

Elita Castleberry

Harris County Pollution Control Services respectfully submits the comment letter as a pdf.

Harris County Pollution Control

Established in 1953

Harris County Pollution Control Services

Dr. Latrice Babin, Executive Director



March 24, 2023

Gwen Ricco
Texas Commission on Environmental Quality
Office of Legal Services, MC 205
PO Box 13087
Austin, TX 78711-3087

Re: Comments on the Proposed Revision of 30 Texas Administrative Code Chapter 330

Dear Gwen Ricco,

Harris County Pollution Control Services (PCS) respectfully submits the following comments on the proposed revisions to 30 Texas Administrative Code (TAC) Chapter 330 Municipal Solid Waste (MSW), Section (§) 330.647, under the requirements of Texas Health and Safety Code (THSC), §363.062(f) and Texas Government Code, Chapter 2001, Subchapter B.

Per the THSC and the Texas Government Code, the proposed rule revisions would adopt the 24 approved regional solid waste management plans (SWMP) developed by the Texas Council Of Government (COG) for the period of 2022 to 2042.

PCS is involved in Community and Industry Partnerships meetings where industries explain to the community their activities to form engagement and understanding. PCS inspects facilities in Harris County for compliance with environmental laws and regulations, reviews permit applications, and submits comments to the TCEQ on permitting actions. PCS also works closely with the TCEQ's Houston Region 12 office, which refers a substantial portion of environmental complaints, including nuisance complaints, from Harris County citizens to PCS. PCS then investigates these complaints and, when appropriate, issues Violation Notices and refers cases to the Harris County Attorney's Office or District Attorney's Office for civil or criminal enforcement.

During inspections at MSW facilities, inspectors encounter recyclables bound for landfills. Facilities are asked about recycling efforts but note the onus is on the individual to separate the recyclables before arriving at the facilities. It is not uncommon for inspectors to observe recyclables being disposed of in landfills.

Per the TCEQ Municipal Solid Waste in Texas: A Year in Review 2021 Data Summary and Analysis, also referred to as the 2021 Annual Summary, over 25 landfills in Texas have permitted heights

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surpassing 200 feet in elevation. To put this in perspective, this is the equivalent of a 10 to 15-story building, with some landfills proposed to be up to or more than 300 feet in elevation. The 2021 Annual Summary notes Harris County has 13 active MSW landfills. Some Harris County residents in the shadows of these landfills voice opposition to proposed expansions or complain about traffic, nuisance odors, wind-blown debris, and water contamination from stormwater runoff and groundwater contamination.

When citizens comment negatively on solid waste permitting actions, it is not uncommon for the TCEQ to respond this "... is outside the scope of the Executive Director's administrative and technical review of an MSW application" or "...the Executive Director has reviewed the application and preliminarily determined that it meets the regulatory and statutory requirements." This only adds to the fact "Many Texans both distrust and misunderstand TCEQ and the entities it regulates," per the Sunset Review report. With permit applicants "...frustrated with delays in the permitting process, costs of having to comply with increased regulatory requirements, and negative publicity due to public resistance regarding where industrial activity locates, increased traffic, or other concerns outside TCEQ's purview."

"The regional SWMP includes goals and strategies for implementing and promoting proper waste disposal management, waste diversion from landfills, recycling, and waste minimization, as well as initiatives for reducing illegal dumping of waste." "The regional SWMP also describes the regions' current and anticipated activities." "Plan requirements include documenting and estimating future growth for the region's population and commercial and industrial growth; estimating future solid waste amounts by type; descriptions of current and planned waste management activities; and assessment and adequacy of existing waste management facilities, practices, and programs." "The regional SWMP also require assessment of current and future efforts of source reduction and waste minimization activities, as well as reuse and recycling of waste."

According to the TCEQ website Don't Trash That: TCEQ Releases Recycling Market Development Plan, "An estimated 43.8 percent of the total solid waste in MSW landfills in Texas could have been recycled." The same site notes, "Based on the tons of recycling reported, the 2019 MSW recycling rate for Texas was 27.5 percent, which is a 4.8 percentage point increase in the recycling rate from the Study on the Economic Impacts of Recycling study of 22.7 percent in 2015." Upon review of the plan, the majority of recycling in 2015 and 2019 is of yard trimming, brush green waste, construction, and demolition debris. The State of Texas recycling rate goal for the next 20 years is 40%.

Per **THSC §361.422(a)**, It is the state's goal to reduce by January 1, 1994, the amount of municipal solid waste disposed of in this state by at least 40 percent through source reduction and recycling.

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The Houston Recycling Collaborative is a partnership with the City of Houston, ExxonMobil, LyondellBassell, Cyclyx International, and FCC Environmental Services to increase Houston's plastics recycling rate and help establish the city as a leader for both mechanical and advanced recycling processes. Other chemical companies in the area are also developing similar recycling processes.

The Houston-Galveston Area Council (HGAC) draft regional SWMP "Objective 1.D Encourage the development of larger regional facilities to the extent practical and where such facilities would be the best alternative; Objective 1.E Encourage expansion and redevelopment of existing municipal solid waste facilities, where feasible, over-siting of new facilities; and Objective 1.F Encourage development of transfer stations and citizen collection stations, where appropriate." The HGAC draft regional SWMP further states the area's current recycling rate is approximately 26% and proposes to recover 10% of what is currently being disposed of over the next 20 years. Demographic information has the disposal rate remaining at 7.25 lbs/person/day for all years from 2022 to 2042, with the recycling rate going from 2.58 to 3.30 lbs/person/day for the same time period. Regarding "Planned Solid Waste Management Activities in the Region, no major changes to how waste and recycling are generated are expected." During the HGAC public hearing and comment period, concerns regarding increasing recycling rates, conserving landfill space, expensive construction of new landfills, and controversies of the landfill locations were responded with, "Projected per capita rates and recycling rates were based on historic data for the region, the industry trend toward lighter packaging, the trending buying habits of the public, and other factors. No changes were made."

Per **THSC §363.066(a)**, On the adoption of a regional or local solid waste management plan by commission rule, public and private solid waste management activities, and state regulatory activities must conform to that plan.

PCS Concerns

While the state's recycling rate for the next 20 years is achievable through mulch and concrete, other states are currently achieving recycling rates of over 40%. PCS is concerned partnerships are being developed without the knowledge/support of the COG to further facilitate it and make it more accessible to all citizens. PCS is also concerned public complaints of nuisances from MSW

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facilities will continue or increase with the expansion of larger regional facilities and more transfer stations nearer to residents.

Note: PCS has submitted comments to the TCEQ for MSW facilities and has requested the permittee address concerns per the region's SWMP goals and objectives per THSC §363.066(a).

PCS Recommendations

PCS recommends the TCEQ reevaluate the 40% achievable recycling rate for the state of Texas, which will be in effect for the next 20 years. PCS further recommends the SWMP aim for higher recycling rates to minimize future expansion of MSW facilities. PCS requests the TCEQ ensure MSW facilities comply with THSC §363.066(a) upon the commission's adoption of the new SWMP.

Per **30 TAC §330.639(d)** Notice and availability. The governing body of the responsible entity shall make available to interested persons at locations of convenience planning reports and documents. Notice of the availability of documents and of public meetings shall be advertised in newspapers of general circulation in the area affected by the plan. The governing body of the responsible entity shall provide proper notice a minimum of 15 days in advance of the meeting. The notice shall include the meeting time, location, and subjects to be discussed. PCS noted the following in our review:

The Houston Chronicle, dated January 2, 2022, contained a notice for the HGAC SWMP public meeting on January 5, 2022.

The Laredo Morning Times, dated August 23, 2021, contained a notice for the STDC SWMP public meeting on August 26, 2021.

The Waco Tribune-Herald, dated July 15, 2021, contained a notice for the HOTCOG SWMP public meeting on July 22, 2021.

During the HGAC public hearing and comment period, concerns regarding the timing and release of the SWMP, comment period, public meeting, and public participation were responded to with, "Your feedback regarding the timeline and release date of the Draft Regional SWMP for comment has been noted."

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PCS Concerns

PCS is concerned several COG SWMP public notices didn't meet the minimum regulatory and statutory requirements of 15 days per 30 TAC §330.639(d). This did not allow the public to adequately review and comment on the SWMP, which will be in effect for 20 years.

PCS Recommendations

PCS requests the TCEQ review the notices of the SWMP to determine if they met the regulations and to require the re-publication of notices that didn't meet the minimum regulatory and statutory requirements per 30 TAC §330.639(d).

PCS appreciates the opportunity to submit these comments for your consideration. Should you or other TCEQ staff have questions, contact Elita Castleberry at (713) 274-6236 or by email at elita.castleberry@pcs.hctx.net.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Babin'.

Dr. Latrice Babin
Executive Director

cc: Helen Bonnyman - Harris County Judge's Office
Sarah Utley - Harris County Attorney's Office
Nicole Bealle - TCEQ Region 12