this section adopt by reference 40 Code of Federal Regulations (CFR) Part 266, Subpart G as amended in the *Federal Register* through November 28, 2016 (81 FR 85732). This section applies to persons who reclaim (including regeneration) spent lead-acid batteries that are recyclable materials (spent batteries). Persons who generate, transport, or collect spent batteries, who regenerate spent batteries, who store spent batteries that are to be regenerated, or who store spent batteries but do not reclaim them (other than spent batteries that are to be regenerated), are not subject to regulation under this chapter, except that §335.24(h) of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials) applies; and are not subject to regulation under 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 Procedure); Chapter 50 of this title (relating to Action on Applications and Other Authorizations); Chapter 55 of this title (relating to Requests for Contested Case Hearings; Public Comment); 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); or Chapter 305 of this title (relating to Consolidated Permits). Such persons, however, remain subject to the requirements of the Texas Water Code, Chapter 26.]

[(b) Owners or operators of facilities that store spent lead-acid batteries before reclaiming them (other than spent batteries that are to be regenerated) are subject to the following requirements:]

[(1) all applicable provisions in Subchapter A of this chapter (relating to Industrial Solid Waste and Municipal Hazardous Waste in General), Subchapter B of this chapter (relating to Hazardous Waste Management General Provisions), Subchapter E of this chapter (relating to Interim Standards of Owners and Operators of Hazardous Waste Treatment, Storage, or Disposal Facilities), Subchapter F of this chapter (relating to Permitting Standards of Owners and Operators of Hazardous Waste Treatment, Storage, or Disposal Facilities), and Subchapter U of this chapter (relating to Standards for Owners and Operators of Hazardous Waste Facilities Operating under a Standard Permit), except for the requirements in §335.12 of this title (relating to Shipping Requirements Applicable to Owners or Operators of Treatment, Storage, or Disposal Facilities) and 40 CFR §265.13; and]

[(2) all applicable provisions in Chapters 1, 3, 10, 20, 37, 39, 40, 50, 55, 70, 80, and 305 of this title.]

[(c) Persons who export spent batteries for reclamation in a foreign country where they will be reclaimed through regeneration or any other means are not subject to the requirements of Subchapter C of this chapter (relating to Standards Applicable to Generators of Hazardous Waste), except for §335.53(a) and (g) of this title (relating

to General Standards Applicable to Generators of Hazardous Waste); Subchapter D of this chapter (relating to Standards Applicable to Transporters of Hazardous Waste), except for §335.91(e) of this title (relating to Scope); Subchapter E of this chapter (relating to Interim Standards of Owners and Operators of Hazardous Waste Treatment, Storage, or Disposal Facilities); Subchapter F of this chapter (relating to Permitting Standards for Owners and Operators of Hazardous Waste Treatment, Storage, or Disposal Facilities); or Subchapter O of this chapter (relating to Land Disposal Restrictions), or Chapter 1, 3, 10, 20, 37, 39, 40, 50, 55, 70, 80, 86, or 305 of this title. Such persons must comply with §335.504 of this title (relating to Hazardous Waste Determination).]

[(d) Persons who transport spent batteries in the United States to export them for reclamation in a foreign country where they will be reclaimed through regeneration or any other means are not subject to the requirements of Subchapter C of this chapter; Subchapter D of this chapter, except for §335.91(e) of this title; Subchapter E of this chapter; Subchapter F of this chapter; or Subchapter O of this chapter, or Chapter 1, 3, 10, 20, 37, 39, 40, 50, 55, 70, 80, 86, or 305 of this title. Such persons, however, remain subject to the requirements of §335.91(e) of this title.]

[(e) Persons who import spent batteries from a foreign country and store these spent batteries, but are not the reclaimer, and where the spent battery will be reclaimed other than through regeneration, are not subject to the requirements of Subchapter C of this chapter, except for §335.53(a) and (g) of this title; Subchapter D of

this chapter, except for §335.91(e) of this title; Subchapter E of this chapter; Subchapter F of this chapter, or Chapter 1, 3, 10, 37, 39, 40, 50, 55, 70, 80, 86, or 305 of this title. Such persons must comply with §335.504 of this title, and applicable provisions of Subchapter O of this chapter.]

[(f) Persons who import spent batteries from a foreign country and store these spent batteries before reclaiming them, and where the spent battery will be reclaimed other than through regeneration, are not subject to the requirements of Subchapter C of this chapter, except for §335.53(a) and (g) of this title; Subchapter D of this chapter, except for §335.91(e) of this title; Subchapter E of this chapter; Subchapter F of this chapter, or Chapter 1, 3, 10, 37, 39, 40, 50, 70, 80, 86, or 305 of this title. Such persons must comply with §335.504 of this title, and applicable provisions of Subchapter O of this chapter.]

[(g) Persons who import spent batteries from a foreign country and do not store these spent before reclaiming them, and where they will be reclaimed other than through regeneration, are not subject to the requirements of Subchapter C of this chapter, except for §335.53(a) and (g) of this title; Subchapter D of this chapter, except for §335.91(e) of this title; Subchapter E of this chapter; Subchapter F of this chapter, or Chapter 1, 3, 10, 37, 39, 40, 50, 70, 80, 86, or 305 of this title. Such persons must comply with §335.504 of this title, and applicable provisions of Subchapter O of this chapter.]

SUBCHAPTER I: PROHIBITION ON OPEN DUMPS

§335.303

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed rulemaking implements THSC, Chapter 361.

§335.303. Criteria for Classification of Solid Waste Disposal Facilities and Practices.

Except to the extent that they are clearly inconsistent with the express provisions of Texas Health and Safety Code, Chapter 361, or the rules of the commission, the regulations contained in 40 Code of Federal Regulations (CFR) Part 257 are adopted by reference. The executive director will maintain in the offices of the commission a set of the regulations contained in 40 CFR Part 257 and adopted by

reference herein. The regulations may be examined in the library of the Texas Commission on Environmental Quality [Texas Natural Resource Conservation Commission], located on the first floor of Building A at 12100 Park 35 Circle, Austin, Texas.

SUBCHAPTER J: HAZARDOUS WASTE GENERATION, FACILITY AND DISPOSAL FEE SYSTEM

§335.328

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed rulemaking implements THSC, Chapter 361.

§335.328. Fees Payment.

(a) Generation and facility fees are payable each year for all Class 1 industrial solid waste and hazardous waste generators, permittees, and facilities. Fees must be

paid by check, electronic funds transfer, certified check, or money order payable to Texas Commission on Environmental Quality [Texas Natural Resource Conservation Commission]. Annual facility fees are payable by permittees, owners, or operators regardless of whether the facility is in actual operation. All annual generation and facility fees shall be due by a date to be established by the Texas Commission on Environmental Quality [Texas Natural Resource Conservation Commission] at the time payment is requested.

(b) Except as provided in subsection (c) of this section, waste management fees are to be paid monthly by each operator of a waste storage, processing, or disposal facility for wastes managed subject to the provisions of §335.325 of this title (relating to Industrial Solid Waste and Hazardous Waste Management Fee Assessment) in that month. Fees must be paid by check, electronic funds transfer, certified check, or money order to Texas Commission on Environmental Quality [Texas Natural Resource Conservation Commission] and shall be due by the 25th day following the end of the month for which payment is due.

(c) An owner or operator required to pay a waste management fee who owes less than $500 for a calendar month or less than $1,500 for a calendar quarter is not required to file a monthly report under §335.329 of this title (relating to Records and Reports) but should file a quarterly report with and pay a quarterly fee to the commission.

SUBCHAPTER R: WASTE CLASSIFICATION

§335.504, §335.509, §335.521

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which provides the commission with the authority to carry out its duties and general powers; TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties; Texas Health and Safety Code (THSC), §361.017, which establishes the commission's jurisdiction over industrial solid waste and municipal hazardous waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §361.036, regarding records and manifests; THSC, §361.061 and §361.082, authorizing the issuance of permits for solid and hazardous waste facilities; THSC, §361.078, relating to the maintenance of state program authorization under federal law; THSC, §361.085, relating to financial assurance and disclosure by permit applicants; and THSC, §361.119, which authorizes the regulation of industrial solid waste and hazardous waste.

The proposed rulemaking implements THSC, Chapter 361.

§335.504. Hazardous Waste Determination.

(a) Hazardous waste determination. A person who generates a solid waste, as defined in §335.1 of this title (relating to Definitions), must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes

are properly managed according to applicable Resource Conservation and Recovery Act (RCRA) and Texas Administrative Code regulations. The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the RCRA classification of the waste may change. A hazardous waste determination is made using the following steps:

(1) A person must determine whether the material is excluded or exempted from regulation as a solid waste or as hazardous waste under the definition of solid waste in §335.1 of this title or identified in 40 Code of Federal Regulations (CFR) Part 261, Subpart A as amended in the *Federal Register* through December 9, 2019 (84 FR 67202), or Subpart E as amended in the *Federal Register* through August 6, 2018 (83 FR 38262).

(2) If the waste is not excluded from regulation as a solid waste, the person must then use knowledge of the waste to determine whether the waste is a hazardous waste because it meets any of the listing descriptions, or is mixed with or derived from a waste that meets any of the listing descriptions identified in 40 CFR Part 261, Subpart D, as amended in the *Federal Register* through February 22, 2019 (84 FR 5816). Acceptable knowledge that may be used in making an accurate determination as to whether the waste is listed may include waste origin, composition,

the process producing the waste, feedstock, and other reliable and relevant information.

(3) The person must also determine whether the waste exhibits one or more hazardous characteristics as identified in 40 CFR Part 261, Subpart C, as amended in the *Federal Register* through July 7, 2020 (85 FR 40594) [March 18, 2010 (75 FR 12989)] by following the procedures in subparagraph (A) or (B) of this paragraph or a combination of both.

(A) The person must apply knowledge of the hazard characteristic of the waste in light of the materials or the processes used to generate the waste. Acceptable knowledge may include process knowledge (e.g., information about chemical feedstocks and other inputs to the production process); knowledge of products, by-products, and intermediates produced by the manufacturing process; chemical or physical characterization of wastes; information on the chemical and physical properties of the chemicals used or produced by the process or otherwise contained in the waste; testing that illustrates the properties of the waste; or other reliable and relevant information about the properties of the waste or its constituents. A test other than a test method set forth in 40 CFR Part 261, Subpart C or an equivalent test method approved by the United States Environmental Protection Agency (EPA) Administrator under 40 CFR §260.21, or by the executive director under §335.509 of this title (relating to Waste Analysis), may be used as part of a person's knowledge to determine whether a solid waste exhibits a characteristic of hazardous

waste. However, such tests do not, by themselves, provide definitive results. Persons testing their waste must obtain a representative sample, as defined in §335.1 of this title, of the waste for the testing,

(B) When available knowledge is inadequate to make an accurate determination, the person must test the waste according to the applicable methods set forth in 40 CFR Part 261, Subpart C or according to an equivalent method approved by the EPA Administrator under 40 CFR §260.21, or approved by the executive director under §335.509 of this title, and in accordance with the following:

(i) Persons testing their waste must obtain a representative sample, as defined in §335.1 of this title, of the waste for the testing.

(ii) Where a test method is specified in 40 CFR Part 261, Subpart C, the results of the regulatory test, when properly performed, are definitive for determining the regulatory status of the waste.

(b) Recordkeeping for small or large quantity generators. A large quantity generator and a small quantity generator shall maintain records supporting its hazardous waste determinations in accordance with 40 CFR §262.11(f) as adopted under §335.53 of this title (relating to General Standards Applicable to Generators of Hazardous Waste).

(c) Recordkeeping for hazardous waste and Class 1 waste generators. Generators shall make and maintain records of a hazardous waste determination in accordance with §335.513 of this title (relating to Documentation Required), and 40 CFR §262.11(f) as adopted under §335.53 of this title.

§335.509. Waste Analysis.

(a) Generators who use analytical methods to classify their waste must use methods described in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (EPA SW-846), "Methods for Chemical Analysis of Water and Wastes" (EPA-600/4-79-020) [(EPA-600/4-79/020)], "Standard Methods for the Examination of Water and Wastewater", American Society for Testing and Materials (ASTM) Standard Methods, or any other approved EPA methods or may request in writing that the executive director review and approve an alternate method. The generator must also choose representative sample(s) of their waste, as described in Chapter 9 of EPA SW-846. A generator who proposes to use an alternate method must validate the alternate method by demonstrating that the method is equal to or superior in accuracy, precision, and sensitivity to the corresponding SW-846, EPA-600, Standard Method or ASTM method identified in this subsection.

(b) The generator proposing an alternate method shall provide the executive director with the following information:

(1) a full description of the proposed method including all equipment used;

(2) a description of the types of wastes and waste matrices analyzed or to be analyzed;

(3) comparative quality assurance results of the proposed method and the corresponding SW-846 method;

(4) a complete assessment of any factors which may interfere with the method; and

(5) a description of the Quality Control procedures necessary to ensure the sensitivity, accuracy, and precision of the proposed method.

(c) Upon request of the executive director, the generator shall provide additional information as necessary to enable the executive director to adequately review the alternate methods proposed by the generator.

§335.521. Appendices.

(a) Appendix 1.

(1) Table 1.

Figure: 30 TAC §335.521(a)(1)

[Figure: 30 TAC §335.521(a)(1)]

Appendix 1, Table 1.

Constituents of Concern and
Their Maximum Leachable Concentrations.

Values are based on information contained in *Federal Registers* Vol. 55 / Friday, July 27, 1990; Vol. 56 / June 7, 1991; and Integrated Risk Information Systems, U.S. Environmental Protection Agency, and 40 CFR 264 Appendix 9.

Compound	CAS No.	Concentration (mg/l)
Acenaphthene	83-32-9	210
Acetone	67-64-1	400
Acetonitrile	75-05-8	20
Acetophenone	98-86-2	400
Acrylamide	79-06-1	0.08
Acrylonitrile	107-13-1	0.6
Aniline	62-53-3	60
#Anthracene	120-12-7	1050
Antimony	7440-36-0	1
Arsenic	7440-38-2	1.8
Barium	7440-39-3	100.0
Benzene	71-43-2	0.50
Benzidine	92-87-5	0.002
Beryllium	7440-41-7	0.08
Bis(2-chloroethyl)ether	111-44-4	0.3
Bis(2-ethylhexyl) phthalate	117-81-7	30
	--	--
Bromodichloromethane	75-27-4	0.3
Bromomethane	74-83-9	5
Butylbenzyl phthalate	85-68-7	700
Cadmium	7440-43-9	0.5
Carbon disulfide	75-15-0	400

Carbon tetrachloride	56-23-5	0.50
Chlordane	57-74-9	0.03
Chlorobenzene	08-90-7	70
Chloroform	67-66-3	6.0
#Chloro-m-cresol, p	59-50-7	7000
2-Chlorophenol	95-57-8	20
Chromium	7440-47-3	5.0
m-Cresol	108-39-4	200.0*
o-Cresol	95-48-7	200.0*
p-Cresol	106-44-5	200.0*
DDD	72-54-8	1
DDE	72-55-9	1
DDT	50-29-3	1
Dibutyl phthalate	84-74-2	400
1,4-Dichlorobenzene	106-46-7	7.5
3,3-Dichlorobenzidine	91-94-1	0.8
1,2-Dichloroethane	107-06-2	0.50
Dichlorodifluoromethane	75-71-8	700
1,1-Dichloroethylene	75-35-4	0.6
1,3-Dichloropropene	542-75-6	1
2,4-Dichlorophenol	120-83-2	10
2,4-Dichlorophenoxy-	94-75-7	10.0
acetic acid (2,4-D)	--	--
Dieldrin	60-57-1	0.02
Diethyl phthalate	84-66-2	3000
Dimethoate	60-51-5	70
#2,4-Dimethylphenol	105-67-9	70
#2,6-Dimethylphenol	576-26-1	21
m-Dinitrobenzene	99-65-0	0.4
2,4-Dinitrophenol	51-28-5	7
2,4 -Dinitrotoluene	602-01-7	0.13
(and 2,6-, mixture)	--	--
#Dinoseb	88-85-7	3.5
1,4-Dioxane	123-91-1	30
Dioxins (Poly chlorinated dibenzo-p-dioxins)		
2,3,7,8-TCDD	1746-01-6	0.005
1,2,3,7,8-PeCDD	0321-76-4	0.010
1,2,3,4,7,8-HxCDD	57653-85-7	0.050
1,2,3,6,7,8-HxCDD	34465-46-8	0.050
1,2,3,7,8,9-HxCDD		0.050
Diphenylamine	122-39-4	90
1,2-Diphenylhydrazine	122-66-7	0.4
Disulfoton	298-04-4	0.1
Endosulfan	959-98-8	0.2
Endrin	72-20-8	0.02
#2-Ethoxyethanol	110-80-5	1400

Ethylbenzene	100-41-4	400
Ethylene dibromide	106-93-4	0.004
#Ethylene Glycol	107-21-1	7000
#Fluoranthene	206-44-0	140
#Fluorene	86-73-7	140
Furans (Polychlorinated dibenzo furans)		
2,3,7,8-TCDF	51207-31-9	0.050
1,2,3,7,8-PeCDF		0.100
2,3,4,7,8-PeCDF		0.010
1,2,3,4,7,8-HxCDF		0.050
1,2,3,6,7,8-HxCDF		0.050
1,2,3,7,8,9-HxCDF		0.050
Heptachlor	76-44-8	0.008
(and its hydroxide)	--	--
Heptachlor epoxide	1024-57-3	0.04
Hexachlorobenzene	118-74-1	0.13
Hexachloro-1,3-butadiene	87-68-3	0.4
Hexachlorocyclopentadiene	77-47-4	20
Hexachloroethane	67-72-1	3.0
Hexachlorophene	70-30-4	1
Isobutyl alcohol	78-83-1	1000
Isophorone	78-59-1	90
Lead	7439-92-1	1.5
Lindane	58-89-9	0.3
Mercury	7439-97-6	0.2
Methacrylonitrile	126-98-7	0.4
Methomyl	16752-77-5	90
Methoxychlor	72-43-5	10.0
#2-Methoxyethanol	109-86-4	14.0
Methyl ethyl ketone	78-93-3	200.0
Methyl isobutyl ketone	108-10-1	200
Methylene chloride	75-09-2	50
Methyl parathion	298-00-0	0.9
#Mirex	2385-85-5	0.7
Nickel	7440-02-0	70
Nitrobenzene	98-95-3	2.0
N-Nitroso-di-n-butylamine	924-16-3	0.06
N-Nitrosodiphenylamine	86-30-6	70
N-Nitrosomethylethylamine	10595-95-6	0.02
N-Nitroso-n-propylamine	621-64-7	0.05
N-Nitrosopyrrolidine	930-55-2	0.2
p-Phenylene diamine	106-50-3	20
Parathion	56-38-2	20
Pentachlorobenzene	608-93-5	3
Pentachloronitrobenzene	82-68-8	10
Pentachlorophenol	87-86-5	100.0

Phenol	108-95-2	2000
Pronamide	23950-58-5	300
#Pyrene	129-00-0	5.9
Pyridine	110-86-1	4
Selenium	7782-49-2	1.0
Silver	7440-22-4	5.0
Styrene	100-42-5	700
1,1,1,2-Tetrachloroethane	630-20-6	10
1,1,2,2-Tetrachloroethane	79-34-5	2
Tetrachloroethylene	127-18-4	0.7
2,3,4,6-Tetrachlorophenol	58-90-2	100
Toluene	108-88-3	1000
Toxaphene	8001-35-2	0.3
trans-1,3-Dichloro-propene	542-75-6 --	1 --
Tribromomethane (Bromoform)	75-25-2	70
1,2,4-Trichlorobenzene	120-82-1	70
1,1,1-Trichloroethane	71-55-6	300
Trichloroethylene	79-01-6	0.5
1,1,2-Trichloroethane	79-00-5	6
Trichlorofluoromethane	75-69-4	1000
2,4,5-Trichlorophenoxy-propionic acid (2,4,5 TP or Silvex)	93-72-1 --	1.0 --
1,2,3-Trichloropropane	96-18-4	20
2,4,5-Trichlorophenol	95-95-4	400.0
2,4,6-Trichlorophenol	88-06-2	2
Vanadium Pentoxide	1314-62-1	30
Vinyl chloride	75-01-4	0.2
Xylenes (all isomers)	1330-82-1	7000

\# Constituent added since original rule publication.

* If o-, m-, and p-Cresol concentrations cannot be differentiated, the total cresol concentration is used. The Maximum Concentration for total cresol is 200.0 mg/l.

(2) Table 2.

Figure: 30 TAC §335.521(a)(2)

[Figure: 30 TAC §335.521(a)(2)]

Appendix 1, Table 2.

Examples of Ignitable Solids.
Constituents listed from Department of Transportation Regulations, 49 CFR Part 173 Subpart E, October 1, 1993. (Note: The presence of a constituent on this table in a nonhazardous waste does not automatically identify that waste as a Class 1 ignitable waste. The constituents on this table are examples of materials which could be considered Class 1 ignitable waste. The physical characteristics of the waste will be the determining factor as to whether or not a waste is ignitable. Refer to §335.505(2) of this title (relating to Class 1 Waste Determination) for the Class 1 ignitable criteria.[)]
Compound or Material
Aluminum, metallic, powder
Alkali metal amalgams
Alkali metal amides
Aluminum alkyl halides
Aluminum alkyl hydrides
Aluminum alkyls
Aluminum borohydrides
Aluminum carbide
Aluminum ferrosilicon powder
Aluminum hydride
Aluminum phosphide
Aluminum resinate
Aluminum silicon powder
Ammonium picrate
2, 2'-Azodi-(2,4-dimethyl-4-methoxyvaleronitrile)
2, 2'-Azodi-(2,4-dimethylvaleronitrile)
1, 1' Azodi-(hexahydrobenzonitrile)
2,2'-Azodi (2-methyl-butryronitrile)
Azodiisobutryonitrile
Barium, metallic

Barium alloys, pyrophoric
Barium azide
Benzene-1,3-disulfohydrazide
Benzene sulfohydrazide
4-(Benzyl(ethyl)amino)-3-ethoxybenzenediazonium zinc chloride
4-(Benzyl(methyl)amino)-3-ethoxybenzenediazonium zinc chloride
Borneol
Boron trifluoride dimethyl etherate
5-tert-Butyl-2,4,6-trinitro-m-xylene
Calcium, metallic
Calcium carbide
Calcium chlorite
Calcium cyanamide
Calcium dithionite
Calcium hypochlorite
Calcium manganese silicon
Calcium silicon powder
Calcium phosphide
Calcium pyrophoric
Calcium resinate
Calcium silicide
Camphor, synthetic
Carbon, activated
Celluloid
Cerium
Cesium metal
Chromic acid or chromic acid mixture, dry
Cobalt naphthenates, powder
Cobalt resinate
Decaborane
2-Diazo-1-naphthol-4-sulpho-chloride
2-Diazo-1-naphthol-5-sulpho-chloride
2,5-Diethoxy-4-morpholinobenzenediazonium zinc chloride
Diethylzinc
4-Dimethylamino-6-(2-dimethyaminoethoxy) toluene-2-diazonium zinc chloride

Dimethylzinc
Dinitrophenolates
Dinitroresorcinol
N,N'-Dinitroso-N,N'-dimethyl terephthalamide
N,N'-Dinitrosopentamethylenetetramine
Diphenyloxide-4,4'disulfohydrazide
Dipicryl sulfide
4-Dipropylaminobenzenediazonium zinc chloride
Ferrocerium
Ferrosilicon
Ferrous metal
Hafnium powder
Hexamine
Hydrides, metal
3-(2-Hydroxyethoxy)-4-pyrrolidin-1-ylbenzenediazonium zinc chloride
Iron oxide, spent
Isosorbide dinitrate mixture
Lead phosphite, dibasic
Lithium acetylide-ethylene diamine complex
Lithium alkyls
Lithium aluminum hydride
Lithium amide, powdered
Lithium borohydride
Lithium ferro silicon
Lithium hydride
Lithium metal
Lithium nitride
Lithium silicon
Magnesium granules
Magnesium aluminum phosphide
Magnesium diamide
Magnesium phosphide
Magnesium silicide
Maneb
Manganese resinate

Methyl magnesium bromide
Methyldichlorosilane
Mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetrione
N-methyl-N'-nitro-Nitrosoguanidine
Naphthalene
Nitrocellulose mixtures
Nitroguanidine
p-Nitrosodimethylaniline
Paraformaldehyde
Pentaborane
Peratic acid
Phosphorous, amorphous, red
Phosphorous, white or yellow
Phosphoric anhydride
Phosphorous pentachloride
Phosphorus pentasulfide
Phosphorus sesquisulfide
Phosphorus trisulfide
Picric acid
Potassium, metallic
Potassium dichloro-s-triazine-trione
Potassium borohydride
Potassium dithionite
Potassium phosphide
Potassium sulfide, anhydrous
Rubidium metal
Silicon powder, amorphous
Silver picrate
Sodium, metallic
Sodium aluminum hydride
Sodium amide
Sodium borohydride
Sodium chlorite
Sodium 2-diazo-1-naphthol-4-sulphonate
Sodium 2-diazo-1-naphthol-5-sulphonate

Sodium dichloro-s-triazine-trione
Sodium dinitro-ortho-cresolate
Sodium hydride
Sodium hydrosulfite
Sodium methylate
Sodium nitrite and mixtures
Sodium picramate, wet
Sodium potassium alloys
Sodium sulfide, anhydrous
Stannic phosphide
Strontium phosphide
Sulfur
Titanium metal powder
Titanium hydride
Trichloroisocyanuric acid
Trichlorosilane
Trichloro-s-triazinetrione
Trinitrobenzoic acid
Trinitrophenol
Trinitrotoluene
Urea nitrate
Zinc ammonium nitrite
Zinc phosphide
Zinc powder
Zinc resinate
Zirconium hydride, powdered
Zirconium picramate
Zirconium powder
Zirconium scrap

(3) Table 3.

Figure: 30 TAC §335.521(a)(3)

[Figure: 30 TAC §335.521(a)(3)]

Appendix 1, Table 3.

Maximum Contaminant Levels (MCLs).

Values obtained from 40 CFR Part 141, Subparts B and G, Maximum Contaminant Levels and 40 CFR Part 143, Total Dissolved Solids.

Constituent	MCL (mg/l)
Arsenic	0.01 [0.05]
Barium	2 [1]
*Benzene	0.005
Cadmium	0.005
*Carbon tetrachloride	0.005
Chlordane	0.002
*Chlorobenzene	0.1
Chromium	0.1
2,4-D	0.07
*Dibromochloropropane	0.0002
*ortho-Dichlorobenzene	0.6
*para-Dichlorobenzene	0.075
*1,2-Dichloroethane	0.005
*1,1-Dichloroethylene	0.007
*trans-1,2-Dichloroethylene	0.1
*1,2-Dichloropropane	0.005
*Ethylbenzene	0.7
Heptachlor	0.0004
Heptachlor epoxide	0.0002
**Lead	0.015 [0.05]
Mercury	0.002
Methoxychlor	0.04
Pentachlorophenol	0.001
Selenium	0.05
Silver	0.05
*Styrene	0.1
*Tetrachloroethylene	0.005

*1,1,1-Trichloroethane	0.20
*Trichloroethylene	0.005
*Toluene	1
Toxaphene	0.003
2,4,5-TP (Silvex)	0.05
*Vinyl chloride	0.002
*Xylenes (total)	10
Total Dissolved Solids	500

* For a class 3 waste classification, these constituents must also be evaluated using the test methods described in 40 Code of Federal Regulations Part 261, Appendix II. See 335.507(4)(A)(ii) for additional information.

** Federal Maximum Contaminant Level Goal (MCLG) for Lead is 0.0 mg/l, but the action level is 0.015 mg/l

(b) Appendix 2.

Figure: 30 TAC §335.521(b)

[Figure: 30 TAC §335.521(b)]

Appendix 2
Texas Commission on Environmental Quality [Commission]
Waste Permits Division
Industrial and Hazardous Waste Permits Section
MC 130
P.O.Box 13087
Austin, Texas 78711-3087
https://www.tceq.texas.gov/

(c) Appendix 3.

Figure: 30 TAC §335.521(c)

[Figure: 30 TAC §335.521(c)]

Appendix 3.

FORM CODES
_____

Code Waste description
_____
LAB PACKS
LAB PACKS - Lab packs of mixed wastes, chemicals, lab wastes
001 Lab packs of old chemicals only
002 Lab packs of debris only
003 Mixed lab packs
004 Lab packs containing acute hazardous wastes
005 Waste pharmaceuticals managed as hazardous waste
006 Airbag waste (airbag modules or airbag inflators managed as hazardous waste
009 Other lab packs (Specify in Comments)
LIQUIDS
INORGANIC LIQUIDS - Waste that is primarily inorganic and highly fluid (e.g., aqueous), with low suspended inorganic solids and low organic content
101 Aqueous waste with low solvents
102 Aqueous waste with low other toxic organics
103 Spent acid with metals
104 Spent acid without metals
105 Acidic aqueous waste
106 Caustic solution with metals but no cyanides
107 Caustic solution with metals and cyanides
108 Caustic solution with cyanides but no metals
109 Spent caustic
110 Caustic aqueous waste
111 Aqueous waste with reactive sulfides
112 Aqueous waste with other reactives (e.g., explosives)
113 Other aqueous waste with high dissolved solids
114 Other aqueous waste with low dissolved solids
115 Scrubber water
116 Leachate
117 Waste liquid mercury
119 Other inorganic liquids (Specify in Comments)

198 Nonhazardous photographic chemical wastes (inorganic)
199 Brine solution that could also bear the form code 113
ORGANIC LIQUIDS - Waste that is primarily organic and is highly fluid, with low inorganic solids content and low-to-moderate water content
201 Concentrated solvent-water solution
202 Halogenated (e.g., chlorinated) solvent
203 Non-halogenated solvent
204 Halogenated/non-halogenated solvent mixture
205 Oil-water emulsion or mixture
206 Waste oil

207 Concentrated aqueous solution of other organics
208 Concentrated phenolics
209 Organic paint, ink, lacquer, or varnish
210 Adhesives or epoxies
211 Paint thinner or petroleum distillates
212 Reactive or polymerizable organic liquids
219 Other organic liquids (Specify in Comments)
296 Ethylene glycol based antifreeze
297 Nonhazardous liquids containing greater than or equal to (≥) [( )] 50 and less than (<) [( )] 500 ppm PCBs
298 Nonhazardous liquids containing greater than or equal to (≥) [( )] 500 ppm PCBs
299 Nonhazardous photographic chemical waste (organic)
SOLIDS
INORGANIC SOLIDS - Waste that is primarily inorganic and solid, with low organic content and low-to-moderate water content; not pumpable
301 Soil Contaminated with organics
302 Soil contaminated with inorganics only
303 Ash, slag, or other residue from incineration of wastes
304 Other "dry" ash, slag, or thermal residue
305 "Dry" lime or metal hydroxide solids chemically "fixed"
306 "Dry" lime or metal hydroxide solids not "fixed"

307 Metal scale, filings, or scrap
308 Empty or crushed metal drums or containers
309 Batteries or battery parts, casings, cores
310 Spent solid filters or adsorbents
311 Asbestos solids and debris
312 Metal-cyanide salts/chemicals
313 Reactive cyanide salts/chemicals
314 Reactive sulfide salts/chemicals
315 Other reactive salts/chemicals
316 Other metal salts/chemicals
319 Other waste inorganic solids (Specify in Comments)
388 Empty or crushed glass containers
389 Nonhazardous sandblasting waste
390 Nonhazardous concrete/cement/construction debris
391 Nonhazardous dewatered wastewater treatment sludge
392 Nonhazardous dewatered air pollution control device sludge
393 Catalyst waste
394 Nonhazardous solids containing greater than or equal to (≥) [( )] 50 ppm and less than (<) 500 ppm PCBs
395 Nonhazardous solids containing greater than or equal to (≥) [( )] 500 ppm PCBs
396 Nonhazardous electrical equipment/devices containing greater than or equal to (≥) [( )] 50 ppm and less than (<) 500 ppm PCBs.
397 Nonhazardous electrical equipment/devices containing greater than or equal to (≥) [( )] 500 ppm PCBs
398 Nonhazardous soils containing greater than or equal to (≥) [( )] 50 ppm and less than (<) 500 ppm PCBs
399 Nonhazardous soils containing greater than or equal to (≥) [( )] 500 ppm PCBs
ORGANIC SOLIDS - Waste that is primarily organic and solid, with low-to-moderate inorganic content and water content; not pumpable
401 Halogenated pesticide solid
402 Non-halogenated pesticide solid
403 Solids resins or polymerized organics
404 Spent carbon
405 Reactive organic solid
406 Empty fiber or plastic containers
407 Other halogenated organic solids (Specify in Comments)

409 Other non-halogenated organic solids (Specify in Comments)
488 Wood debris
489 Petroleum contaminated solids
490 Sand blasting waste
491 Dewatered biological treatment sludge
492 Dewatered sewage or other untreated biological sludge
493 Catalyst waste
494 Solids containing greater than or equal to (≥) [( )] 50 ppm and less than (<) 500 ppm PCBs
495 Solids containing greater than or equal to (≥) [( )] 500 ppm PCBs
496 Electrical equipment/devices containing greater than or equal to (≥) [( )] 50 ppm and less than (<) 500 ppm PCBs.
497 Electrical equipment/devices containing greater than or equal to (≥) [( )] 500 ppm PCBs
498 Soils containing greater than or equal to (≥) [( )] 50 ppm and less than (<) 500 ppm PCBs
499 Soils containing greater than or equal to (≥) [( )] 500 ppm PCBs
SLUDGES
INORGANIC SLUDGES - Waste that is primarily inorganic, with moderate-to-high water content and low organic content, and pumpable
501 Lime sludge without metals
502 Lime sludge with metals/metal hydroxide sludge
503 Wastewater treatment sludge with toxic organics
504 Other wastewater treatment sludge
505 Untreated plating sludge without cyanides
506 Untreated plating sludge with cyanides
507 Other sludge with cyanides
508 Sludge with reactive sulfides
509 Sludge with other reactives
510 Degreasing sludge with metal scale or filings
511 Air pollution control device sludge (e.g., fly ash, wet scrubber sludge)
512 Sediment or lagoon dragout contaminated with organics
513 Sediment or lagoon dragout contaminated with inorganics only
514 Drilling mud
515 Asbestos slurry or sludge
516 Chloride or other brine sludge
519 Other inorganic sludges (Specify in Comments)

597 Catalyst waste
598 Nonhazardous sludges containing greater than or equal to (≥) [( )] 50 ppm and less than (<) 500 ppm PCBs
599 Nonhazardous sludges containing greater than or equal to (≥) [( )] 500 ppm PCBs
ORGANIC SLUDGES - Waste that is primarily organic with low-to-
moderate inorganic solids content and water content, and pumpable
601 Still bottoms of halogenated (e.g., chlorinated) solvents or other organic liquids
602 Still bottoms of non-halogenated solvents or other organic liquids
603 Oily sludge
604 Organic paint or ink sludge
605 Reactive or polymerizable organics
606 Resins, tars, or tarry sludge
607 Biological treatment sludge
608 Sewage or other untreated biological sludge
609 Other organic sludges (Specify in Comments)
695 Petroleum contaminated sludges other than still bottoms and oily sludges
696 Grease
697 Catalyst waste
698 Nonhazardous sludges containing greater than or equal to (≥) [( )] 50 ppm and less than (<) 500 ppm PCBs
699 Nonhazardous sludges containing greater than or equal to (≥) [( )] 500 ppm PCBs
GASES
INORGANIC GASES - Waste that is primarily inorganic with a low organic content and is a gas at atmospheric pressure
701 Inorganic gases
ORGANIC GASES - Waste that is primarily organic with low-to-moderate inorganic content and is a gas at atmospheric pressure
801 Organic gases
PLANT TRASH
902 Supplemental plant production refuse - Class 2 waste from production, manufacturing, or laboratory operations. The total amount of the supplemental plant production refuse shall not exceed 20% of the annual average of the total plant refuse (form code 999) volume or weight, whichever is less.

999 Plant Trash - Class 2 waste originating in the facility offices or plant production area that is composed of paper, cardboard, linings, wrappings, paper and/or wooden packaging materials, food wastes, cafeteria waste, glass, aluminum foil, aluminum cans, aluminum scrap, stainless steel, steel, iron scrap, plastics, styrofoam, rope, twine, uncontaminated rubber, uncontaminated wooden materials, equipment belts, wirings, uncontaminated cloth, metal bindings, empty containers with a holding capacity of five gallons or less, uncontaminated floor sweepings, and/or food packaging, that are produced as a result of plant production, manufacturing, laboratory, general office, cafeteria, or food services operations. Personal cosmetics generated by facility personnel, excluding those cosmetics generated as a result of manufacturing or plant production operations.

(d) Appendix 4.

Figure: 30 TAC §335.521(d) (No change.)

Appendix 4. Seven-Day Distilled Water Leachate Test

This test is intended only for dry, solid wastes, i.e., waste materials without any free liquids.

1. Place a 250 gm. (dry weight) representative sample of the waste material in a 1,500 ml. Erlenmayer flask.

2. Add one liter of deionized or distilled water into the flask and mechanically stir the material at a low speed for five minutes.

3. Stopper the flask and allow to stand for seven days.

4. At the end of seven days, filter the supernatant solution through a .45-micron filter, collecting the supernatant into a separate flask.

5. Subject the filtered leachate to the appropriate analysis.