

The Texas Commission on Environmental Quality (commission or agency) proposes amendments to §§30.201, 30.207, 30.210, and 30.212 - 30.214 and proposes new §30.211.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

Section 30.201(b) requires at least one individual who supervises or manages the operation of a municipal solid waste (MSW) facility be licensed according to Chapter 30, Subchapter A, Administration of Occupational Licenses and Registrations.

Before September 27, 2007, any MSW supervisor licensee could operate any type of facility, unless that facility's permit specified the level of license required. However, in September 2007, the commission changed the rules to require that effective September 1, 2009, all MSW facilities would have to be operated by a supervisor who held the appropriate level of license necessary to operate the facility.

Additionally, Chapter 30 rules effective September 27, 2007, stated that MSW provisional or solid waste facility supervisor in training letters that were issued before the effective date of the rules shall remain in effect until their expiration date and that no applications for provisional or solid waste facility supervisor in training letters would be accepted after September 1, 2008.

The regulated community has contacted the agency and voiced concerns that the current rules limit the types of facilities that a class 'A' MSW supervisor can oversee. The issue being that individuals who obtained their class 'A' license prior to September 27, 2007, had to complete the training and pass the examination for the lower levels of licenses (progression method) prior to being issued a class 'A' license. Therefore, these licensees would be qualified to supervise any level or type of MSW facility. The

regulated community feels that the current rules are creating a hardship by requiring those individuals who have a class 'A' license to spend resources to obtain another license, when the class 'A' should be sufficient.

Additionally, the regulated community has concerns that the elimination of the provisional licenses from the current rules hampers their ability to fill vacated positions. The provisional license allowed individuals that did not meet all of the licensing qualifications (i.e. educational, work experience) to supervise an MSW facility while completing the necessary requirements for obtaining the standard license.

SECTION BY SECTION DISCUSSION

The commission proposes administrative changes throughout the proposed rulemaking to reflect the agency's current practices and to conform to Texas Register and agency guidelines. These changes include updating agency references, updating cross-references, and correcting typographical, spelling, and grammatical errors. These changes are non-substantive and generally are not specifically discussed in this preamble.

§30.201, Purpose and Applicability

The proposed amendment to §30.201 would remove the existing §30.201(c) and (d). The proposed change is necessary because the dates referenced in the current rule provisions are outdated and are no longer applicable. The proposed amendment to §30.201 would add new §30.201(c) which would authorize individuals that obtained a class 'A' MSW facility supervisor license prior to September 27, 2007 to supervise any level or type of MSW facility. This proposed change is necessary because

individuals who obtained their class 'A' license prior to September 27, 2007 had to complete the training and pass the examination for the lower levels of licenses (progression method) prior to being issued a class 'A' license. Therefore, these licensees would be qualified to supervise any level or type of MSW facility. Additionally, the proposed amendment to §30.201 would add new §30.201(d), which would limit those individuals that obtained a class 'A' license after September 27, 2007 by completing only the class 'A' MSW Facility Supervisor course and passing the applicable examination, to supervising only those facilities requiring a class 'A' licensed supervisor until the individual completed the class 'B' MSW Facility Supervisor course. After completion of this course, the individual would be allowed to supervise facilities requiring either a class 'A' or 'B' license. This proposed change is necessary because individuals who obtained their class 'A' license after September 27, 2007 would have only taken the class 'A' MSW facility supervisor course and would not have been required to complete the training and pass the examination for the lower levels of licenses (progression method) prior to being issued a class 'A' license. Therefore, these licensees would not be qualified to supervise any level or type of MSW facility.

§30.207, Definitions

The proposed amendment to §30.207 would add §30.207(1)(A)(i) and (ii), which would define the substitution of college credit hours for the experience requirements for the class 'A' and 'B' licenses. Additionally, the proposed amendment to §30.207 would add §30.207(1)(B), which would define the college credit hour disciplines that would qualify for substitution of the experience requirements for the class 'A' and 'B' licenses. The proposed amendment to §30.207 would also add §30.207(3), which would define 'Manager of Landfill Operations' (MOLO) certification. These proposed changes are necessary to add clarity and improve the readability of the rules.

§30.210, Qualifications for Initial License

The proposed amendment to §30.210 would modify the table which contains the education, work experience, and training requirements for each license class. The proposed amendment to §30.210 would also remove the class 'C' license and the associated requirements to obtain that license. This proposed change is necessary because under the proposed rulemaking, the class 'C' license would be eliminated. The proposed amendment to §30.210 would also add the examination requirement to the table to be consistent with Chapter 30, Subchapter A. This proposed change is necessary to add clarity and conciseness to the rules. Further, the proposed amendment to §30.210 would also remove the requirement of having to complete the class 'C' MSW facility supervisor course in order to obtain the class 'A' and 'B' licenses. This proposed change is necessary because under the proposed rulemaking, the class 'C' license would be eliminated and this course would not be applicable. Additionally, the proposed amendment to §30.210 would add provisions to allow individuals currently holding a MOLO certification issued by the Solid Waste Association of North America (SWANA) and who have completed a TCEQ approved MSW training course pertaining to Texas MSW regulations to obtain a class 'A' MSW facility supervisor license without having to complete the class 'A' MSW facility supervisor courses and pass the applicable examination. This proposed change is necessary to assist the regulated community's abilities to fill vacated positions quickly by allowing individuals who have a current SWANA issued MSW facility supervision certification to obtain a TCEQ issued license without having to complete the class 'A' MSW facility supervisor courses and pass the applicable examination.

§30.211, Provisional Licenses

Proposed new §30.211 would allow individuals who complete the required training, pass the applicable examination, and meet the minimum education requirements, but lacking the required experience; or individuals who after pass the applicable examination, meet the education and experience requirements, but lack the required training to be issued a provisional license. This proposed change is necessary to assist the regulated community's abilities to fill vacated positions by allowing individuals who did not meet all of the licensing qualifications (i.e. educational, work experience) to supervise an MSW facility while completing the necessary requirements for obtaining the standard license. Proposed new §30.211 would also create a validity period of two years and an application fee of \$74.00 for the provisional licenses. This proposed change is necessary to establish the validity period and cost of the proposed license.

§30.212, Qualifications for License Renewal

The proposed amendment to §30.212 would change the continuing education requirements contained in §30.212(2)(A) from 20 hours to 16 hours. This proposed change is necessary to provide consistency with the other licensing programs administered by the agency whose continuing education requirements are the same among all the levels of licenses. The proposed amendment to §30.212 would also remove §30.212(2)(C), the continuing education requirements for a class 'C' license. This proposed change is necessary because under this rulemaking, the class 'C' license would be eliminated and renewal of the license would not be applicable.

§30.213, Classification of Municipal Solid Waste Facilities and Level of License Required

The proposed amendment to §30.213 would outline the level of licenses required to supervise specific types of MSW facilities. Specifically, the proposed amendment would allow those MSW facilities that

require a class 'B' licensed supervisor to also be supervised by individuals that hold a class 'A' license.

This proposed change is necessary because individuals who obtained their class 'A' license had to complete the training and pass the examination for the lower levels of licenses (progression method) prior to being issued a class 'A' license. Therefore, these licensees would be qualified to supervise any level or type of MSW facility. The proposed amendment to §30.213 would also combine the Type I, Type IAE, and Type IV MSW facilities into the general category for landfills. This proposed change is necessary to add clarity, provide consistency, and enhance enforceability of the rules. This proposed amendment would also add to the general category of landfills, the Type IVAE MSW facilities that were not previously included in the classification table in §30.213. This proposed change is necessary to add clarity, provide consistency, and enhance enforceability of the rules. The proposed amendment would also require the Type IV (landfills), which currently requires a class 'B' supervisor to be supervised by a class 'A' licensed supervisor. This proposed change is necessary to ensure consistency of licensing requirements between the different types of landfills. The proposed amendment would also require Type VI (demonstration facilities), which currently requires a class 'C' supervisor to be supervised by either a class 'A' or 'B' licensed supervisor. This proposed change is necessary because under this rulemaking the class 'C' license would be eliminated. Additionally, the proposed amendment to §30.213(a) would reclassify Type VII (land application) and Type VIII (used or scrap tire facilities) so that they do not have to be supervised by an individual that holds an MSW facility supervisor license. This proposed change is necessary because individuals who operate these types of facilities perform relatively low-risk MSW management activities which are outlined in detail by the facility's permit or registration. The proposed amendment to §30.213 would also delete §30.213(c). The proposed deletion of §30.213(c) is necessary because the dates referenced in §30.213(c) are outdated and no longer applicable. The proposed

amendments to §30.213 would also repeal §30.213(d). The proposed repeal of §30.213(c) is necessary because the dates referenced in §30.213(d) are outdated and no longer applicable.

§30.214, Exemptions

The proposed amendment to §30.214 would exempt individuals who perform relatively low-risk MSW management activities that are related to Type VII land application and Type VIII used or scrap tire facilities from the applicable licensing requirements. This proposed change is necessary because individuals who operate these types of facilities perform relatively low-risk MSW management activities which are outlined in detail by the facility's permit or registration.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

Nina Chamness, Analyst, Strategic Planning and Assessment, has determined that, for the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for the agency or other units of state or local government as a result of administration or enforcement of the proposed rules.

The proposed rules amend Subchapter F to allow individuals holding a class 'A' MSW Facility Supervisor license to supervise any type of MSW facility; to add provisions for an MSW provisional license that allows a provisional licensee to supervise an MSW facility while completing the necessary requirements for an applicable standard license; to eliminate class 'C' licenses; to exempt Type VII (land application facilities) and Type VIII (used or scrap tire facilities) from having to be supervised by an individual holding an MSW Supervisor license; to require that and Type VI (demonstration facilities) be supervised by a supervisor holding at least a class 'B' license; and to improve consistency, improve readability, and enhance enforceability of MSW Supervisor license requirements.

The license fee for a class 'A', class 'B', and class 'C' MSW supervisor under the current rules is \$111, and each license is valid for three years. The training course to obtain a class 'A' or 'B' MSW Supervisor license is estimated to be a one-time cost of \$650, and continuing education is estimated to cost \$480 over a three-year period. Current rules require MSW supervisors to obtain separate licenses for the particular type of facility supervised, and there are 50 licensees that hold both a class 'A' and class 'B' license. The proposed rules allow a class 'A' licensee to supervise any type of MSW facility without paying for an additional license. Individuals that were required to have two licenses will save \$111 under the proposed rules.

The proposed rules also provide for a provisional license, which is expected to require the same training and cost the same as a class 'A' or 'B' MSW Facility Supervisor license. The agency does not track data regarding how many individuals might apply for a provisional license.

Elimination of the class 'C' Supervisor license may decrease agency revenue in Account 0468 - Occupational Licensing Account, but the decrease is not expected to be significant. As the license period of current class 'C' MSW supervisors expires, there will be no renewal of those licenses. The estimated number of expiring class 'C' licenses in fiscal year 2011 is 199. In fiscal year 2012, there may be as many as 61 expirations, and in fiscal year 2013, there may be as many as 17 expirations. If none of the class 'C' licensees upgrade their license to a class 'A' or 'B' license, the decrease in agency revenue could be as much as \$22,089 in fiscal year 2011, \$6,771 in fiscal year 2012, and \$1,887 in fiscal year 2013. It is not known how many class 'C' license holders will choose to upgrade their license to a class 'A' or 'B' license. If class 'C' license holders choose to upgrade, additional class 'A' or 'B' license fees could offset estimated

decreases in agency revenue.

Individuals that apply for new licenses or that renew existing licenses are responsible for meeting the rule requirements. The agency does not track information regarding how many local governments owning or operating MSW facilities pay for the license and training costs of the MSW supervisors they employ, but the proposed rules are not expected to have a significant fiscal impact on local governments. If a local government chooses to pay for the license and training for MSW supervisors they will pay the same licensing and training costs as individuals pay.

The proposed rules will require demonstration facilities to be supervised by a person holding either a class 'A' or 'B' license. Under the current rules these facilities are to be supervised by an individual holding a 'C' license. Local governments that may own these types of facilities and that choose to pay license fees and training costs for their employees would pay the same for the 'A' or 'B' license and training as the 'C' license and training, which could be as much as \$761 (\$111 license fee and \$650 for training) the first year and \$480 for training over a three year period.

PUBLIC BENEFITS AND COSTS

Nina Chamness also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be continued protection of public health and the environment due to increased clarity and enhanced enforceability of licensing requirements for MSW supervisors.

The proposed rules are not expected to have a significant fiscal impact on large businesses or individuals.

Each business can choose whether or not to pay license fees and training costs for its employees. The agency requires individuals, not a business, to obtain the appropriate license and training for an MSW Facility Supervisor license.

Individuals that apply for new licenses or that renew existing licenses are responsible for meeting the rule requirements regarding license fees and training. Individuals will be able to obtain a provisional license under the proposed rules, and fees and training will be the same for provisional licenses as for a class 'A' or 'B' license. The proposed rules will eliminate the class 'C' license, but individuals may upgrade their class 'C' license to a class 'A' or 'B' license for the same license cost (\$111 every three years) and training cost (\$650 the first year and \$480 over a three-year period) if they choose to do so. Individuals will no longer be required to obtain additional licenses for different facility types if they hold a class 'A' license. Individuals who have class 'A' license will save the license cost of an additional license (\$111 every three years) and training cost (\$650 the first year and \$480 over a three-year period).

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

No adverse fiscal implications are anticipated for small or micro-businesses as a result of the proposed rules. Each business can choose whether or not to pay license fees and training costs for its employees. The agency requires individuals, not a business, to obtain the appropriate license and training for an MSW Facility Supervisor license.

SMALL BUSINESS REGULATORY FLEXIBILITY ANALYSIS

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules do not adversely affect a small or micro-

business in a material way for the first five years that the proposed rules are in effect.

LOCAL EMPLOYMENT IMPACT STATEMENT

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed this rulemaking action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the proposed rules are not subject to that statute. Texas Government Code, §2001.0225 applies only to rules that are specifically intended to protect the environment or reduce risks to human health from environmental exposure. The intent of the proposed rules is to provide consistency for MSW facility supervisor licensing requirements, improve readability and enhance enforceability of the rules and make grammatical and punctuation corrections. Protection of human health and the environment may be a by-product of the proposed rules, but it is not the specific intent of the rules. Furthermore, the proposed rules implement new and amend existing regulations for the agency's MSW facility supervisor licensing program that are necessary to ensure more consistent operation and enforcement, and would 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. Thus, the proposed rules do not meet the definition of "a major environmental rule" as defined in Texas Government Code, §2001.0225(g)(3), and thus, do not require a full regulatory impact analysis.

Furthermore, the proposed rules do not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225 applies only to a major environmental rule which: 1) exceeds a standard set by federal law, unless the rule is specifically required by state law; 2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; 3) exceeds 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) is adopted solely under the general powers of the agency instead of under a specific state law.

There are no federal standards regulating occupational licensing. These rules do not exceed state law requirements, and state law requires their implementation, not federal law. There are no delegation agreements or contracts between the State of Texas and an agency or representative of the federal government to implement a state and federal program regarding occupational licensing. And finally, these rules are being proposed under specific state laws, in addition to the general powers of the agency.

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 these proposed rules and performed an assessment of whether these proposed rules constitute a taking under Texas Government Code, Chapter 2007. The purpose of these proposed rules is to ensure consistency between the rules and their applicable statutes, to make grammatical and punctuation corrections, and to modify or add language to improve the readability of Chapter 30 and enhance its enforceability. 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 do not affect a landowner's rights in private real property because this rulemaking does not burden 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. These proposed rules make non-substantive changes to the existing rules and the proposed revisions do not affect private real property.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the proposed rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(6). Therefore, the proposed rules are not subject to the Texas Coastal Management Program.

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

ANNOUNCEMENT OF HEARING

The commission will hold a public hearing on this proposal in Austin on September 7, 2010 at 2:00 p.m. in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Charlotte Horn, Office of Legal Services at (512) 239-0779. Requests should be made as far in advance as possible.

SUBMITTAL OF COMMENTS

Written comments may be submitted to Devon Ryan, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <http://www5.tceq.state.tx.us/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2010-013-030-PR. The comment period closes September 13, 2010. Copies of the proposed rulemaking can be obtained from the commission's Web site at http://www.tceq.state.tx.us/nav/rules/propose_adopt.html. For further information, please contact Terry Thompson at (512) 239-6095.

SUBCHAPTER F: MUNICIPAL SOLID WASTE FACILITY SUPERVISORS

§§30.201, 30.207, 30.210, 30.211, 30.212 - 30.214

STATUTORY AUTHORITY

These amendments and new section are proposed under Texas Water Code (TWC), §5.013, relating to the general jurisdiction of the commission; TWC, §5.102, relating to the general powers of the commission; and TWC, §5.103, relating to the commission's authority to adopt rules to carry out its powers and duties under the TWC and other laws of the State. These amendments and new section are also proposed under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. These amendments and new section are also proposed under Texas Health and Safety Code (THSC), §361.002, relating to the commission's policy to safeguard the health, welfare, and physical property of the people and to protect the environment; THSC, §361.011, relating to the commission's jurisdiction to manage solid waste; THSC, §361.022, relating to the commission's policy to eliminate the generation of municipal solid waste and municipal sludge to the maximum extent possible for the protection of public health and the environment; THSC, §361.024, relating to the commission's authority to adopt rules and establish minimum standards for the management and control of solid waste; and THSC, §361.027, relating to the commission's authority to license individuals who supervise the operation and maintenance of solid waste facilities. These amendments and new section are also proposed under THSC, §363.002, relating to the commission's policy to protect public health and the environment by encouraging proper management and reduction of solid waste; §363.021, relating to the commission's authority to adopt rules

to implement the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act; and THSC, §363.022, relating to the commission's powers and duties to implement the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act.

These proposed amendments and new section implement TWC, §§5.013, 5.102, 5.103, and 37.001 - 37.015; and THSC, §§361.002, 361.011, 361.022, 361.024, 361.027, 363.002, 363.021 and 363.022.

§30.201. Purpose and Applicability.

(a) The purpose of this section is to establish qualifications for issuing and renewing licenses to an individual who supervises or manages the operation of municipal solid waste (MSW) facilities.

(b) At least one individual who supervises or manages the operation of an MSW [a municipal solid waste] facility must meet the qualifications of this subchapter and be licensed according to Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).

(c) Individuals who obtained a class 'A' license prior to September 27, 2007 are authorized to supervise any level or type of MSW facility. [Provisional or solid waste facility supervisor in training letters that were issued before the effective date of these rules shall remain in effect until their expiration date. No applications for provisional or solid waste facility supervisor in training letters will be accepted after September 1, 2008.]

(d) Individuals who obtained a class 'A' license after September 27, 2007 by completing only the

'A' MSW Facility Supervisor course and passing the applicable exam, will need to complete the 'B' MSW Facility Supervisor course before being eligible to supervise those facilities requiring a class 'B' MSW facility supervisor. [Current Class D supervisor licenses shall remain in effect until their expiration date. No applications for Class D supervisor will be accepted after September 1, 2008.]

§30.207. Definitions.

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

(1) Experience--Actual experience gained from participating as a principal operator, foreman, supervisor, or manager of a solid waste facility appropriate to the respective class of license or other solid waste management experience approved by the executive director.

(A) College credit hours obtained from an accredited institution may be substituted for experience on the basis of:

(i) 32 college credit hours for one year of experience, up to a maximum of two years for a class 'A' license; or

(ii) 32 college credit hours for one year of experience, up to a maximum of one year for a class 'B' license.

(B) Individuals who apply for a class 'A' or 'B' license, and rely on college credit hours as a substitute for meeting the experience requirements, must have those hours in chemistry, biology, engineering, soil science, geosciences, environmental science, or other similar discipline approved by the executive director.

(2) Solid waste facility supervisor--An individual who is trained in the practical aspects of the design, operation, maintenance, or supervision of a solid waste facility according to standards, rules, or orders established by the commission.

(3) Manager of Landfill Operations (MOLO) certification--Certification issued by the Solid Waste Association of North America (SWANA) to individuals who have completed SWANA's MOLO course and passed the applicable certification examination.

§30.210. Qualifications for Initial License.

To obtain a license, an individual must have met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), and the following requirements for each class of license:

Figure: 30 TAC §30.210

[Figure: 30 TAC §30.210]

License Type	Education Requirements	[Work] Experience as defined in 30 TAC §30.207(1)	Exam Required	Training Requirements [Credits]
[Class C]	[None]	[None**]		[C MSW Course]
Class B	<u>With High School Diploma (HSD) or equivalent *</u>	2 years	<u>Class 'B' municipal solid waste (MSW) Facility Supervisor Licensing Exam</u>	<u>Class 'B' MSW Facility Supervisor Course</u> [C MSW Course]
	<u>Without [No] HSD or equivalent [*]</u>	4 years [**]		
Class A	<u>With HSD or equivalent *</u>	4 years	<u>Class 'A' MSW Facility Supervisor Exam</u>	<u>Class 'A' MSW Facility Supervisor Course; and</u> <u>Class 'B' MSW Facility Supervisor Course</u> [C MSW Course]
	<u>Without [No] HSD or equivalent</u>	6 years [**]		

Class A	<u>Applicants that hold a current "Manager of Landfill Operations" (MOLO) certification issued by Solid Waste Association of North America (SWANA); and complete the Class 'B' MSW Facility Supervisor Course and a TCEQ approved Texas MSW regulation training course will not be required to complete the Class 'A' MSW Facility Supervisor course or take and pass the Class;'A' MSW Facility Supervisor licensing exam. However, the applicants must meet the required education and experience requirements outlined above.</u>
* HSD or equivalent may be substituted by completing an additional 20 hours of MSW training.	
[**An individual who applies for a Class C, B, or A license, and relies on college credit hours as a substitute for meeting the experience requirements, must have those hours in chemistry, biology, engineering, soil science, geosciences, environmental science, or other similar discipline approved by the executive director.]	
[Class B - College credit hours obtained from an accredited institution may be substituted for experience on the basis of 32 hours of credit for one year of experience, up to a maximum of one year.] [Class A - College credit hours obtained from an accredited institution may be substituted for experience on the basis of 32 hours of credit for one year of experience, up to a maximum of two years.]	

§30.211. Provisional Licenses.

(a) A provisional license may be issued to an individual applying for a class 'A' or 'B' license

who:

(1) has completed the required training, passed the applicable examination and met the minimum education requirements, but lacks the required experience; or

(2) has passed the applicable examination, met the education and experience requirements, but lacks the required training.

(b) A provisional license shall have:

(1) a validity period of two years; and

(2) an application fee of \$74.00.

(c) Provisional licenses are not renewable.

(d) To continue to supervise a municipal solid waste (MSW) facility after the expiration date of a provisional license, the provisional license holder must:

(1) complete any missing requirements pertaining to the corresponding license originally applied for before the expiration date of the provisional license; and

(2) have been issued the class of license that is required for the type of MSW facility being supervised.

§30.212. Qualifications License Renewal.

To renew a license, an individual must have:

(1) met the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations); and

(2) completed the following hours of continuing education:

(A) Class A--16 [20] hours; or

(B) Class B--16 hours;

[(C) Class C--12 hours.]

§30.213. Classification of Municipal Solid Waste Facilities and Level of License Required.

(a) Each classification of a municipal solid waste (MSW) facility shall employ at least one licensed individual who supervises or manages the operations of a MSW facility. The level of license required for the different classifications of facilities is as follows:

Figure: 30 TAC §30.213(a)

[Figure: 30 TAC §30.213(a)]

Type of MSW Facility	Level of License Required
[Type I] <u>Landfill</u> [landfill] facilities *	Class A
Type IX landfill mining facilities	Class A
[Type IV landfill]	[Class B]
Type V storage and processing facilities not otherwise specified	<u>Class A or Class B</u>
Type IX energy or material recovery facilities (other)	<u>Class A or Class B</u>

Permitted compost facilities	Class A or Class B
Type VI demonstration facilities	Class A or Class B [Class C]
[Type VII land application facilities]	[Class C]
[Type VIII used or scrap tire facilities]	[Class C]
Registered compost facilities	Class A or Class B
[Type IAE landfill facilities]	[Class A]
<p>* <u>Landfill facilities include:</u></p> <ul style="list-style-type: none"> • <u>Type I landfills;</u> • <u>Type IAE landfills;</u> • <u>Type IV landfills; and</u> • <u>Type IVAE landfills</u> 	

(b) The level of license required for the different classifications of facilities described in subsection (a) of this section are applicable unless the facility's permit specifies that the facility be supervised by a level of supervisor different from that required in subsection (a) of this section. The facility's permit supersedes the requirement in subsection (a) of this section.

[(c) All MSW facilities that are required to have a licensed supervisor may operate that facility with its current licensed supervisors until August 31, 2009. Beginning September 1, 2009, all MSW facilities required to have a licensed supervisor who holds a certain license level must meet the requirement of this subchapter.]

[(d) MSW facilities that have a supervisor who holds a provisional or solid waste facility supervisor in training letter may continue to operate with that letter until the provisional or solid waste facility supervisor in training letter expires. The facility shall then ensure that at least one individual who

supervises or manages the operation of a MSW facility meets the requirements of this subchapter.]

§30.214. Exemptions.

The following municipal solid waste (MSW) facilities do not require a licensed supervisor:

(1) Type VII land application facilities;

(2) Type VIII used or scrap tire facilities;

(3) [(1)] Type IX beneficial landfill gas recovery facilities;

(4) [(2)] animal crematories, dual chamber incinerators, and air curtain incinerators operating in accordance with an MSW permit by rule; and

(5) [(3)] MSW facilities exempt from permitting or registration, unless otherwise described in §30.210 of this title (relating to Qualifications for Initial License).