

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

### **Background and Summary of the Factual Basis for the Proposed 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 generators, respectively. Fee schedules for waste generators and waste management have not changed since 1994. The commission proposes 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 would allow the commission to optimize existing statutory caps to manage the Waste Management Account more adequately. The commission would utilize various communication strategies to inform the public and regulated entities of fee changes.

### **Section by Section Discussion**

In addition to the proposed revisions associated with this rulemaking, various non-substantive changes are proposed 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 proposes to amend the figures 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 proposes §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 figures located in §335.323(e)(1) and (2).

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

The commission proposes to amend the figures 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 proposes §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 figures located in §335.325(j)(1) and (2).

**Fiscal Note: Costs to State and Local Government**

Jené Bearse, Analyst in the Budget and Planning Division, determined that for the first five-year period the proposed rules would be in effect, fiscal implications would be anticipated for the agency and for other units of state or local government as a result

of administration or enforcement of the proposed rulemaking. This rulemaking addresses a proposed fee increase for the generation and management fees and the ability to adjust fees annually within the fee schedule.

The proposed rulemaking would increase the management fee schedule by 45%. The executive director would have the option of raising fees to the maximum or phasing in the increase. The agency estimates that the maximum revenue increase for the management fee would be \$4,848,962 per year for the next five years. In accordance with state law, half of the funds would be deposited into General Revenue Account 0549 Waste Management, a dedicated account which has experienced a declining fund balance. The other half of the revenue would be deposited into General Revenue Account 0550 Hazardous and Solid Waste Remediation Fees.

The proposed rulemaking would increase the generation fee from \$0.50 to a maximum of \$2.00 per ton for Class 1 nonhazardous waste generators and from \$2.00 to a maximum of \$6.00 per ton for hazardous waste generators. The agency estimates that the maximum revenue increase for the generation fee would be \$3,889,305 per year for the next five years. The revenue would be deposited into General Revenue Account 0549 Waste Management.

The proposed fee increase may impact units of local government. Twenty-five percent of the fees collected for the management of hazardous and Class 1 nonhazardous

waste at commercial facilities is sent to the county in which the facility is located. At the maximum rate, the agency estimates that the proposed rules would generate an additional \$835,564 for these counties per year.

Based on agency data for fiscal year 2020, six governmental entities and 81 waste generators owned or operated by a unit of government are expected to be affected. Additional facilities may be impacted if they begin to manage or generate waste. The estimated average increase of the proposed management fees on these facilities would be \$1,616 per facility per year. The estimated average increase of the proposed generation fees on these facilities with Class 1 nonhazardous waste would be \$1,586 per facility per year, and the estimated average increase for hazardous waste would be \$3,529 per facility per year. The methodology used to determine the revenue estimates included averaging agency data from fiscal years 2019 and 2020.

### **Public Benefits and Costs**

Ms. Bearse determined that for each year of the first five years that the proposed rules would be in effect, the public benefit anticipated would be increased stability in the General Revenue Account 0549 Waste Management, which has had a decreasing fund balance in recent years. The funds from this dedicated account are used to regulate industrial solid and hazardous waste, as stated in the THSC, §361.132. The regulation of this waste is required by law to protect human health and the environment.

The proposed rulemaking is anticipated to result in fiscal implications for certain businesses or individuals, specifically all permitted and active industrial hazardous waste facilities. The agency estimates there are 176 waste management facilities and 2,404 industrial or hazardous solid waste generators.

The proposed rulemaking would increase the management fee schedule by 45%. The executive director would have the option of raising fees to the maximum or phasing in the increase. The estimated management fee increase will be \$53,058 per facility per year. The proposed rulemaking would increase the generation fee from \$0.50 to a maximum of \$2.00 per ton for Class 1 nonhazardous waste generators, and from \$2.00 to a maximum of \$6.00 per ton for hazardous waste generators. The estimated average increase of the proposed management fees on these facilities would be \$1,616 per facility per year. The estimated average increase of the proposed generation fees on these facilities with Class 1 nonhazardous waste would be \$1,586 per facility per year, and the estimated average increase for hazardous waste would be \$3,529 per facility per year. The methodology used to determine the estimates included averaging agency data from fiscal years 2019 and 2020.

### **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 would not adversely affect a local economy in a material way for the first five years that the

proposed rules would be in effect.

#### **Rural Communities Impact Assessment**

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking would not adversely affect rural communities in a material way for the first five years that the proposed rules would be 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 rulemaking for the first five-year period the proposed rules would be 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 rulemaking would not adversely affect a small or micro-business in a material way for the first five years the proposed rules would be in effect.

#### **Government Growth Impact Statement**

The commission prepared a Government Growth Impact Statement assessment for this

proposed rulemaking. The proposed rulemaking would not create or eliminate a government program and would not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking would not require the creation of new employee positions nor eliminate current employee positions. The proposed rulemaking would increase fees paid to the agency. The proposed rulemaking would not create, expand, repeal or limit an existing regulation, nor would the proposed rulemaking increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rulemaking should not have a positive or negative impact on the state's economy.

#### **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. 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 proposed rulemaking is not to protect the environment or to

reduce risks to human health from environmental exposure. The intent of the rulemaking is to provide additional revenue for the agency's waste fund, so the proposed rulemaking is not a major environmental rule.

Furthermore, even if the proposed rulemaking did meet the definition of a "Major environmental rule", the proposed 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. The proposed rulemaking does not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225.

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

Second, the rulemaking would not propose 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 proposed rulemaking seeks to adjust fees consistent with state law.

Third, the proposed rulemaking would 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. On the contrary, the commission is proposing rules necessary to maintain the budget for the authorized state hazardous waste program.

Fourth, this rulemaking would not seek to adopt a rule solely under the general powers of the agency. Rather, sections of the THSC would authorize this rulemaking, which are cited in the Statutory Authority section of this preamble.

The commission invites public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. Written comments on the Draft Regulatory Impact Analysis Determination 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 rules and performed analysis of whether the proposed rules constitute a taking under Texas Government Code, Chapter 2007. The specific purpose of the proposed rules is to provide the commission with the additional revenue necessary to operate agency 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 proposed rules would 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 these proposed rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulations would not affect a landowner's rights in private real property because this rulemaking would 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 proposed rules would not burden private real property because they amend a fee rule which relates to funding for the commission's waste program activities.

### **Consistency with the Coastal Management Program**

The commission reviewed this rulemaking 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; would not have direct or significant adverse effect on any coastal natural resource areas; would not have a substantive effect on commission actions subject to the CMP; and promulgation and enforcement of the amendments would not violate (exceed) any standards identified in the applicable 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 Virtual Hearing**

The commission will hold a *virtual* public hearing on this proposal on June 29, 2021, at 10:00 a.m.. The virtual hearing is structured for the receipt of oral comments by interested persons. Individuals who register may present oral statements when called upon in order of registration. Open discussion will not be permitted during the virtual hearing; however, agency staff members will be available to discuss the proposal 30 minutes prior to the virtual hearing.

Persons who do not have internet access or who have special communication or other accommodation needs who are planning to participate in the virtual hearing should contact 1-800-RELAY-TX (TDD) to register. Accommodation requests should be made as far in advance as possible.

### **Registration**

The hearing will be conducted remotely using an internet meeting service. Individuals who plan to attend the hearing and want to provide oral comments or want their attendance on record must register by Friday, June 25, 2021. To register for the hearing, please email [Rules@tceq.texas.gov](mailto: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 June 28, 2021 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://teams.microsoft.com/l/meetup-join/19%3ameeting\\_ZGImNjljZDQYTM2ZC00NDVklWE0MGMtNTA1ODNkODA3YTky%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%220ab3b264-6a49-48c6-afc8-8225e4a7b0ac%22%2c%22IsBroadcastMeeting%22%3atrue%7d&btype=a&role=a](https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZGImNjljZDQYTM2ZC00NDVklWE0MGMtNTA1ODNkODA3YTky%40thread.v2/0?context=%7b%22Tid%22%3a%22871a83a4-a1ce-4b7a-8156-3bcd93a08fba%22%2c%22Oid%22%3a%220ab3b264-6a49-48c6-afc8-8225e4a7b0ac%22%2c%22IsBroadcastMeeting%22%3atrue%7d&btype=a&role=a)

### **Submittal of Comments**

Written comments may be submitted to Gwen Ricco, 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://www6.tceq.texas.gov/rules/ecomments/>*. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2020-010-335-WS. The comment period closes on July 6, 2021. Please choose only 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/prop.html>*. For further information, please contact Garrett Heathman, Waste Permits Division, (512) 239-0520.

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

**§335.323, §335.325**

**Statutory Authority**

The rules are proposed 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 proposed 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 [non-hazardous] 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 located in this subsection. [following schedule:]

(1) Hazardous [hazardous] waste schedule. [:]

**Figure: 30 TAC §335.323(e)(1)**

[Figure: 30 TAC §335.323(e)(1)]

<b>Waste Reported (Tons)</b>	<b><u>Maximum</u> <u>Annual Fee</u></b>
Less than 1 ton	No charge
from <u>1 - 25</u> [1 - 50] tons	<u>\$150</u> [\$100]
Greater than <u>25</u> [50] tons	<u>\$6.00</u> [\$2.00] per ton

(2) Nonhazardous [nonhazardous] waste schedule. [:]

**Figure: 30 TAC §335.323(e)(2)**

[Figure: 30 TAC §335.323(e)(2)]

<b>Waste Reported (Tons)</b>	<b><u>Maximum</u> <u>Annual Fee</u></b>
Less than 1 ton	No charge
From <u>1 - 50</u> [1 - 100] tons	<u>\$100</u> [\$50]
Greater than <u>50</u> [100] tons	<u>\$2.00</u> [\$.50] per ton

(3) The executive director may adjust fees at or up to the annual fee specified in the fee schedules in this subsection, on an annual basis.

(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 located in this subsection. [following schedule.]

(1) Hazardous waste schedule.

**Figure: 30 TAC §335.325(j)(1)**

[Figure: 30 TAC §335.325(j)(1)]

	<u>Maximum Fee Noncommercial [Noncommercial]</u>		<u>Maximum Fee Commercial [Commercial]</u>	
<b>Disposition</b>	<b>In State</b>	<b>Imported</b>	<b>In State</b>	<b>Imported</b>
Landfill	<u>\$21.75/ton</u> [\$15/ton]	<u>\$27.55/ton</u> [\$19/ton]	<u>\$40/ton</u> [\$30/ton]	<u>\$50/ton</u> [\$37.50/ton]
Land Treatment	<u>\$17.40/ton</u> [\$12/ton]	<u>\$21.75/ton</u> [\$15/ton]	<u>\$34.80/ton</u> [\$24/ton]	<u>\$43.50/ton</u> [\$30/ton]
Underground Injection	<u>\$13.05/dwt</u> [\$9/dwt]	<u>\$15.95/dwt</u> [\$11/dwt]	<u>\$26.10/dwt</u> [\$18/dwt]	<u>\$32.63/dwt</u> [\$22.50/dwt]
Incineration	<u>\$11.60/ton</u> [\$8/ton]	<u>\$14.50/ton</u> [\$10/ton]	<u>\$23.20/ton</u> [\$16/ton]	<u>\$29/ton</u> [\$20/ton]
Processing	<u>\$5.80/ton</u> [\$4/ton]	<u>\$7.25/ton</u> [\$5/ton]	<u>\$11.60/ton</u> [\$8/ton]	<u>\$14.50/ton</u> [\$10/ton]
Storage	<u>\$1.45/ton</u> [\$1/ton]	<u>\$1.45/ton</u> [\$1/ton]	<u>\$2.90/ton</u> [\$2/ton]	<u>\$2.90/ton</u> [\$2/ton]
Energy Recovery	<u>\$5.80/ton</u> [\$4/ton]	<u>\$5.80/ton</u> [\$4/ton]	<u>\$11.60/ton</u> [\$8/ton]	<u>\$11.60/ton</u> [\$8/ton]

Fuel Processing	<u>\$4.35/ton</u> [\$3/ton]	<u>\$4.35/ton</u> [\$3/ton]	<u>\$8.70/ton</u> [\$6/ton]	<u>\$8.70/ton</u> [\$6/ton]
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(2) Class 1 nonhazardous [non-hazardous] waste schedule.

**Figure: 30 TAC §335.325(j)(2)**

**[Figure: 30 TAC §335.325(j)(2)]**

	<u>Maximum Fee</u> <u>Noncommercial</u> [Noncommercial]		<u>Maximum Fee</u> <u>Commercial</u> [Commercial]	
Disposition	In State	Imported	In State	Imported
Landfill	<u>N/A</u>	<u>N/A</u>	<u>\$8.00/ton</u> [\$6/ton]	<u>\$10/ton</u> [\$7.50/ton]
Land Treatment	<u>N/A</u>	<u>N/A</u>	<u>\$6.96/ton</u> [\$4.80/ton]	<u>\$8.70/ton</u> [\$6/ton]
Underground Injection	<u>N/A</u>	<u>N/A</u>	<u>\$5.22/dwt</u> [\$3.60/dwt]	<u>\$6.53/dwt</u> [\$4.50/dwt]
Incineration	<u>N/A</u>	<u>N/A</u>	<u>\$4.64/ton</u> [\$3.20/ton]	<u>\$5.80/ton</u> [\$4/ton]

(3) The executive director may adjust fees at or up to the fee specified in the fee schedule, on an annual basis.

(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 [Reports]). 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.