

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts the amendments to §335.323 and §335.325.

Amended §335.323 and §335.325 are adopted *with changes* to the proposed text as published in the June 04, 2021, issue of the *Texas Register* (46 TexReg 3499) and, therefore, will be republished.

Background and Summary of the Factual Basis for the Adopted Rules

Texas Health and Safety Code (THSC), §361.134 and §361.136 allows the commission to collect fees for industrial solid waste and hazardous waste generation and management. Industrial solid waste covers what is commonly referred to as Class 1 nonhazardous waste or nonhazardous waste. Additionally, THSC, §361.133(d) sets a collection cap up to \$16 million in waste management fees annually and THSC, §361.134(c) provides collection caps of \$10,000 and \$50,000 for nonhazardous and hazardous waste generators, respectively. Fee schedules for waste generators and waste management have not changed since 1994. The commission adopts an increase in both the generator and management fees and the ability to adjust fees annually under a specified maximum fee schedule. The increase in fees and the ability to adjust fees will allow the commission to optimize existing statutory caps to manage the Waste Management Account more adequately. The commission will utilize various communication strategies to inform the public and regulated entities of fee changes.

Section by Section Discussion

In addition to the adopted revisions associated with this rulemaking, various non-substantive changes are adopted to update references or correct grammar to be consistent throughout Chapter 335. These changes are non-substantive and are not specifically discussed in the Section by Section Discussion portion of this preamble.

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

§335.323, Generation Fee Assessment

The commission adopts the amendments to the tables located in §335.323(e)(1) and (2) to provide for increases to the generator fee for both hazardous and Class 1 nonhazardous waste generators. The commission adopts §335.323(e)(3) to allow the executive director to adjust the fees on an annual basis at or below the established maximum annual fee schedules in the revised tables located in §335.323(e)(1) and (2). Since the proposal, the tables in §335.323(e)(1) and (2) are amended to include table numbers and titles. The table in §335.323(e)(2) is amended to clarify the classification of waste. The commission is making these changes to clarify the names of the fee schedules in response to comments.

In response to comments, the agency is further describing how the executive director will inform regulated entities of the fee change. For generator fees, which are paid annually on the calendar year, the executive director plans to provide communication of changes 30 days before the initial fee rate change and 90 days before any future

changes to the fee rate. If adopted, the executive director would charge the new fee rate to waste generated on or after January 1, 2022 and would send communication of changes for the 2022 fee schedule by December 1, 2021. After the initial rollout, communication of yearly fee adjustments would occur no later than October 1 of the year prior to the effective date of the fee adjustments. Since the proposal, language has been added to §335.323(e)(3) stating the executive director will notify fee payers of the new fee rate before the rates go into effect. Additionally, the executive director made a non-substantive clarification by replacing "up to" with "below" to better describe that the executive director must set fee rates at or below the fee schedules in rule.

In response to comments, the executive director anticipates increasing the generation fee in four equivalent increases over a period of four years. For generator fees, the executive director will begin charging increased fees for the first adjustment on January 1, 2022, and future adjustments on each subsequent January 1. The executive director will monitor fund balances and projected revenue each fiscal year to determine if adjustments are necessary.

§335.325, Industrial Solid Waste and Hazardous Waste Management Fee Assessment

The commission adopts the amendments to the tables located in §335.325(j)(1) and (2) to provide for increases to the waste management fee for both hazardous and Class 1 nonhazardous waste management facilities. The commission adopts §335.325(j)(3) to

allow the executive director to adjust the fees on an annual basis at or below the established maximum fee schedules in the revised tables located in §335.325(j)(1) and (2). Since the proposal, the tables in §335.325(j)(1) and (2) are amended to include table numbers and titles. The commission is making this change to clarify the names of the tables in response to comments.

In response to comments, the agency is further describing how the executive director will inform regulated entities of the fee change. For management fees, which are paid monthly, the executive director plans to provide communication of changes 90 days before the initial fee rate change and 90 days before any future changes to the fee rate. If adopted, the executive director would charge the new fee rate to waste managed on or after March 1, 2022, and communication of changes would be provided by December 1, 2021. After the initial rollout, the fees would be adjusted annually, on September 1 of each year, and communication of changes would be provided by June 1 of each year. Since the proposal, language has been added to §335.325(j)(3) stating the executive director will notify fee payers of the new fee rate before the rates go into effect. Additionally, the executive director made a non-substantive clarification by replacing "up to" with "below" to better describe that the executive director must set fee rates at or below the fee schedules in rule.

In response to comments, the executive director anticipates increasing the management fee in four nearly equivalent increases over a period of three and a half

years. For management fees, the executive director will begin charging increased fees for the first adjustment on March 1, 2022, and on September 1, 2023, for the second adjustment, and future adjustments, if necessary, on each subsequent September 1. The executive director will monitor fund balances and projected revenue each fiscal year to determine if adjustments are necessary.

Final Regulatory Impact Determination

The commission reviewed the rulemaking adoption in light of the regulatory analysis requirements of the Texas Government Code, §2001.0225. The commission determined that the action is not subject to Texas Government Code, §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in that statute. A "major environmental rule" is a rule with the specific intent 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 specific intent of the rulemaking adoption is not to protect the environment or to reduce risks to human health from environmental exposure. The intent of the rulemaking adoption is to provide additional revenue for the commission's waste fund, thus the rulemaking adoption is not a major environmental rule. Additionally, this rulemaking does not adversely affect, in a material way, the economy, a section of the

economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

Furthermore, even if the rulemaking adoption did meet the definition of a "major environmental rule," the adopted rules do not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225. Texas Government Code, §2001.0225 applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) 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 (4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

First, the rulemaking will not exceed a standard set by federal law because the commission is adopting this rulemaking within the authority given by the federal hazardous waste program.

Second, the rulemaking will not adopt requirements that are more stringent than existing state laws. The THSC authorizes the commission to collect an annual generation fee from each generator who generates Class I industrial solid waste or hazardous waste and to collect a fee on industrial solid waste and hazardous waste

managed at a facility, and the rulemaking adoption seeks to adjust fees consistent with state law.

Third, the rulemaking adoption will not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government, where the delegation agreement or contract is to implement a state and federal program. Rather, the commission is adopting rules necessary to maintain the budget for the authorized state hazardous waste program.

Fourth, this rulemaking adoption does not seek to adopt a rule solely under the general powers of the agency because sections of the THSC authorize this rulemaking. The Statutory Authority section of this preamble cites to the sections of the THSC that authorize this rulemaking.

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. No comments were received on the Draft Regulatory Impact Analysis Determination.

Takings Impact Assessment

The commission evaluated the rulemaking adoption and performed analysis of whether the rulemaking adoption constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of the rulemaking adoption is to provide the

additional revenue necessary to operate commission waste program activities funded by the Waste Management Account in a manner that is consistent with the statutory requirements set forth in the THSC. The rulemaking adoption will substantially advance this stated purpose by increasing the fees for industrial solid waste and hazardous waste generation and management and enabling the commission to adjust fees annually in accordance with existing statutory caps.

Promulgation and enforcement of the rulemaking adoption will be neither a statutory nor a constitutional taking of private real property. Specifically, the subject adopted regulations will not affect a landowner's rights in private real property because this rulemaking will not burden (constitutionally) nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. In other words, the rulemaking adoption will not burden private real property because it will amend a fee rule relating to funding for the commission's waste program activities.

Consistency with the Coastal Management Program

The commission reviewed this rulemaking adoption for consistency with the Coastal Management Program (CMP) goals and policies in accordance with the regulations of the Coastal Coordination Advisory Committee and determined that the amendments are consistent with CMP goals and policies. The amendments are consistent with CMP goals and policies because the rulemaking is a fee rule, which is a procedural

mechanism for paying for commission programs; will not have direct or significant adverse effect on any coastal natural resource areas; will not have a substantive effect on commission actions subject to the CMP; and promulgation and enforcement of the amendments will not violate (exceed) any standards identified in the applicable CMP goals and policies.

The commission invited public comment regarding the consistency with the CMP during the public comment period. No comments were received regarding the CMP.

Public Comment

The commission held a public hearing on June 29, 2021. The comment period closed on July 06, 2021. The commission received comments from Corteva Agriscience (CA), Day Enterprises, LLC (DE), Heritage Environmental Services, LLC (HES), Texas Molecular Holdings LLC (TM), and US Ecology (USE). One of the comments was in support of the proposed rule revisions, three of the comments were against the proposed rule revisions, one comment was neither in support of nor against the proposed rule revisions, and all of the comments suggested changes to the proposed rules or fee structures.

Response to Comments

Comment

CA disagreed with the increase to the maximum generation fee schedule that would

allow an increase to the maximum fee in one year and recommended capping generation fee increases with a maximum annual percentage. HES recommended a phased approach to fee increases. USE asked if it is necessary for the commission to increase the fees to the maximum, or if a phased increase could meet the commission's needs.

Response

The Waste Management Account, Fund 0549, is facing a declining fund balance, and an increase in revenue is necessary for the commission to carry out its duties for waste management programs. After considering the comments received, the commission agrees that a phased approach is appropriate to increase fee rates, up to the maximum schedules. The executive director will utilize the flexibility in newly adopted 30 TAC §335.323(e)(3) and §335.325(j)(3) to incrementally increase the fee rates and anticipates four equivalent increases over a period of three and a half years for the management fee and four years for the generation fee. The executive director will monitor fund balances and projected revenue each fiscal year to determine if increases are necessary. The commission has made no changes in rule in response to these comments.

Comment

DE recommended that the commission increase the waste management annual fee cap under THSC, §361.133(d) and to adjust the cap and fee annually based on inflation to

provide additional support to the commission's waste program activities.

Response

The Texas state legislature initiates revisions to statutory fee cap, and the commission's role is to implement rules in accordance with the legislation pursuant to the Texas Government Code, Chapter 2001. The commission has the authority to increase the fees for hazardous and Class 1 nonhazardous waste management under THSC, §361.136, but must remain within the statutory fee cap established in THSC, §361.133(d). The adopted fee increase was developed to allow the commission to meet but not exceed the statutory limit. The commission does not have the authority to adjust the statutory cap. Therefore, the commission cannot adjust the fee cap based on inflation. The commission has made no changes in response to this comment.

Comment

HES and USE commented that the proposed fee increases could reduce Texas industry competitiveness with industries in other states, and USE commented that if customers doing business in Texas utilize out of state disposal options there could be a revenue reduction.

Response

The commission considered the fee rate structures used by other states and

determined that the adopted fee structure is comparable. However, as described in the above response to comment, the commission will utilize a phased incremental increase in fee rates, up to the maximum schedules, and anticipates four equivalent increases over a period of three and a half to four years. The executive director will monitor fund balances and projected revenue each fiscal year to determine if increases are necessary. Additionally, and as discussed in a response to comment below, the executive director will analyze waste management and disposal trends over the previous 18 months before setting the waste management fee rate for the upcoming year. The commission has made no changes in rule in response to this comment.

Comment

HES and USE recommended that the commission initiate a new stakeholder group to further address the fee increases.

Response

The commission requested comments and guidance from the regulated community through a stakeholder meeting and 30-day comment period in July 2019 and received no substantive comments. The commission has made no changes in response to this comment.

Comment

USE recommends increasing the statutory cap for municipal solid waste (MSW) fees in lieu of the proposed industrial and hazardous waste fees increase.

Response

The Texas state legislature initiates revisions to statutory fee caps, and the commission's role is to implement rules in accordance with the legislation pursuant to the Texas Government Code, Chapter 2001. The commission has the authority to increase the fees for hazardous and Class 1 nonhazardous waste generators and management under THSC, §361.134 and §361.136 subject to statutory caps. This rule increases the fees while remaining within the statutory cap provided by THSC, §361.134(c) and §361.133(d). The commission does not have the authority to raise the MSW fees above the rates set in THSC, §361.013. Moreover, any revisions to MSW fees are beyond the scope of this rulemaking. Thus, the commission has made no changes in response to this comment.

Comment

USE recommended revisions to the proposed management fee structure to avoid exceeding the revenue caps or issuing rebates.

Response

The management fee increase was developed to meet but not exceed the statutory limit in THSC, §361.133(d). The purpose of the ability to adjust the fee in the future

is to prevent overcollection caused by increased waste volumes. The executive director will analyze waste management and disposal trends over the previous 18 months before setting the fee for the upcoming year. The commission has made no changes in response to this comment.

Comment

USE and TM recommend revising the proposed regulations to include advance notification for fee revisions and the commission's plans to annually adjust the fees to allow the regulated community to plan for the adjustments. TM recommends a 60-day minimum advance notification.

Response

The commission acknowledges the impact fee adjustments may have in fee payers' budgeting processes and will communicate changes 90 days before the new fees become effective. Communications will include updates to agency forms and websites, along with notification through GovDelivery listservs and other email communication.

For management fees, which are paid monthly, the executive director plans to provide communication of changes 90 days before the initial fee rate change and 90 days before any future changes to the fee rate. If adopted, the executive director would charge the new fee rate to waste managed on or after March 1, 2022, and

communication of changes would be provided by December 1, 2021. After the initial rollout, the fees would be adjusted annually, on September 1 of each year, and communication of changes would be provided by June 1 of each year.

For generator fees, which are paid annually on the calendar year, the executive director plans to provide communication of changes 30 days before the initial fee rate change and 90 days before any future changes to the fee rate. If adopted, the executive director would charge the new fee rate to waste generated on or after January 1, 2022 and would send communication of changes for the 2022 fee schedule by December 1, 2021. After the initial rollout, communication of fee adjustments would occur no later than October 1 of the year prior to the effective date of the fee adjustments.

The commission has added language in rule that requires the executive director to notify fee payers of fee adjustments before adjusted rates go into effect.

Comment

TM commented that the increase in generator fees will likely impact disposal costs and requested clarification for the increases to the generator fees for both hazardous and Class 1 nonhazardous wastes.

Response

The commission has the authority to increase the fees for hazardous and Class 1 nonhazardous waste generators and management under THSC, §361.134 and §361.136 subject to statutory caps. Revisions to the industrial and hazardous waste generator and management fee rules are needed to increase revenue into the Waste Management Account which is facing a declining fund balance. The increased fee rates will allow the commission to increase revenue while remaining within the statutory caps and equitably collect fees for waste processing and disposal across the hazardous and municipal waste program activities. As described in above response to comments, the commission will utilize a phased incremental increase in fee rates, up to the maximum schedules, and anticipates four equivalent increases over a period of three and a half to four years. The executive director will monitor fund balances and projected revenue each fiscal year to determine if increases are necessary. The commission has made no changes in rule in response to this comment.

Comment

TM recommended rule language changes to §335.323(e)(2) regarding “Class 1 Nonhazardous Waste,” and the clarification on the use of “Table,” “Figure,” and “Schedule” in the fee schedules.

Response

The commission has made revisions to clarify the use of “Table” in reference to the

fee schedules in §335.323 and §335.325. The commission has also made a revision to §335.323(e)(2) to specify “Class 1” in “Class 1 Nonhazardous Waste.”

Comment

TM commented appreciation for the consistent increase across all disposition methods.

Response

The commission acknowledges the comment. The commission has made no changes in response to this comment.

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

§335.323, §335.325

Statutory Authority

The rules are adopted under the authority of Texas Water Code (TWC), §5.102, concerning general powers of the commission; TWC, §5.103, which authorizes the commission to adopt any rules necessary to carry out its powers and duties; TWC, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; Texas Health and Safety Code (THSC), §361.024, which provides the commission with the authority to adopt rules necessary to carry out its powers and duties under THSC, Chapter 361; and THSC, §361.017, which establishes the commission's jurisdiction over all aspects of the management of industrial solid waste and municipal hazardous waste with all powers necessary or convenient to carry out the responsibilities of that jurisdiction.

The adopted rules implement THSC, §§361.133(d), 361.134, 361.134(c), and 361.136.

§335.323. Generation Fee Assessment.

(a) An annual generation fee is hereby assessed each industrial or hazardous solid waste generator that is required to notify under §335.6 of this title (relating to

Notification Requirements) and which generates Class 1 industrial solid waste or hazardous waste or whose act first causes such waste to become subject to regulation under Subchapter B of this chapter (relating to Hazardous Waste Management General Provisions) on or after September 1, 1985. These fees shall be deposited in the hazardous and solid waste fee fund. The amount of a generation fee is determined by the total amount of Class 1 nonhazardous waste or hazardous waste generated during the previous calendar year. The annual generation fee may not be less than \$50. The annual generation fee for hazardous waste shall not be more than \$50,000 and for nonhazardous waste not more than \$10,000.

(b) Wastewaters are exempt from assessment under the following conditions.

(1) Wastewaters containing hazardous wastes which are designated as hazardous solely because they exhibit a hazardous characteristic as defined in 40 Code of Federal Regulations (CFR) Part 261, Subpart C, concerning characteristics of hazardous waste, and are rendered nonhazardous by neutralization or other treatment on-site in totally enclosed treatment facilities or wastewater treatment units for which no permit is required under §335.2 of this title (relating to Permit Required) or §335.41 of this title (relating to Purpose, Scope and Applicability) are exempt from the assessment of hazardous waste generation fees.

(2) Wastewaters classified as Class 1 industrial solid wastes because they meet the criteria for a Class 1 waste under the provisions of §335.505 of this title (relating to Class 1 Waste Determination) and are treated on-site in totally enclosed treatment facilities or wastewater treatment units for which no permit is required under §335.2 of this title or §335.41 of this title and no longer meet the criteria for a Class 1 waste are exempt from the assessment of waste generation fees.

(3) Wastewaters containing hazardous wastes which are designated as hazardous solely because they exhibit a hazardous characteristic as defined in 40 CFR Part 261, Subpart C, concerning characteristics of hazardous waste, and are transported via direct hard pipe connection to a publicly-owned treatment works (POTW) and rendered nonhazardous by neutralization or other treatment are exempt from the assessment of hazardous waste generation fees.

(4) Wastewaters classified as Class 1 industrial solid wastes because they meet the criteria for a Class 1 waste under the provisions of §335.505 of this title and are transported via direct hard pipe connection to a POTW for treatment and no longer meet the criteria for a Class 1 waste are exempt from the assessment of waste generation fees.

(5) Wastewaters which are designated as hazardous waste solely under 40 CFR §261.3(a)(2)(iv) that are generated at terminal operations due to de minimis losses

of commercial chemical products and chemical intermediates listed in 40 CFR §261.33 and are treated on-site or off-site at a POTW are exempt from the assessment of hazardous waste generation fees, provided that any discharge to a POTW is via a direct hardpipe connection. For the purposes of this section, de minimis losses shall have the meaning described in 40 CFR §261.3(a)(2)(iv)(D).

(6) These exemptions or adjustments in fee assessment in no way limit a generator's obligation to report such waste generation or waste management activity under any applicable provision of this chapter.

(7) A wastewater stream treated to meet a different waste classification is subject to only one assessment under this section.

(c) Wastes generated in a removal or remedial action accomplished through the expenditure of public funds from the hazardous and solid waste remediation fee fund shall be exempt from any generation fee assessed under this section.

(d) Wastes which are recycled shall be exempt from any generation fee assessed under this section.

(e) Generation fees are to be assessed up to the maximum annual fee according to the schedules in the tables in Figure: 30 TAC §335.323(e)(1) and (2) in this subsection.

(1) Table 1: Hazardous Waste Schedule.

Figure: 30 TAC §335.323(e)(1)

Table 1

Hazardous Waste Schedule

Waste Reported (Tons)	Maximum Annual Fee
Less than 1 ton	No charge
from 1 - 25 tons	\$150
Greater than 25 tons	\$6.00 per ton

(2) Table 2: Class 1 Nonhazardous Waste Schedule.

Figure: 30 TAC §335.323(e)(2)

Table 2

Class 1 Nonhazardous Waste Schedule

Waste Reported (Tons)	Maximum Annual Fee
Less than 1 ton	No charge
From 1 - 50 tons	\$100
Greater than 50 tons	\$2.00 per ton

(3) The executive director may adjust fees at or below the annual fee specified in the fee schedules in this subsection, on an annual basis, and will notify fee payers of the upcoming fee rate before the rates go into effect.

(f) Any claim of exemption from or adjustment to the assessment of a generation fee under this section must be made in writing to the executive director prior to the due date of the assessment.

§335.325. Industrial Solid Waste Generation, Facility and Disposal Fee System.

(a) A fee is hereby assessed on each owner or operator of a waste storage, processing, or disposal facility, except as provided in subsections (b) - (e) of this section. A fee is assessed for hazardous wastes which are stored, processed, disposed, or otherwise managed and for Class 1 industrial wastes which are disposed at a commercial facility. For the purpose of this section, the storage, processing, or

disposal of hazardous waste for which no permit is required under §335.2 of this title (relating to Permit Required) or §335.41 of this title (relating to Purpose, Scope and Applicability) is not subject to a hazardous waste management fee.

(b) A fee imposed on the owner or operator of a commercial hazardous waste storage, processing, or disposal facility for hazardous wastes which are generated in this state and received from an affiliate or wholly owned subsidiary of the commercial facility, or from a captured facility, shall be the same fee imposed on a noncommercial facility. For the purpose of this section, an affiliate of a commercial hazardous waste facility must have a controlling interest in common with that facility.

(c) The storage, processing, or disposal of industrial solid waste or hazardous wastes generated in a removal or remedial action accomplished through the expenditure of public funds from the hazardous and solid waste remediation fee fund shall be exempt from the assessment of a waste management fee under this section.

(d) A fee shall not be imposed on the owner or operator of a waste storage, processing, or disposal facility for the storage of hazardous wastes if such wastes are stored within the time periods allowed by and in accordance with the provisions of §335.69 of this title (relating to Accumulation Time).

(e) A fee may not be imposed under this section on the operation of a facility permitted under the Texas Water Code, Chapter 26, or the federal National Pollutant Discharge Elimination System program for wastes treated, processed, or disposed of in a wastewater treatment system that discharges into surface waters of the state. For the purpose of this section, the management of a hazardous waste in a surface impoundment which is not exempt from assessment under this subsection will be assessed the fee for processing under subsection (j) of this section.

(f) The waste management fee authorized under this section shall be based on the total weight or volume of a waste except for wastes which are disposed of in an underground injection well, in which case the fee shall be based on the dry weight of the waste, measured in dry weight tons (dwt), as defined in §335.322 of this title (relating to Definitions) and §335.326 of this title (relating to Dry Weight Determination).

(g) The hazardous waste management fee for wastes generated in this state shall not exceed \$40 per ton for wastes which are landfilled.

(h) The operator of a waste storage, processing, or disposal facility receiving industrial solid waste or hazardous waste from out-of-state generators shall be assessed the fee amount required on wastes generated in state plus an additional

increment to be established by rule, except as provided in subsection (k) of this section.

(i) For the purposes of subsection (j) of this section, energy recovery means the burning or incineration of a hazardous waste fuel and fuel processing means the handling of a waste fuel, including storage and blending, prior to its disposal by burning.

(j) Except as provided in subsections (k) - (q) of this section, waste management fees shall be assessed up to the maximum fee according to the schedules in the tables in Figure: 30 TAC §335.325(j)(1) and (2) in this subsection.

(1) Table 1: Hazardous Waste Schedule.

Figure: 30 TAC §335.325(j)(1)

Table 1
Hazardous Waste Schedule

	Maximum Fee Noncommercial		Maximum Fee Commercial	
Disposition	In State	Imported	In State	Imported
Landfill	\$21.75/ton	\$27.55/ton	\$40/ton	\$50/ton

Land Treatment	\$17.40/ton	\$21.75/ton	\$34.80/ton	\$43.50/ton
Underground Injection	\$13.05/dwt	\$15.95/dwt	\$26.10/dwt	\$32.63/dwt
Incineration	\$11.60/ton	\$14.50/ton	\$23.20/ton	\$29/ton
Processing	\$5.80/ton	\$7.25/ton	\$11.60/ton	\$14.50/ton
Storage	\$1.45/ton	\$1.45/ton	\$2.90/ton	\$2.90/ton
Energy Recovery	\$5.80/ton	\$5.80/ton	\$11.60/ton	\$11.60/ton
Fuel Processing	\$4.35/ton	\$4.35/ton	\$8.70/ton	\$8.70/ton

(2) Table 2: Class 1 Nonhazardous Waste Schedule.

Figure: 30 TAC §335.325(j)(2)

Table 2

Class 1 Nonhazardous Waste Schedule

Disposition	Maximum Fee Noncommercial		Maximum Fee Commercial	
	In State	Imported	In State	Imported
Landfill	N/A	N/A	\$8.00/ton	\$10/ton
Land Treatment	N/A	N/A	\$6.96/ton	\$8.70/ton
Underground Injection	N/A	N/A	\$5.22/dwt	\$6.53/dwt
Incineration	N/A	N/A	\$4.64/ton	\$5.80/ton

(3) The executive director may adjust fees at or below the fee specified in the fee schedule, on an annual basis, and will notify fee payers of the upcoming fee rate before the rates go into effect.

(k) For wastes which are generated out-of-state, the fee will be that specified in subsection (j) of this section, except that the fee for the storage, processing, incineration, and disposal of hazardous waste fuels shall be the same for wastes generated out-of-state and in-state.

(l) Except as provided in subsection (m) of this section, only one waste management fee shall be paid for a waste managed at a facility. In any instance where more than one fee could be applied under this section to a specific volume of waste, the higher of the applicable fees will be assessed.

(m) A fee for storage of hazardous waste shall be assessed in addition to any fee for other waste management methods at a facility. No fee shall be assessed under this section for the storage of a hazardous waste for a period of less than 90 days as determined from the date of receipt or generation of the waste (or the effective date of this section). The fee rate specified in the schedule under subsection (j) of this section shall apply to the quantity of waste in any month which has been in storage for more than 90 days or the number for which an extension has been granted under §335.69 of this title.

(n) A facility which receives waste transferred from another facility shall pay any waste management fee applicable under this section and shall not receive credit for any fee applied to the management of the waste at the facility of origin.

(o) The fee rate for incineration of aqueous wastes containing 5.0% or less of total organic carbon will be 10% of the fee for incineration under the schedule in subsection (j) of this section.

(p) A commercial waste disposal facility receiving solid waste not subject to assessment under this section shall pay any assessment due under Chapter 330, Subchapter P of this title (relating to Fees and Reporting). No fee for disposal of a solid waste under Chapter 330, Subchapter P of this title, shall be assessed in addition to a fee for disposal under this section.

(q) An operator of a hazardous waste injection well electing to separately measure inorganic salts in the determination of dry weight under the provisions of §335.326(c) of this title shall pay a fee equivalent to 20% of the fee for underground injection assessed in subsection (j) of this section for the components of the waste stream determined to be inorganic salts.