

The Texas Commission on Environmental Quality (commission) proposes an amendment to §330.4, Permit Required; and new §330.75, Animal Crematory Facility Design and Operational Requirements for Permitting by Rule.

#### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

In accordance with 1 TAC §91.65, regarding the procedures for filing rule packages with the Texas Register, a rule shall only have one pending amendment at a time with the exception of rules containing only definitions. Therefore, to comply with this requirement, this proposed rulemaking combines two separate solid waste provisions that require an amendment to §330.4. The rule subjects are animal crematories and pet cemeteries.

The purpose of the first part of the proposed rulemaking is to make clear the commission position on permit requirements regarding the management of municipal solid waste (MSW) for animal crematories. Under Texas Health and Safety Code (THSC), §361.003(20), Definitions, dead animals are included in the definition of MSW. Section 330.4 prohibits the storage, processing, removal, or disposal of MSW unless such activity is authorized by a permit or other authorization. The proposed rulemaking would provide authorization via a permit by rule for small animal crematories. The requirement to obtain a full MSW permit could be overly burdensome for small facilities, and the authorization level should be set at a lower authorization tier. The amount and type of waste authorized to be processed at these facilities poses less risk than some other MSW facilities. The maximum daily storage and processing limits are proposed to minimize the likelihood that nuisance conditions will occur at these facilities. Small animal crematories would be authorized to operate via a permit by rule

if they follow certain requirements. In addition to the MSW permit by rule, these facilities must also comply with all air quality rules and obtain all appropriate air quality permits. Thus, animal crematories must be authorized in accordance with the new source review (NSR) permitting requirements in 30 TAC Chapter 116, Control of Air Pollution by Permits for New Construction or Modification or qualify for a permit by rule under 30 TAC §106.494, Pathological Waste Incinerators, prior to construction or modification.

The purpose of the second part of the proposed rulemaking is to make clear the commission position on permit requirements with regard to the management of MSW for pet cemeteries. Pet cemeteries do not need to be regulated as landfills, although the current rules could be interpreted as requiring permits for these facilities. Pet cemeteries pose less risk both because of the amount and type of waste disposed and the spatial distribution of the burials. Although dead animals are MSW, which generally requires an authorization under §330.4(a) for disposal, the proposed rulemaking would clearly state that pet cemeteries do not require MSW authorizations and must only comply with timely burial and deed recordation requirements.

The purpose of these proposed rules is to implement THSC, §361.061 and §361.024(a) and (e).

#### SECTION BY SECTION DISCUSSION

Section 330.4 is proposed to be amended by making changes in some existing subsections and by adding two new subsections. The name of the commission and citations are updated where needed throughout the section. Grammatical and formatting changes are made for clarity where needed

throughout the section, and the acronym “MSW” is substituted for the term “municipal solid waste” throughout the section for conciseness. In §330.4(a), the list of subsections is deleted to clarify that all exclusions in the section apply and offset the prohibition against disposing, processing, storing, or removing MSW without an authorization from the commission. New §330.4(z) would grant an MSW permit by rule for animal crematory facilities that meet certain requirements. New §330.4(aa) would state that an MSW authorization is not required for pet cemeteries, although deed recordation requirements would apply. New §330.75 proposes the requirements which must be met to operate an animal crematory under an MSW permit by rule. One requirement is the storage of animal carcasses under refrigeration if not cremated within one hour of receipt. The commission is proposing that the storage temperature should be 40 degrees Fahrenheit, but invites comments on this specific issue as well as all other aspects of this proposal.

#### FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

John Davis, Technical Specialist with Strategic Planning and Appropriations, determined that for each year of the first five-year period the proposed rules are in effect, there will be no significant fiscal implications for the agency or any other unit of state or local government due to administration and enforcement of the proposed rules.

The proposed rulemaking is intended to clarify and supplement existing commission MSW rules regarding animal crematory and pet cemetery permitting. The proposed rules would provide authorization via an MSW permit by rule for small animal crematories and an exemption from MSW permitting for pet cemeteries. Additionally, animal crematories are still subject to the NSR permitting

requirements in Chapter 106 or Chapter 116. The commission does not anticipate any significant fiscal implications due to implementation of the proposed rules.

#### PUBLIC BENEFITS AND COSTS

Mr. Davis also determined that for each of the first five years the proposed rules are in effect, the public benefit anticipated as a result of implementing the proposed rules will be clarification of existing rules.

The proposed rulemaking is intended to amend commission MSW rules regarding animal crematory and pet cemetery permitting. This proposed rulemaking does not change air permitting requirements. The commission does not anticipate any significant fiscal implications due to implementation of the proposed rules.

#### SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

No adverse fiscal implications are anticipated for small or micro-businesses due to implementation of the proposed rules, which are intended to amend commission MSW rules regarding animal crematory and pet cemetery permitting. This proposed rulemaking does not change air permitting requirements. The commission does not anticipate any significant fiscal implications due to implementation of the proposed rules.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

The commission 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 the rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking is not subject to §2001.0225, because it does not meet the definition of a “major environmental rule” as defined in that statute, and it does not meet any of the four applicability requirements listed in §2001.0225(a). A “major environmental rule” is a rule, the specific intent of which, is 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 proposed rulemaking is intended to clarify the MSW regulatory scheme regarding animal crematories and pet cemeteries. Whereas the existing rules subject animal crematories to full permitting requirements as Type V MSW processing facilities, the proposed rules would authorize smaller facilities via a permit by rule, a less formal authorization process which would still provide substantive protection of public health and the environment. The proposed framework for regulating animal crematories is specifically tailored to provide the appropriate level of regulation while avoiding excessive burdens on the facilities. The proposed rules also clarify that pet cemeteries are not subject to

MSW permitting requirements. This proposed rulemaking does not change air permitting requirements. Animal crematories are still subject to the NSR permitting requirements in Chapter 116 or Chapter 106.

This rulemaking is not a major environmental rule because it is not anticipated to 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 rulemaking applies only to a limited group of facilities and clarifies the regulations which are protective of human health and the environment.

As to the four applicability requirements, the rulemaking does not exceed a standard set by federal law; exceed an express requirement of state law; exceed a requirement of any delegation agreement or contract between the state, the commission, and an agency or representative of the federal government; nor are the rules proposed solely under the general powers of the agency.

The commission invites public comment on the draft regulatory impact analysis determination.

#### TAKINGS IMPACT ASSESSMENT

The commission prepared a takings impact assessment for this rulemaking under Texas Government Code, §2007.043. The purpose of the animal crematory proposed rulemaking is to make clear the commission position on permit requirements for animal crematories regarding the management of MSW. Under THSC, §361.003(20), dead animals are included in the definition of MSW. Section 330.4 prohibits the storage, processing, removal, or disposal of MSW unless such activity is authorized

by a permit or other authorization. The proposed rules would provide authorization via an MSW permit by rule for small animal crematories. The requirement to obtain an MSW permit could be overly burdensome for small animal crematory facilities. The authorization level for small animal crematory facilities should be a lower authorization tier than that of a full MSW permit. Animal crematories are still subject to the NSR permitting requirements in Chapter 116 or Chapter 106.

The purpose of the pet cemetery rulemaking is to make clear that no MSW permit or registration is required for pet cemeteries. Under THSC, §361.003(20), dead animals are included in the definition of MSW. Section 330.4 prohibits the storage, processing, removal, or disposal of MSW unless such activity is authorized by a permit or other authorization. The proposed rule would clearly state that pet cemeteries are exempt from all MSW authorization requirements.

The rulemaking will substantially advance the stated purposes by clarifying the rules and providing specific provisions on the aforementioned matters. Promulgation and enforcement of the rules will not burden or affect private real property. 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 right 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.

In addition, because the subject proposed rules are less stringent than existing rules, they do not burden, restrict, or limit an 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. The proposed rules would not prohibit the activities involved, but rather would clarify the regulatory requirements. Therefore, these rules will not constitute a takings under Texas Government Code, Chapter 2007.

#### CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the proposed rulemaking and found that the proposal is a rulemaking identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2), Actions and Rules Subject to the Texas Coastal Management Program, since this rulemaking affects provisions for certain permits that could be issued by the commission. The Coastal Coordination Act requires that applicable goals and policies of the Texas Coastal Management Program (CMP) be considered during the rulemaking process. The commission determined that the proposed rules are in accordance with 31 TAC §505.22, and found that the proposed rulemaking is consistent with the applicable CMP goals and policies.

The goals of the CMP are: to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas; to ensure sound management of all coastal resources by allowing for compatible economic development and multiple human uses of the coastal zone; to ensure and enhance planned public access to and enjoyment of the coastal zone in a manner that is compatible with private property rights and other uses of the coastal zone; and to balance these competing interests. The policies of the CMP in 31 TAC §501.14 implement these goals.

The specific CMP policies applicable to these proposed rules require that rules governing permits shall require systems that are permitted by the commission to be located, designed, and operated to prevent release of pollutants that may adversely affect coastal waters. Promulgation and enforcement of these rules will not violate any standards identified in the applicable CMP policies because the standards specified in the rules address MSW authorization requirements only for pet cemeteries and small animal crematories, which will not have any significant impact to coastal waters because of the nature and small size of these facilities. The specific policies that govern permit conditions for facilities handling MSW are in §501.14(d) and apply to landfills.

The commission seeks public comment on the consistency of the proposed rules with applicable CMP goals and policies.

#### ANNOUNCEMENT OF HEARING

A public hearing on this proposal will be held in Austin on November 4, 2002 at 10:00 a.m., in Building F, Room 2210 at the commission's central office located at 12100 Park 35 Circle. The hearing will be structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. There will be no open discussion during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the Office of Environmental Policy, Analysis, and Assessment at (512) 239-4900. Requests should be made as far in advance as possible.

#### SUBMITTAL OF COMMENTS

Comments may be submitted to Patricia Durón, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 2002-048-330-WS. Comments must be received by 5:00 p.m., November 12, 2002. For further information or questions concerning this proposal, please contact Joseph Thomas, Office of Environmental Policy, Analysis, and Assessment, (512) 239-4580.

**SUBCHAPTER A: GENERAL INFORMATION**

**§330.4**

**STATUTORY AUTHORITY**

The amendment is proposed under Texas Water Code (TWC), §5.103, which provides the commission the authority to adopt and enforce rules necessary to carry out its powers and duties under the laws of this state; THSC, §361.011, which provides the commission all powers necessary and convenient to carry out its responsibilities concerning the regulation and management of MSW; THSC, §361.024, which provides the commission authority to adopt and promulgate rules consistent with the general intent and purposes of the THSC; and THSC, §361.061, which provides the commission the authority to require and issue permits authorizing and governing the construction, operation, and maintenance of solid waste facilities used to store, process, or dispose of solid waste under THSC, Chapter 361.

The proposed amendment implements THSC, §361.024, which provides the commission with the authority to adopt and promulgate rules consistent with the general intent and purposes of the THSC; and THSC, §361.061, which provides the commission the authority to require and issue permits authorizing and governing the construction, operation, and maintenance of solid waste facilities used to store, process, or dispose of solid waste under the THSC.

**§330.4. Permit Required.**

(a) No person may cause, suffer, allow, or permit any activity of storage, processing, removal, or disposal of any municipal solid waste (MSW) unless such activity is authorized by a permit or other authorization from the commission [Texas Water Commission], except as provided for in [subsections (c) - (h) of] this section. Permits issued by the Texas Department of Health prior to the effective date of this chapter satisfy the requirements of this subsection. No person may commence physical construction of a new MSW [municipal solid waste] management facility or a lateral expansion without first having submitted a permit application in accordance with §§330.50 - 330.65 of this title (relating to Permit Procedures) and received a permit from the commission, except as provided for specifically herein.

(b) (No change.)

(c) A separate permit is not required for the storage or processing of the following types of MSW [municipal solid waste that is]: grease trap wastes; [,] grit trap wastes; [,] or septage that contains free liquids if the waste is treated/processed at a permitted MSWLF. Any person who intends to conduct such activity under this subsection shall comply with the notification requirements of §330.8 of this title (relating to Notification Requirements).

(d) A permit is not required for an MSW [a municipal solid waste] transfer station facility that is used in the transfer of MSW [municipal solid waste] to a solid waste processing or disposal facility from:

(1) - (2) (No change.)

(3) a facility used in the transfer of MSW [municipal solid waste] that transfers or will transfer 125 tons per day or less; or

(4) a transfer station located within the permitted boundaries of an MSW [a municipal solid waste] Type I, Type II, Type III, or Type IV facility as specified in §330.41 of this title (relating to Types of Municipal Solid Waste Facilities).

(e) - (f) (No change.)

(g) A permit amendment is not required to establish a waste-separation/recycling facility established in conjunction with a permitted MSW [municipal solid waste] site, or composting facility at an existing permitted MSW [municipal solid waste] site if owned by the permittee of the existing site. Facilities exempted from a permit amendment under this subsection shall be registered with the executive director in accordance with §330.65 of this title (relating to Registration for Solid Waste Management Facilities [Requirements of an Application for Registration of Solid Waste Facilities (Type V)]). Failure to operate such registered facilities in accordance with the requirements established in

§§330.150 - 330.159 of this title (relating to Operational Standards for Solid Waste Processing and Experimental Sites) may be grounds for the revocation of the registration.

(h) (No change.)

(i) A permit or registration under this chapter is not required for the operation of an approved treatment process unit (as provided in §330.1004(c)(1) of this title (relating to Generators of Medical Waste)) used only for the treatment of on-site (as defined in §330.1004(f) of this title) generated special waste from health care-related facilities.

(j) A separate permit is not required for a facility to treat petroleum-contaminated soil if the contaminated soil is treated/processed at a permitted solid waste landfill facility. The treated soil shall be disposed of at the facility or may be used as daily cover on the facility. Any person who intends to conduct such activity under this subsection shall comply with the notification requirements of §330.8 of this title [(relating to Notification Requirements)].

(k) - (l) (No change.)

(m) Any change to a condition or term of an issued permit requires a permit amendment in accordance with §305.62 of this title (relating to Amendment) or a permit modification in accordance with §305.70 of this title (relating to Municipal Solid Waste Permit Modification). The owner or operator shall submit an amendment or modification application in accordance with the requirements

contained in §§330.50 - 330.65 of this title [(relating to Permit Procedures)] to address the items covered by the requested change.

(n) For energy and material recovery and gas recovery operations relating to MSW [municipal solid waste], a registration is required. A permit is not required for an MSW [a municipal solid waste] facility-Type IX that recovers gas for beneficial use. Those Type IX facilities that recover gas for beneficial use that are exempt from permitting under this subsection shall be registered with the executive director in accordance with §330.70 of this title (relating to Registration of Facilities that Recover Gas for Beneficial Use). However, exploratory and test operations for feasibility purposes may be conducted after approval of the operation by the executive director.

(o) Submission of a Soil and Liner Evaluation Report (SLER) and/or a Flexible Membrane Liner Evaluation Report (FMLER) required by §330.206 of this title (relating to Soil and Liner Evaluation Report and Flexible Membrane Liner Evaluation Report) for a liner design which meets all design and operational requirements of §§330.50 - 330.65 of this title [(relating to Permit Procedures)] and §§330.200 - 330.206 of this title (relating to Groundwater Protection Design and Operation) shall not require a permit amendment or modification.

(p) (No change.)

(q) In addition to permit exemptions established in subsection (d) of this section, a permit is not required for any new MSW [municipal solid waste] Type V transfer station that includes a material

recovery operation that meets all of the requirements established by this subsection. Owners and operators of Type V transfer facilities meeting the requirements of this subsection are allowed to register their operations in lieu of permitting them. Owners and operators of transfer stations that meet the permit exemption requirements and wish to exercise the exemption option must register their operation in accordance with §330.65 of this title.

(1) - (2) (No change.)

(3) Exempt facilities. Transfer facilities exempted from a permit under this subsection shall register with the executive director in accordance with §330.65 of this title and meet the additional design criteria of §330.65(f) of this title.

(4) (No change.)

(r) A permit is not required for an MSW [a municipal solid waste] transfer station that is used only in the transfer of grease trap waste, grit trap waste, septage, or other similar liquid waste if the facility used in the transfer will receive 32,000 gallons per day or less. Liquid waste transfer stations that will receive 32,000 gallons a day or less may operate if they notify the executive director [Executive Director] 30 days prior to initiating operations and if the facility is designed and operated in accordance with the requirements of §330.66 of this title (relating to Liquid Waste Transfer Facility Design and Operation). Facilities that will receive over 32,000 gallons per day must apply for a permit.

(s) A permit is not required for an MSW [a municipal solid waste] Type V processing facility that processes only grease trap waste, grit trap waste, or septage or a combination of these three liquid wastes if:

(1) - (3) (No change.)

(t) (No change.)

(u) A permit is not required for an MSW [a municipal solid waste] Type VI facility that demonstrates new management methods for processing or handling grease trap waste, grit trap waste, or septage or a combination of these three liquid wastes. Those facilities meeting this exemption must obtain a registration by meeting the operational criteria and design criteria established in §330.73 of this title (relating to Registration of Demonstration Projects for Liquid Waste Processing Facilities).

(v) A permit, registration, or other authorization is not required for the disposal of litter or other solid waste, generated by an individual, on that individual's own land where:

(1) - (8) (No change.)

(9) the individual complies with the deed recordation and notification requirements in §330.7 of this title (relating to Deed Recordation) and §330.8 of this title [(relating to Notification Requirements)].

(w) (No change.)

(x) A major permit amendment, as defined by §305.62 of this title (relating to Amendment), is required to reopen a Type I, Type I-AE, Type IV, or Type IV-AE MSW [municipal solid waste] facility permitted by the commission or any of its predecessor or successor agencies that has either stopped accepting waste, or only accepted waste in accordance with an emergency authorization, for a period of five years or longer. The MSW [municipal solid waste] facilities covered by this subsection may not be reopened to accept waste again unless the permittee demonstrates compliance with all applicable current state, federal, and local requirements, including the requirements of Subtitle D of the federal Resource Conservation and Recovery Act of 1976 (42 United States Code, §§6901 *et seq.*) and the implementing Texas state regulations. If an MSW [a municipal solid waste] facility was subject to a contract of sale on January 1, 2001, the scope of any public hearing held on the permit amendment required by this subsection is limited to land use compatibility, as provided by §330.51(a) of this title (relating to Permit Application for Municipal Solid Waste Facilities) and §330.61 of this title (relating to Land-Use Public Hearing). This subsection does not apply to any MSW [municipal solid waste] facility that has received a permit but never received waste, or that received an approved Subtitle D permit modification before September 1, 2001.

(y) (No change.)

(z) A permit by rule is granted for an animal crematory that meets the requirements of §330.75 of this title (relating to Animal Crematory Facility Design and Operation for Permitting by Rule).

Facilities that do not meet all the requirements of §330.75 of this title require a permit under §330.51 of this title (relating to Permit Application for Municipal Solid Waste Facilities).

(aa) A permit or registration is not required for pet cemeteries. However, a person who intends to operate a pet cemetery shall comply with the requirements of §330.7 of this title and shall ensure that the animal carcasses are covered with at least two feet of soil within a time period that will prevent the generation of nuisance odors or health risks. A pet cemetery is a facility used only for the burial of domesticated animals kept as pets and service animals such as seeing-eye dogs. Animals raised for meat production or used only for animal husbandry are not pets.

**SUBCHAPTER E: PERMIT PROCEDURES**

**§330.75**

**STATUTORY AUTHORITY**

The new section is proposed under TWC, §5.103, which provides the commission the authority to adopt and enforce rules necessary to carry out its powers and duties under the laws of this state; THSC, §361.011, which provides the commission all powers necessary and convenient to carry out its responsibilities concerning the regulation and management of MSW; THSC, §361.024, which provides the commission the authority to adopt and promulgate rules consistent with the general intent and purposes of the THSC; and THSC, §361.061, which provides the commission the authority to require and issue permits authorizing and governing the construction, operation, and maintenance of solid waste facilities used to store, process, or dispose of solid waste under THSC, Chapter 361.

The proposed new section implements THSC, §361.024, which provides the commission with the authority to adopt and promulgate rules consistent with the general intent and purposes of the THSC; and THSC, §361.061, which provides the commission the authority to require and issue permits authorizing and governing the construction, operation, and maintenance of solid waste facilities used to store, process, or dispose of solid waste under the THSC.

**§330.75. Animal Crematory Facility Design and Operational Requirements for Permitting by Rule.**

(a) General prohibitions. A person may not store, process, or dispose of animal carcasses, nor operate an animal crematory facility in such a manner so as to cause:

(1) the discharge or imminent threat of discharge of solid waste into or adjacent to waters in the state without obtaining from the commission specific authorization for such discharge;

(2) a discharge to an on-site sewage facility (a septic system);

(3) the creation of a nuisance; or

(4) endangerment of human health and welfare or the environment.

(b) Permit by rule requirements. To qualify for a permit by rule, the following requirements must be met.

(1) Facility size or capacity. Processing of carcasses shall be limited to a rate of no more than 200 pounds per hour. The facility may not accept animal carcasses that weigh more than 200 pounds each.

(2) Ash control. Ash disposal must be at an authorized facility unless the ash is returned to the animal owner or sent to a pet cemetery. Ash shall be stored in an enclosed container that will prevent release of the ash to the environment. There shall be no more than 2,000 pounds of ash stored at an animal crematory at any given time.

(3) Air pollution control. Air emissions from the facility shall not cause or contribute to a condition of air pollution as defined in Texas Clean Air Act, §382.003. All animal crematories, prior to construction or modification, must have an air permit issued under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification), or qualify for a permit by rule under §106.494 of this title (relating to Pathological Waste Incinerators).

(4) Fire protection. The facility shall prepare, maintain, and follow a fire protection plan. This fire protection plan shall describe fire protection resources (a local fire department, fire hydrants, fire extinguishers, water tanks, water well, etc.), and employee training and safety procedures. The fire protection plan shall comply with local fire codes.

(5) Storage limits. Carcasses must be incinerated within one hour of receipt, unless stored at or below a temperature of 40 degrees Fahrenheit. Storage of carcasses shall be in a manner that minimizes the release of odors. Storage of carcasses shall be limited to the amount that can be processed at the maximum loading rate for the incinerator in a two-day period. No carcass shall be stored for longer than five days unless it is frozen within 24 hours of receipt.

(6) Unauthorized waste. Only carcasses or animal parts, with any associated packaging, shall be processed. Carcasses shall not be accepted in packaging that includes any chlorinated plastics. Carcasses or animal parts that are either hazardous waste or special waste from health care-related facilities are prohibited.

(7) Cleaning. Storage and processing units must be properly cleaned on a routine basis to prevent odors and the breeding of flies.

(8) Nuisance prevention. The facility shall be designed and operated in a manner so as to prevent nuisance conditions, including, but not limited to, dust from ashes, disease vectors, excessive odors, and liquids from spills, from being released from the property boundary of the authorized facility.

(9) Diseased animals. The facility shall be equipped with appropriate protective equipment and clothing for personnel handling diseased animals which may be received at the facility. Facility owners or operators must inform customers and local veterinarians of the need to identify diseased animals for the protection of personnel handling the animals.

(10) Buffer zone. Animal crematories, including unloading and storage areas, constructed after the effective date of these rules must be at least 50 feet from the property boundary of the facility.

(11) Operating hours. Crematories shall operate within the hours specified in §330.118 of this title (relating to Hours of Operation), but shall be limited to eight hours of incineration per day.

(c) Records. Owners or operators of all facilities authorized under a permit by rule must retain records as follows:

(1) maintain a copy of all requirements of §330.4 and §330.75 of this title that apply to the facility;

(2) maintain records for the previous consecutive 12-month period containing sufficient information to demonstrate compliance with all applicable requirements of this title and all applicable permit by rule conditions;

(3) keep all required records at the facility site; and

(4) make the records available upon request to personnel from the commission.

(d) Fees. Animal crematory facilities authorized under this section are exempt from fee requirements of Subchapter P of this chapter.

(e) Other requirements. No other requirements under this chapter are applicable to a facility that meets all of the requirements of this section.