

**SUBCHAPTER O : REGIONAL AND LOCAL SOLID WASTE MANAGEMENT PLANNING
AND FINANCIAL ASSISTANCE GENERAL PROVISIONS**

§§330.561-330.569

Effective August 2, 2000

§330.561. Purpose and Scope.

(a) Purpose. The sections in this subchapter are intended to guide in the development and implementation of regional and local solid waste management plans. They specify the required and recommended content of regional and local solid waste management plans, provide for coordination with other programs and public participation, establish criteria for regional and local plan submission and approval, and set out criteria for financial assistance to regional and local governments for the development and implementation of regional and local solid waste management plans.

(b) Scope.

(1) Planning process. A regional or local solid waste management plan shall be the result of a planning process related to proper management of solid waste in the planning area under consideration. The process shall include identification of problems and collection and evaluation of data necessary to provide a written public statement of goals and objectives and the actions recommended to accomplish those goals and objectives.

(2) Geographic area. A regional solid waste management plan shall consider the entire area within an identified planning region and it shall provide an overview of the solid waste management situation throughout the region. A local solid waste management plan shall consider all of the area within the jurisdiction of one or more local governments, but it shall not include an entire planning region. It shall be more specific than a regional plan in addressing solid waste management problems and in providing for implementation.

(3) Management activities. The regional plan shall provide an overview of solid waste management activities, including institutional arrangements and options for private sector involvement, with particular emphasis on identifying priorities and factors which need more detailed consideration at the local level. The local plan should address local activities, including contractual agreements, in a manner that is specific enough to provide for implementation of suggested courses of action. Aspects of solid waste management listed in subparagraphs (A)-(J) of this paragraph shall be considered, as appropriate:

(A) collection;

(B) transportation;

(C) storage;

(D) transfer;

(E) resource conservation and recovery:

(i) source reduction and waste minimization;

(ii) reuse and recycling;

(iii) source separation;

(iv) volume reduction;

(v) incineration;

(vi) gasification; and

(vii) methane recovery;

(F) processing;

(G) treatment;

(H) disposal;

(I) management and institutional arrangements, including public and private sector involvement; and

(J) costs and financing.

(4) Waste types.

(A) The regional or local plan shall address all solid wastes in the particular region or local area to the extent the wastes impact upon municipal operations, systems, or facilities. Particular emphasis shall be placed on waste that possesses the potential for adverse effects to health or the environment or which provides the opportunity for resource conservation or recovery.

(B) The regional or local plan shall consider, where appropriate, the types of solid waste listed in clauses (i)-(vii) of this subparagraph:

(i) hazardous waste;

(ii) residential, commercial, institutional, and recreational waste;

- (iii) waste from military reservations and installations;
- (iv) municipal sludge:
 - (I) wastewater treatment plant sludge;
 - (II) water supply treatment plant sludge;
 - (III) septage and other vacuum truck waste; and
 - (IV) grease and grit trap wastes.
- (v) industrial wastes;
- (vi) mining wastes; and
- (vii) agricultural wastes.

(5) Management methods.

(A) In regional and local plans, preference shall be given to the maximum extent economically and technologically feasible to the management methods for solid waste (except sludge) described in clauses (i)-(iv) of this subparagraph. The management methods are listed in descending order, from most preferred to least preferred:

- (i) source reduction and waste minimization;
- (ii) reuse or recycling of waste;
- (iii) treatment to destroy or reprocess the waste for the purpose of recovering energy or other beneficial resources in a manner that will not threaten public health, safety, or the environment; or
- (iv) land disposal.

(B) In regional and local plans, preference shall be given to the maximum extent economically and technologically feasible to the management methods for municipal sludge, as described in clauses (i)-(vi) of this subparagraph. The management methods are listed in descending order, from most preferred to least preferred:

- (i) source reduction and minimization of sludge production and concentrations of heavy metals and other toxins in the sludge;

(ii) treatment of sludge to reduce pathogens and recover energy, produce beneficial by-products, or reduce the quantity of the sludge;

(iii) marketing and distribution of sludge and sludge products, if the marketing and distribution does not threaten public health, safety, or the environment;

(iv) land application for beneficial use;

(v) land treatment; or

(vi) landfilling.

(C) When landfilling is a recommended management method, regional and local plans must:

(i) encourage cooperative efforts between local governments in the siting of landfills;

(ii) consider the need to transport waste between municipalities, from a municipality to an area in the jurisdiction of a county, or between counties, particularly if a technically suitable site for a landfill does not exist in a particular area; and

(iii) allow a local government to justify the need for a landfill in its jurisdiction to dispose of the solid waste generated in the jurisdiction of another local government that does not have a technically suitable site for a landfill in its jurisdiction.

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§330.562. Definitions of Terms and Abbreviations.

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

(1) **Advisory council** - The Municipal Solid Waste Management and Resource Recovery Advisory Council.

(2) **City** - An incorporated city or town in the state.

(3) **Closed Municipal Solid Waste Landfill (CMSWLF) Unit** - A discrete area of land or an excavation that has received only municipal solid waste or municipal solid waste combined with other solid wastes, including but not limited to construction/demolition waste, commercial solid waste, nonhazardous sludge, conditionally-exempt small-quantity generator hazardous waste, and

industrial solid waste, and that is not a land application unit, surface impoundment, injection well, or waste pile as those terms are defined by 40 Code of Federal Regulations §257.2.

(4) **Commission** - The Texas Natural Resource Conservation Commission (TNRCC).

(5) **Commissioners** - The three-member governing body of the Texas Natural Resource Conservation Commission.

(6) **Executive director** - The executive director of the commission, or any authorized individual designated by the executive director to act in his or her place.

(7) **Governing body** - The city council, commissioners court, board of directors, trustees, or similar body charged by law with governing a public agency.

(8) **Implementation** - Putting the plan into practice by carrying out planned activities, including compliance and enforcement activities, or ensuring such activities are carried out.

(9) **Inactive facility** - A facility which no longer receives solid waste.

(10) **Planning** - Includes collecting information, identifying problems, defining goals and objectives, analyzing alternatives, and determining necessary activities and courses of action needed to achieve identified goals and objectives.

(11) **Planning fund** - The municipal solid waste management planning fund created in the state treasury by the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act (V.T.C.A., Health and Safety Code, Chapter 363).

(12) **Planning period** - The period of time within which an adopted solid waste management plan is designed to remain effective.

(13) **Planning region** - A region of the state identified by the governor as an appropriate region for municipal solid waste planning.

(14) **Private operator** - A person, other than a government or governmental subdivision or agency, engaged in some aspect of operating a solid waste management system. The term includes any entity other than a government or governmental subdivision or agency, owned and operated by investment of private capital.

(15) **Property** - Land, structures, interests in land, air rights, water rights, and rights that accompany interests in land, structures, water rights, and air rights and includes easements, rights of way, uses, leases, incorporeal hereditaments, legal and equitable estates, interest, or rights such as terms for years and liens.

(16) **Provide for** - Explain, establish, or set forth steps or courses of actions.

(17) **Public agency** - A city, county, district, or authority created and operating under the Texas Constitution, Article III, §52(b)(1) or (2), or Article XVI, §59, or a combination of two or more of these governmental entities acting under an interlocal agreement and having the authority under state laws to own and operate a solid waste management system.

(18) **Regional or local solid waste management plan** - A plan adopted by a planning region or local government under authority of the Municipal Solid Waste Management, Resource Recovery, and Conservation Act (V.T.C.A., Health and Safety Code, Chapter 363).

(19) **Regional Planning Commission** - A regional planning commission created under Chapter 391, Local Government Code.

(20) **Regional solid waste grants program** - The program established to utilize funds dedicated under the Health and Safety Code, Chapter 361, §361.014 for local and regional solid waste projects and to update and maintain regional solid waste management plans.

(21) **Resolution** - A resolution, order, ordinance, or other action of a governing body.

(22) **Solid waste management** - The systematic control of any or all of the following activities:

- (A) generation;
- (B) source separation;
- (C) collection;
- (D) handling;
- (E) storage;
- (F) transportation;
- (G) processing;
- (H) treatment;
- (I) resource recovery; or
- (J) disposal of solid waste.

(23) **Solid waste management system** - Any plant, composting process plant, incinerator, sanitary landfill, transfer station, or other works and equipment acquired, installed, or operated for the purpose of collecting, handling, storing, processing, recovering material or energy, or disposing of solid waste and includes sites for these works and equipment.

(24) **Solid waste resource recovery system** - Any real property, buildings, structures, plants, works, facilities, equipment, pipelines, machinery, vehicles, vessels, rolling stock, licenses, or franchises used or useful in connection with the processing of solid waste to extract, recover, reclaim, salvage, reduce, concentrate, or convert to energy or useful matter or resources, whatever their form, including electricity, steam, or other forms of energy, and fertilizer, glass, or other forms of material and resources, from such solid waste, and includes any real property, buildings, structures, plants, works, facilities, pipelines, machinery, vehicles, vessels, rolling stock, licenses, or franchises used or useful in:

- (A) the transportation, receipt, storage, transfer, and handling of solid waste;
- (B) the preparation, separation, or processing of solid waste for reuse;
- (C) the handling and transportation of recovered matter, resources, or energy;

and

(D) the handling, transportation, and disposal of any nonrecoverable solid waste residue.

(25) **State solid waste management plan** - The municipal solid waste management plan for Texas.

(26) **Variance** - The granting of relief from the terms or conditions of a plan by the executive director.

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Effective August 2, 2000

§330.563. Regional and Local Plan Requirements

(a) Regional plans. A regional plan identifies the problems, goals, objectives, and recommended actions for solid waste management over a long-range period for the entire planning region.

(1) Geographic scope. The geographic scope of the regional planning process shall be the entire planning region designated by the governor. The regional plan shall use the four types of planning units listed in subparagraphs (A) - (D) of this paragraph as appropriate for the information presented. It is not anticipated that the regional plan will present site-specific information:

(A) small geographic areas such as census tracts or city boundaries for the most detailed data collection and manipulation;

(B) planning areas to be used for the assessment of problems and the evaluation of alternatives. These planning areas shall be aggregations of small geographic areas;

(C) county boundaries for the summarization and presentation of key information;

(D) the entire planning region.

(2) Planning periods. The regional planning process shall address solid waste management over a long-range period. Long range is considered to be a period of at least 20 years. The maximum planning period addressed by the plan shall be stated on the plan cover and title page and at other appropriate locations within the body of the plan. The regional plan shall use the four planning periods listed in subparagraphs (A) - (D) of this paragraph as appropriate for the information presented:

(A) current and historical information;

(B) short-range planning period, one to five years, with specific information presented by year;

(C) intermediate planning period, six to 10 years, with information in less detail; or

(D) long-range planning period, 11 to 20 years or longer, with information in the least detail.

(3) Plan content. A regional plan shall be the result of a planning process related to the proper management of solid waste in the planning region. The process shall include identification of problems and collection and evaluation of the data necessary to provide a written public statement of goals and objectives and actions recommended to accomplish those goals and objectives. The regional plan shall include:

(A) population patterns, commercial and industrial data, and other demographic information necessary to estimate solid waste quantities and characteristics;

(B) estimates of current and future solid waste amounts by type;

(C) description of current and planned solid waste management activities in the region;

(D) description and assessment of the adequacy of existing resource recovery, storage, transportation, treatment, and disposal facilities and practices, and programs for the collection and disposal of household hazardous wastes;

(E) assessment of current source reduction and waste minimization efforts, including sludge, and efforts to reuse or recycle waste;

(F) identification of additional opportunities for source reduction and waste minimization, and reuse or recycling of waste;

(G) recommendations for encouraging and achieving a greater degree of source reduction and waste minimization, and reuse or recycling of waste;

(H) identification of public and private management agencies and responsibilities;

(I) identification of solid waste management problems and establishment of priorities for addressing those problems;

(J) planning areas and agencies with common solid waste management problems which could be addressed through joint action;

(K) identification of incentives and barriers for source reduction and waste minimization, and resource recovery, including identification of potential markets;

(L) regional goals and objectives, including waste reduction goals consistent with state goals;

(M) advantages and disadvantages of alternative actions;

(N) the recommended plan of action and associated timetable for achieving regional goals and objectives, including: waste reduction; composting programs for yard wastes and related organic wastes; household hazardous waste collection and disposal programs; public education programs; and the need for new or expanded facilities and practices; and

(O) an inventory of closed municipal solid waste landfill units located within the planning region. The inventories shall include the exact boundaries of each former landfill unit or, if the exact boundaries are not known, the best approximation of each unit's boundaries. For each landfill unit for which the exact boundaries are not known, the inventories shall include a map showing the approximate boundaries of the former landfill unit. To the maximum extent practicable, such inventories shall list the current owners of the land on which the former landfill units were located and the current use of the land.

(4) Special considerations or restrictions. The regional plan shall not prohibit, in fact or by effect, importation or exportation of waste from one political jurisdiction into another.

(b) Local plans. A local plan addresses specific short and long-range problems and actions related to solid waste management within the jurisdiction of one or more local governments and may be developed regardless of whether a regional plan has been developed which will affect the local planning area.

(1) Geographic scope. The geographic scope of the local planning process shall be the jurisdiction of one or more local governments with common problems or needs, but shall not include the entire planning region. The local plan shall use the three types of planning units listed in subparagraphs (A) - (C) in this paragraph as appropriate for the information presented. In certain cases the local plan may present site-specific information:

(A) small geographic areas such as census tracts or city boundaries for the most detailed data collection and manipulation. These small areas should be the same as those used in the regional plan;

(B) planning areas to be used for the assessment of problems and the evaluation of alternatives. These planning areas should be aggregations of the small geographic areas;

(C) the entire area encompassed by the local plan.

(2) Planning periods. The local planning process shall address specific short and long-range problems and actions in solid waste management. The maximum planning period addressed by the plan shall be stated on the plan cover and title page and at other appropriate locations within the body of the plan. The local plan should use the planning periods listed in subparagraphs (A) - (D) of this paragraph as appropriate for the information presented:

(A) current and historical information;

(B) short-range planning period, one to five years, with specific information presented by year;

(C) intermediate planning period, six to 10 years, with information in less detail; or

(D) long-range planning period, 11 to 20 years or longer.

(3) Plan content. A local plan shall be the result of a planning process that is related to the proper management of solid waste in the local planning area. The process shall include identification of problems and collection and evaluation of the data necessary to provide a written

public statement of goals and objectives and the actions recommended to accomplish those goals and objectives. The local plan shall include:

(A) population and commercial and industrial data from the regional planning process, supplemented with other local demographic information as necessary;

(B) composition, characteristics, and amounts of waste, by type, which affect the local planning area;

(C) description of current and planned solid waste management activities in the local planning area;

(D) description and assessment of the adequacy of existing resource recovery, storage, transportation, treatment, and disposal facilities and practices, including programs for the collection and disposal of household hazardous wastes;

(E) identification of the short and long-range solid waste management problems within the local planning area;

(F) assessment of current source reduction and waste minimization efforts for solid waste, including sludge, and efforts to reuse or recycle waste;

(G) identification of additional opportunities for source reduction and waste minimization, and reuse or recycling of waste;

(H) recommendations for encouraging and achieving a greater degree of source reduction and waste minimization, and reuse or recycling of waste;

(I) local goals and objectives associated with management problems, including waste reduction goals consistent with state and regional goals;

(J) advantages and disadvantages of alternative actions;

(K) the recommended plan of action and associated timetable for accomplishing the goals and objectives, including: waste reduction; composting programs for yard wastes and related organic wastes; household hazardous waste collection programs; public education programs; and the need for new or expanded facilities or practices; and

(L) an inventory of closed municipal solid waste landfill units located within the local planning area. The inventories shall include the exact boundaries of each former landfill unit or, if the exact boundaries are not known, the best approximation of each unit's boundaries. For each landfill unit for which the exact boundaries are not known, the inventories shall include a map showing the approximate boundaries of the former landfill unit. To the maximum extent practicable, such

inventories shall list the current owners of the land on which the former landfill units were located and the current use of the land. For this requirement, local plans may substitute the applicable parts of the regional inventory required under subsection (a)(3)(O) of this section. This requirement does not apply until a regional inventory is incorporated into the applicable regional plan(s) and approved by the commissioners.

(4) Special considerations or restrictions. The local plan shall not prohibit, in fact or by effect, importation or exportation of waste from one political jurisdiction to another.

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§330.564. Coordination with Other Programs.

(a) All solid waste plans shall be consistent with provisions established by federal, state, and local programs that affect solid waste management and shall consider programs and requirements from:

(1) federal jurisdiction - United States Environmental Protection Agency;

(2) state jurisdiction:

(A) Texas Natural Resource Conservation Commission;

(B) Railroad Commission of Texas; and

(C) other state agencies;

(3) substate jurisdiction:

(A) regional planning agencies;

(B) special districts or authorities;

(C) counties; and

(D) cities.

(b) All solid waste management plans shall consider other programs and responsibilities with the aim of avoiding duplication of effort and gaps in program coverage.

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§330.565. Public Participation Requirements for Solid Waste Plans.

(a) Advisory committee. An advisory committee shall be convened to provide input, review, and comment during development of regional and local plans. Committee members shall be appointed who represent a broad range of interests, including a representative of the TNRCC, public officials, private operators, citizen groups, and interested individuals.

(b) Governmental review. Local governments affected by regional plans shall be given opportunities for review and comment on relevant portions of the plan, including adequate notice of public hearings conducted on the plans. Local plans shall be submitted to appropriate regional planning agencies for review and comment.

(c) Public hearing. A public hearing shall be held prior to adoption of a regional or local plan for the purpose of receiving comment and testimony from interested parties.

(d) Notice and availability. Planning reports and documents shall be made available to interested persons at locations of convenience. Notice of availability of documents and of public hearings and meetings shall be advertised in newspapers of general circulation in the area affected by the plan. Proper notice shall be provided a minimum of 15 days in advance of the hearing. The notice shall include meeting time, location, and subjects to be discussed.

(e) Plan approval. Local and regional solid waste management plans shall be approved by the governing body of the responsible entity before being submitted to the TNRCC for approval.

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§330.566. Procedures for Regional and Local Plan Submission, Approval, and Distribution.

(a) Prior to the submission of a plan, the plan shall be adopted by the regional planning commission or local government(s) pursuant to applicable administrative procedures. Local governments shall coordinate with the appropriate regional planning commission and ensure that a local plan is consistent with any regional solid waste management plan in effect for the region encompassing the jurisdiction of the local government, if a regional plan has been approved by the commissioners of the TNRCC.

(b) Within 90 days after a regional or local plan has been submitted, the executive director will tentatively determine if the plan conforms to this subchapter and the state solid waste management plan. The executive director will communicate this determination to the agency which submitted the plan. If the plan is not in conformance, a notice of deficiencies will be provided to the planning agency within 30 days of the tentative disapproval. The executive director has authority to disapprove any plan which has deficiencies. Disapproved plans will not be considered by the commissioners until the executive director determines that deficiencies have been corrected, unless the applicant submits a request for appeal to the commissioners. In order for a plan to be considered under such

circumstances, the appeal must be in writing and must be submitted to the commissioners within 30 days following the day the applicant receives notification of tentative plan disapproval by the executive director.

(c) If the executive director tentatively determines a regional or local plan meets the requirements of this subchapter, is in conformance with the state solid waste management plan, and should be approved, the executive director will submit the plan to the commissioners, which, if they concur with the executive director's approval, shall approve a plan by adopting a rule in accordance with the Administrative Procedure Act, Texas Government Code, Chapter 2001. Commissioners' action on the plan will normally occur within 60 days of the tentative decision by the executive director to approve the plan, but the approval will not be effective until the plan has completed the rulemaking process specified by the Administrative Procedure Act, i.e., publication of the proposed action in the Texas Register, a 30-day public comment period, and publication of the final rule action in the Texas Register. If approved, the executive director will notify the planning agency of the commissioners' approval. In the event the plan is not approved, the commissioners will state the plan's deficiencies and the executive director will immediately notify the planning agency of the commissioners' decision and the plan's deficiencies. The plan may be resubmitted for approval if the executive director determines that deficiencies have been corrected.

(d) If a regional or local solid waste management plan is adopted by rule of the commissioners, public and private solid waste management activities and state regulatory activities shall conform to the adopted regional or local solid waste management plan. The plan shall only remain in effect during the planning period defined in the plan. Under procedures and criteria of subsections (g) and (h) of this section, the executive director may grant a variance from an adopted regional or local solid waste management plan.

(e) If a portion of a regional or local plan is determined by the executive director to no longer be in compliance with the state solid waste management plan or these sections, the executive director may request that the regional body or local government revise the plan. If such a revision is not submitted to the TNRCC within 180 days, the executive director may ask the commissioners to withdraw their approval of that portion of the plan.

(f) A planning commission or local government may submit revisions or updates to an approved plan that reflect new information or changed conditions. Updates to an approved plan to provide for changes to data and information contained in the plan, which do not substantially change the scope or content of the goals and recommendations of the plan, may be incorporated into an approved plan upon approval by the executive director without further adoption procedures being required. Major revisions and amendments to an approved plan that substantially change the scope or content of the goals and recommendations of the plan shall be considered by the same procedures as original plan submission and approval.

(g) Upon application, the executive director may grant a variance from an adopted regional or local solid waste management plan when:

- (1) application of the plan creates unnecessary hardship;
- (2) equally safe, effective methods could be used;
- (3) practical difficulties are encountered in meeting the requirements of a plan; or
- (4) deviation or exception would not affect substantial compliance with the plan and not threaten health or safety.

(h) If the executive director intends to grant a variance from the requirements of a plan, the executive director will offer the opportunity for a public hearing on the matter prior to the final decision. The hearing, if requested, will be advertised and conducted within the area affected by the plan.

(i) Upon approval of a regional plan by the commissioners, the regional planning commission shall provide a copy of the adopted plan, including the inventory of closed municipal solid waste landfill units, to the chief planning official of each municipality and county within the planning region. The regional planning commission and the chief planning officials shall make the adopted regional plan available for public inspection.

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Effective August 2, 2000

§330.567. Financial Assistance for Regional and Local Plans.

(a) Authority. The municipal solid waste management planning fund is established by the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act (V.T.C.A., Health and Safety Code, Chapter 363) as a special fund in the state treasury.

(b) Administration of the planning fund.

(1) The executive director shall administer the financial assistance program and the planning fund under the direction of the commissioners.

(2) An applicant for financial assistance from the planning fund shall agree to comply with the state solid waste management plan, the TNRCC's rules, and any other requirements adopted by the commissioners.

(3) The executive director shall not authorize release of funds under an application for financial assistance until the applicant has furnished the executive director with a resolution adopted by the governing body of each public agency or planning region which is a party to the application certifying that:

(A) the applicant will comply with the provisions of the financial assistance program and the requirements of the TNRCC;

(B) the grant will only be used for the purposes for which it was provided;

(C) regional or local solid waste management plans developed with state financial assistance will be adopted by the governing body as its policy; and

(D) future municipal solid waste management activities will, to the extent reasonably feasible, conform to the regional or local solid waste management plan.

(4) The planning fund shall not be used for the preparation of final design and working drawings, construction, acquisition of land, or an interest in land, or payment for recovered resources.

(5) The order of priority to be given to applicants in receiving financial assistance shall be determined by:

(A) the need to initiate or improve the solid waste management program within the applicant's jurisdiction;

(B) the needs of the state;

(C) the financial need of the applicant;

(D) the degree the proposed plan work program will result in improvements that meet the requirements of other applicable state, regional, and local solid waste management plans or activities;

(E) a positive consideration for applicants who have completed approved plans while utilizing their own resources; and

(F) a positive consideration for applicants who have committed a substantial amount of their own resources for development of an approvable plan at the time a request is made for state financial assistance.

(6) The executive director may approve an application consistent with the provisions of this section when the executive director finds state financial participation is in the public interest and when it is determined that both state and regional or local funding is sufficient to complete the agreed scope of services. The executive director shall approve or disapprove an application for financial assistance within 90 days of its receipt.

(c) Applications.

(1) Requests for state financial assistance shall be made on forms furnished by the TNRCC and shall include a work program and budget for a defined period in which the tasks described in the work program are to be completed.

(2) The only applicant eligible to apply for regional planning financial assistance shall be the regional planning commission designated as responsible for the planning region for which a plan is considered.

(3) The only applicants authorized to apply for local planning financial assistance are local governments or public agencies and designated regional planning commissions. Where the local plan is to cover a geographical area larger than the area of one city, then the application and any resulting contract shall be made by one of the cities, counties, or public agencies which has all or part of its jurisdiction within the area to be considered in the plan, and which is authorized by all public agencies with jurisdictions included in the area considered to act as their agent; or the designated regional planning commission which has jurisdiction over the geographical area to be considered in the plan.

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§330.568. Approved State, Regional, and Local Solid Waste Management Plans.

(a) Purpose. This section identifies state, regional, and local solid waste management plans which have been approved by the commissioners.

(b) State plan. The state solid waste management plan may be amended and updated from time to time as conditions warrant and as may be directed by state law. For the purposes of this subchapter, the current state plan is the latest plan, including any plan updates and amending materials, which has been issued by the TNRCC.

(c) Plans approved. The current effective regional solid waste management plan for each region or local solid waste management plan for a local government is the latest plan, including plan amendments, which has been adopted by the commissioners. Copies of approved plans shall be kept on file and available for public review at the TNRCC library. Those plans, and any adopted amendments thereto, are hereby incorporated by reference into this subchapter. Updates to an approved regional or local plan which do not require official adoption by the commissioners, as specified under §330.566(f) of this title (relating to Procedures for Regional and Local Plan Submission and Approval), may be incorporated into an approved plan for informational purposes, as each update is approved by the executive director. Each plan's effectiveness applies only for the geographical area described in the plan and for the period designated in the plan.

(d) Conflicting provisions. By adopting a regional or local plan, the commission has determined that the plan has been developed according to TNRCC rules and does not conflict with the

state plan. If it should later be determined that provisions of an adopted plan do conflict with provisions of the state plan, then provisions of the state plan shall prevail.

(e) Agency responsibilities. It shall be the responsibility of the regional planning commission to coordinate the implementation of regional policies and recommended actions in an approved regional plan and coordinate local planning efforts. It shall be the responsibility of affected local governments to implement the policies and recommended actions of adopted regional and local plans and to maintain policies and activities that do not conflict with provisions in current state, regional, and local solid waste management plans.

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§330.569. Regional Solid Waste Grants Program.

(a) Authority. Funds are dedicated under the Health and Safety Code, §361.014, for the development and updating of regional and local solid waste management plans, and for implementing regional and local projects consistent with approved regional solid waste management plans and the state solid waste management plan. This regional solid waste grants program is separate from the financial assistance program outlined under §330.567 of this title (relating to Financial Assistance for Regional and Local Plans).

(b) Administration of regional solid waste grants program. The executive director shall administer the regional solid waste grants program under the direction of the commissioners.

(c) Funding allocation. Funds for local and regional projects under the regional solid waste grants program shall be allocated to municipal solid waste geographic planning regions according to a formula established by the TNRCC that takes into account population, area, solid waste fee generation, and public health needs.

(d) Public/private cooperation. A project or service funded under the regional solid waste grant program must promote cooperation between public and private entities and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services.

(e) Pass-through grants. The executive director may establish procedures to make grant funds available to authorized local entities through pass-through grants administered by each regional planning commission.

(f) Applications.

(1) Requests for state financial assistance provided directly by the TNRCC shall be made on forms furnished by the TNRCC.

(2) Requests for financial assistance made available through pass-through grants administered by a regional planning commission shall be made on forms developed jointly by the TNRCC and the regional planning commission, and furnished by the regional planning commission.

(g) Application procedures. Applicants for financial assistance from the TNRCC shall follow the procedures set forth in the application instructions and guidelines issued by the executive director. Applicants for pass-through grant assistance from a regional planning commission shall follow the procedures set forth in the pass-through grant application instructions issued by the regional planning commission.

(h) Grant contracts. Grants shall be provided through contractual agreement between the TNRCC and the grant recipient. If a regional planning commission provides financial assistance to local entities through a pass-through grant arrangement, the regional planning commission shall enter into an appropriate contractual agreement with the local grant recipient. The contractual agreement between the regional planning commission and the local grant recipient shall adhere to all applicable provisions of the main grant contract between the regional planning commission and the TNRCC.

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