

The Texas Commission on Environmental Quality (commission) adopts amendments to §§330.2, 330.4, and 330.66. Sections 330.2 and 330.66 are adopted *with changes* to the proposed text as published in the June 6, 2003 issue of the *Texas Register* (28 TexReg 4397). Section 330.4 is adopted *without change* to the proposed text and will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

On September 15, 1999, the commission granted a petition for rulemaking by Safety-Kleen Systems, Inc. for amendments to 30 TAC Chapter 312, concerning Sludge Use, Disposal, and Transportation; 30 TAC Chapter 324, concerning Used Oil Standards; and Chapter 330, concerning Municipal Solid Waste. This rulemaking is the result of that petition. The petitioner identified a conflict in commission rules where waste in waste management units containing recyclable used oil could be construed as being jointly regulated under Chapter 324 and Chapters 330 and 312.

On November 14, 2002, an advisory group meeting was held in Austin, Texas, to receive input from the regulated community and other interested entities on the proposed rule language, developed from the petition and the draft rule amendments to Chapters 312, 324, and 330. Entities registered in accordance with the Chapter 312 requirements voiced concern about alternative management of grit trap waste (i.e., the proposal to allow for commingling of grit trap waste regulated under Chapter 312 and used oil regulated under Chapter 324). Many of the advisory group members commented that there is no justification for a change to the current regulations. Advisory group members also commented that grit traps are not designed to accumulate oil and the existence of significant amounts of used oil found in grit traps indicates operational issues at facilities where such grit trap waste is found. The majority

of the advisory group and other interested entities recommended changes to clarify that Chapter 312 does not apply to oily water mixtures in waste management units and that oil-water mixtures from waste management units designed for oil-water separation must comply with the requirements found in Chapter 324. The commission identified language modifications that were needed in Chapters 312, 324, and 330 regarding this matter and, therefore, rule language modifications are being adopted concurrently for these chapters.

SECTION BY SECTION DISCUSSION

Adopted §330.2, Definitions, adds the definition of grit trap in new paragraph (52); adds the definition of grit trap waste in new paragraph (53); renumbers the subsequent paragraphs accordingly; and formats paragraph (3) to identify the referenced section titles. The commission also deletes renumbered paragraph (137)(O) because the term “used oil” is addressed in Chapter 324. In addition, the word “vertical” has been added to §330.2(52) and the term “interceptors” has been replaced with the term “grit traps” in §330.2(53) in response to comment.

Adopted §330.4, Permit Required, amends subsection (r) by requiring a separate permit or registration for the storage, transportation, or handling of used oil mixtures collected from oil/water separators. Any person who intends to conduct such activity shall comply with the regulatory requirements of Chapter 324.

Adopted §330.66, Liquid Waste Transfer Facility Design and Operation, amends subsection (a) to indicate that §330.66 does not apply to transfer facilities that handle only liquid wastes that contain

recyclable used oil from oil/water separators which are regulated under Chapter 324. In addition, the language "or any other similar waste management unit designed to collect oil" has been added to §330.66(a)(1) in response to comment.

FINAL REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed this rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that this rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in that statute. This rulemaking does not meet any of the four applicability requirements listed in §2001.0225(a).

A major environmental rule means 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 adopted rule amendments do not satisfy the definition of a major environmental rule. This rulemaking adds regulatory language which states that oily water mixtures in waste management units such as tanks, fractionation tanks, and sumps that meet the design requirements of the American Petroleum Institute for oil-water separation or have been designed for oil-water separation, are not regulated under Chapter 312. In addition, the adopted rules contain language stating that recycling of oil-water mixtures from the waste management units designed for oil-water separation must comply with the requirements found in Chapter 324. The amendments are not a major environmental rule because they are not expected 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. This rulemaking does not qualify as a major environmental rule because it does not have as its specific intent the protection of the environment or the reduction of risk to human health from environmental exposure.

In addition, a regulatory impact assessment is not required because this rulemaking does not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a). This rulemaking does not exceed a standard set by federal law, but conforms with federal law. This rulemaking does not exceed an express requirement of state law because it conforms to the requirement under Texas Health and Safety Code (THSC), §371.028. This rulemaking does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program. This rulemaking does not adopt a rule solely under the general powers of the agency, but also under specific state law, namely THSC, §371.028, which directs the commission to implement the used oil recycling program by adopting rules, standards, and procedures. Finally, this rulemaking is not adopted on an emergency basis to protect the environment or to reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The commission performed a preliminary analysis for this rulemaking in accordance with Texas Government Code, §2007.043. The specific purpose of this rulemaking is to explain that oily water mixtures in waste management units such as tanks, fractionation tanks, and sumps that meet the design requirements of the American Petroleum Institute for oil-water separation or have been designed for oil-water separation are not regulated under Chapter 312. In addition, the adopted rules contain

language stating that recycling of oil-water mixtures from the waste management units designed for oil-water separation must comply with the requirements found in Chapter 324. This rulemaking will substantially advance the stated purpose by adding a definition of grit trap in §312.8 and adding language in §312.2(g) specifying that waste in certain waste management units containing recyclable used oil (including mixtures containing, or contaminated with, used oil) is regulated under Chapter 324 and is not subject to Chapter 330. The promulgation and enforcement of these amended rules will not burden private real property nor adversely affect property values because the adopted rule amendments will merely specify that certain waste that contains recyclable used oil is being regulated solely under the used oil rules in Chapter 324. Therefore, this rulemaking will not constitute a takings under Texas Government Code, Chapter 2007.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed this rulemaking and found that the adoption is a rulemaking identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2), relating to Actions and Rules Subject to the Texas Coastal Management Program (CMP), or will affect an action and/or authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(6), and will therefore require that applicable goals and policies of the CMP be considered during the rulemaking process.

The commission prepared a consistency determination for the adopted rules under 31 TAC §505.22 and found that this rulemaking is consistent with the applicable CMP goals and policies. The CMP goal applicable to this rulemaking is the goal to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas. CMP policies applicable to the adopted rules include the construction and operation of solid waste treatment, storage, and disposal

facilities, and the discharge of municipal and industrial wastewater to coastal waters. Promulgation and enforcement of these rules will not violate (exceed) any standards identified in the applicable CMP goals and policies because the adopted rule changes do not modify or alter standards set forth in existing rules, and do not govern or authorize any actions subject to the CMP. This rulemaking defines grit trap and grit trap waste and indicates that a separate permit or registration is not required under this chapter for the storage, transportation, or handling of used oil mixtures collected from oil/water separators.

PUBLIC COMMENT

A public hearing was not held on this rulemaking and one comment was received from Safety-Kleen Systems, Inc. (SK) during the comment period, which closed July 7, 2003.

RESPONSE TO COMMENT

SK commented that wording of the second sentence in proposed §330.2(53) defining grit trap waste and complementary wording in §312.8 could potentially lead to confusion as the term “interceptor” is not discretely defined. SK further suggested deletion of this wording and also insertion of examples of facilities where grit traps may exist in Chapters 312 and 330.

The commission disagrees with this comment. To remove any ambiguity regarding the term “interceptors” or the regulatory status of waste removed from grit traps, the commission is replacing the term “interceptors” with the term “grit traps” in existing language in §330.2(53).

SK commented that the term “vertical” is used in proposed §312.8(37) as part of defining a grit trap; however, the term is not used in proposed §330.2(52). SK suggested the addition of the word “vertical” to §330.2(52).

The commission agrees with this comment and the word “vertical” has been added to §330.2(52).

SK discussed in another comment that a listing of example facilities was given where grit traps may exist. SK expressed concern that this could be taken to imply that a grit trap and an oil/water separator as defined in proposed §324.3(5) could not exist at the same facility, and that it is possible for a grit trap or an oil/water separator to be located at an establishment not enumerated in the example facility list.

The commission realizes that it is possible for a grit trap and an oil/water separator to be located at the same facility and further acknowledges the potential for a grit trap to exist at a facility other than that listed in proposed §312.8(38) and §330.2(53). However, the commission points out that the facilities listed as typical sites which may own and operate a grit trap is not intended to be an exhaustive listing of such facilities, nor is it intended to imply that grit trap and oil/water separator activities are mutually exclusive. The purpose of this rulemaking is to more clearly delineate the management standards for these distinct waste streams based on design and functions of the units, and reiterates that the listing of facilities where grit traps might be located is intended to function only as supportive examples in determining the applicable rules. No change has been made in response to this comment.

SK commented that proposed language in §330.2(53) and similar language in Chapters 312 and 324 contain specific design criteria to be used in differentiation between grit traps and oil/water separators. SK expressed concern that these criteria focused too narrowly on theoretical design specifications and could exclude oil-water mixtures from regulation as used oil, even if the mixture was derived from a unit whose purpose was to separate used oil from water. The example of bilge water containing oil was used to demonstrate simpler units which would generate oil-water mixtures eligible for regulation as used oil.

The commission recognizes that oil-water mixtures may be generated in circumstances or units that do not strictly adhere to the design parameters outlined in proposed §324.3(5) and the complementing sections in today's rule. However, the intent of the rule is not that design requirements laid out in the rule should function as an exhaustive listing of the only units from which the oil-water mixture can be regulated as used oil. Criteria such as those of the American Petroleum Institute are useful in the determination of the regulatory status of the units as grit traps or oil-water separators and addition of the phrase "or have been designed for oil-water separation" are sufficiently broad in providing a technical basis for this regulatory determination. The commission reiterates that the purpose of these rules is to draw a clear and enforceable distinction between oil/water separators and grit trap units, removing any ambiguity regarding the regulatory status of grit trap waste and mixtures better regulated under the existing used oil regulations. No change has been made in response to this comment.

Regarding proposed §330.4(r), SK discussed the need for a separate registration or permit for management of used oil and commented that some used oil activities would not require this separate permit or registration.

The commission disagrees with this comment. Most commercial management activities of used oil do trigger registration requirements exclusive of those for a generator. The management of used oil in conjunction with other waste management activities are subject to any and all applicable requirements for this waste stream including registration, if necessary. No change has been made in response to this comment.

SK suggested the addition of an additional sentence regarding the applicability of Chapter 330, specifically a sentence stating that used oil would not be subject to regulation under this chapter.

The commission disagrees with this comment. The current wording of proposed §330.2(52) and (53) sufficiently outlines the regulatory framework of either grit trap waste or used oil and is sufficiently clear to remove any potential confusion. No change has been made in response to this comment.

SK suggested that the last sentence of proposed §330.66(a)(1) be revised as follows: “This section shall not apply to transfer facilities that handle only liquid wastes that contain recyclable used oil from oil/water separators (*or other units*) which are regulated under the recycling rules of Chapter 324 of this title (relating to Used Oil Standards).”

The commission agrees with this comment. However, the suggested language is too broad.

Therefore, the commission has added the language “or any other similar waste management unit designed to collect oil” to §330.66(a)(1).

SUBCHAPTER A: GENERAL INFORMATION

§330.2, §330.4

STATUTORY AUTHORITY

The amendments are adopted under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out its powers and duties under the code and other laws of the state, and to adopt rules repealing any statement of general applicability that interprets law or policy; Texas Water Code, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; THSC, §361.011, which gives the commission all powers necessary and convenient to carry out its responsibilities concerning the regulation and management of municipal solid waste; 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, §371.028, which directs the commission to implement the used oil recycling program by adopting rules, standards, and procedures.

§330.2. Definitions.

Unless otherwise noted, all terms contained in this section are defined by their plain meaning. This section contains definitions for terms that appear throughout this chapter. Additional definitions may appear in the specific section to which they apply. As used in this chapter, words in the masculine gender also include the feminine and neuter genders, words in the feminine gender also include the

masculine and neuter genders; words in the singular include the plural and words in the plural include the singular. The following words and terms, when used in this chapter, have the following meanings.

(1) **100-year flood** - A flood that has a 1.0% or greater chance of recurring in any given year or a flood of a magnitude equalled or exceeded once in 100 years on the average over a significantly long period.

(2) **Acid** - A substance containing hydrogen that will release hydrogen (hydronium) ions when dissolved in water. Acids will have a pH of less than 7.0 and usually have a sour taste and will cause blue litmus dye to turn red.

(3) **Active life** - The period of operation beginning with the initial receipt of solid waste and ending at certification/completion of closure activities in accordance with §§330.250 - 330.253 of this title (relating to Applicability; Closure Requirements for MSWLF Units That Stop Receiving Waste Prior to October 19, 1991, and MSW Sites; Closure Requirements for MSWLF Units That Receive Waste on or after October 9, 1991, But Stop Receiving Waste Prior to October 9, 1993; and Closure Requirements for MSWLF Units That Receive Waste on or after October 9, 1993, and MSW Sites).

(4) **Active portion** - That part of a facility or unit that has received or is receiving wastes and that has not been closed in accordance with §§330.250 - 330.253 of this title.

(5) **Airport** - A public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

(6) **Aquifer** - A geological formation, group of formations, or portion of a formation capable of yielding significant quantities of groundwater to wells or springs.

(7) **Areas susceptible to mass movements** - Areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the municipal solid waste landfill unit, because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock fall.

(8) **Asbestos-containing materials** - Include the following.

(A) Category I nonfriable asbestos-containing material (ACM) means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1.0% asbestos as determined using the method specified in Appendix A, Subpart F, 40 Code of Federal Regulations (CFR), Part 763, §1, Polarized Light Microscopy (40 CFR Part 763, §1).

(B) Category II nonfriable ACM means any material, excluding Category I nonfriable ACM, containing more than 1.0% asbestos as determined using the methods specified in 40

CFR Part 763, §1, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

(C) Friable ACM means any material containing more than 1.0% asbestos that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

(D) Nonfriable ACM means any material containing more than 1.0% asbestos that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

(9) **ASTM** - The American Society of Testing and Materials.

(10) **Battery** - An electrochemical device that generates electric current by converting chemical energy. Its essential components are positive and negative electrodes made of more or less electrically conductive materials, a separate medium, and an electrolyte. There are four major types:

(A) primary batteries (dry cells);

(B) storage or secondary batteries;

(C) nuclear and solar cells or energy converters; and

(D) fuel cells.

(11) **Battery acid (also known as electrolyte acid)** - A solution of not more than 47% sulfuric acid in water suitable for use in storage batteries, which is water white, odorless, and practically free from iron.

(12) **Battery retailer** - A person or business location that sells lead-acid batteries to the general public, without restrictions to limit purchases to institutional or industrial clients only.

(13) **Battery wholesaler** - A person or business location that sells lead-acid batteries directly to battery retailers, to government entities by contract sale, or to large-volume users, either directly or by contract sale.

(14) **Bird hazard** - An increase in the likelihood of bird/aircraft collisions that may cause damage to an aircraft or injury to its occupants.

(15) **Brush** - Cuttings or trimmings from trees, shrubs, or lawns and similar materials.

(16) **Buffer zone** - A zone free of municipal solid waste processing and disposal activities adjacent to the site boundary.

(17) **CFR** - Code of Federal Regulations.

(18) **Citizens' collection station** - A facility established for the convenience and exclusive use of residents (not commercial or industrial users or collection vehicles). The facility may consist of one or more storage containers, bins, or trailers.

(19) **Class I industrial solid waste** - See industrial solid waste.

(20) **Collection** - The act of removing solid waste (or materials that have been separated for the purpose of recycling) for transport elsewhere.

(21) **Collection system** - The total process of collecting and transporting solid waste. It includes storage containers; collection crews, vehicles, equipment and management; and operating procedures. Systems are classified as municipal, contractor, or private.

(22) **Commercial solid waste** - All types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

(23) **Compacted waste** - Waste that has been reduced in volume by a collection vehicle or other means including, but not limited to, dewatering, composting, incineration, and similar processes, with the exception of waste that has been reduced in volume by a small, in-house compactor device owned and/or operated by the generator of the waste.

(24) **Composite liner** - A liner system consisting of two components: the upper component must consist of a minimum 30-mil flexible membrane liner (FML) or minimum 60-mil high-density polyethylene and the lower component must consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec. The FML component must be installed in direct and uniform contact with the compacted soil component.

(25) **Compost** - The stabilized product of the decomposition process that is used or sold for use as a soil amendment, artificial top soil, growing medium amendment, or other similar uses.

(26) **Composting** - The controlled biological decomposition of organic materials through microbial activity.

(27) **Conditionally exempt small-quantity generator** - A person who generates no more than 220 pounds of hazardous waste in a calendar month.

(28) **Construction-demolition waste** - Waste resulting from construction or demolition projects; includes all materials that are directly or indirectly the by-products of construction work or that result from demolition of buildings and other structures, including, but not limited to, paper, cartons, gypsum board, wood, excelsior, rubber, and plastics.

(29) **Contaminate** - The man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of ground or surface water.

(30) **Controlled burning** - The combustion of solid waste with control of combustion air to maintain adequate temperature for efficient combustion; containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and control of the emission of the combustion products, i.e., incineration in an incinerator.

(31) **Discard** - To abandon a material and not use, reuse, reclaim, or recycle it. A material is abandoned by being disposed of; burned or incinerated (except where the material is being burned as a fuel for the purpose of recovering usable energy); or physically, chemically, or biologically treated (other than burned or incinerated) in lieu of or prior to being disposed.

(32) **Discharge** - Includes deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release, or to allow, permit, or suffer any of these acts or omissions.

(33) **Discharge of dredged material** - Any addition of dredged material into the waters of the United States. The term includes, without limitation, the addition of dredged material to a specified disposal site located in waters of the United States and the runoff or overflow from a contained land or water disposal area.

(34) **Discharge of fill material** - The addition of fill material into waters of the United States. The term generally includes placement of fill necessary to the construction of any structure in waters of the United States: the building of any structure or improvement requiring rock, sand, dirt, or other inert material for its construction; the building of dams, dikes, levees, and riprap.

(35) **Discharge of pollutant** - Any addition of any pollutant to navigable waters from any point source or any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source.

(36) **Displacement** - The measured or estimated distance between two formerly adjacent points situated on opposite walls of a fault (synonymous with net slip).

(37) **Disposal** - The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste (whether containerized or uncontainerized) into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

(38) **Dredged material** - Material that is excavated or dredged from waters of the United States.

(39) **Drinking-water intake** - The point at which water is withdrawn from any water well, spring, or surface water body for use as drinking water for humans, including standby public water supplies.

(40) **Elements of nature** - Rainfall, snow, sleet, hail, wind, sunlight, or other natural phenomenon.

(41) **Endangered or threatened species** - Any species listed as such under Federal Endangered Species Act, §4, 16 United States Code, §1536, as amended or under the Texas Endangered Species Act.

(42) **Essentially insoluble** - Any material that, if representatively sampled and placed in static or dynamic contact with deionized water at ambient temperature for seven days, will not leach any quantity of any constituent of the material into the water in excess of the maximum contaminant levels in 40 Code of Federal Regulations (CFR) Part 141, Subparts B and G, and 40 CFR Part 143 for total dissolved solids.

(43) **Existing municipal solid waste landfill unit** - Any municipal solid waste landfill unit that received solid waste as of October 9, 1993. Waste placement in existing units must be consistent with past operating practices or modified practices to ensure good management.

(44) **Experimental project** - Any new proposed method of managing municipal solid waste, including resource and energy recovery projects, that appears to have sufficient merit to warrant commission approval.

(45) **Facility** - All contiguous land and structures, other appurtenances, and improvements on the land used for the storage, processing, or disposal of solid waste.

(46) **Fault** - A fracture or a zone of fractures in any material along which strata, rocks, or soils on one side have been displaced with respect to those on the other side.

(47) **Fill material** - Any material used for the primary purpose of filling an excavation.

(48) **Floodplain** - The lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, that are inundated by the 100-year flood.

(49) **Garbage** - Solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

(50) **Gas condensate** - The liquid generated as a result of any gas recovery process at a municipal solid waste facility.

(51) **Generator** - Any person, by site or location, whose act or process produces a solid waste or first causes it to become regulated.

(52) **Grit Trap** - A unit/chamber that allows for the sedimentation of solids from an influent liquid stream by reducing the flow velocity of the influent liquid stream. In a grit trap, the inlet and the outlet are both located at the same vertical level, at, or very near, the top of the unit/chamber;

the outlet of the grit trap is connected to a sanitary sewer system. A grit trap is not designed to separate oil and water.

(53) **Grit trap waste** - Waste collected in a grit trap. Grit trap waste includes waste from grit traps placed in the drains prior to entering the sewer system at maintenance and repair shops, automobile service stations, car washes, laundries, and other similar establishments. The term does not include material collected in an oil/water separator or in any other similar waste management unit designed to collect oil.

(54) **Groundwater** - Water below the land surface in a zone of saturation.

(55) **Hazardous waste** - Any solid waste identified or listed as a hazardous waste by the administrator of the EPA under the federal Solid Waste Disposal Act, as amended by RCRA, 42 United States Code, §§6901 *et seq.*, as amended.

(56) **Holocene** - The most recent epoch of the Quaternary Period, extending from the end of the Pleistocene Epoch to the present.

(57) **Household waste** - Any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas); does not include yard waste or brush that is completely free of any household wastes.

(58) **Industrial hazardous waste** - Hazardous waste determined to be of industrial origin.

(59) **Industrial solid waste** - Solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operations, classified as follows.

(A) Class I industrial solid waste or Class I waste is any industrial solid waste designated as Class I by the executive director as any industrial solid waste or mixture of industrial solid wastes that because of its concentration or physical or chemical characteristics is toxic, corrosive, flammable, a strong sensitizer or irritant, a generator of sudden pressure by decomposition, heat, or other means, and may pose a substantial present or potential danger to human health or the environment when improperly processed, stored, transported, or otherwise managed, including hazardous industrial waste, as defined in §335.1 of this title (relating to Definitions) and §335.505 of this title (relating to Class 1 Waste Determination).

(B) Class II industrial solid waste is any individual solid waste or combination of industrial solid wastes that cannot be described as Class I or Class III, as defined in §335.506 of this title (relating to Class 2 Waste Determination).

(C) Class III industrial solid waste is any inert and essentially insoluble industrial solid waste, including materials such as rock, brick, glass, dirt, and certain plastics and

rubber, etc., that are not readily decomposable as defined in §335.507 of this title (relating to Class 3 Waste Determination).

(60) **Inert material** - A naturally occurring nonputrescible material that is essentially insoluble such as soil, dirt, clay, sand, gravel, and rock.

(61) **In situ** - In natural or original position.

(62) **Karst terrain** - An area where karst topography, with its characteristic surface and/or subterranean features, is developed principally as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terrains include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

(63) **Lateral expansion** - A horizontal expansion of the waste boundaries of an existing municipal solid waste landfill unit.

(64) **Land application of solid waste** - The disposal or use of solid waste (including, but not limited to, sludge or septic tank pumpings or mixture of shredded waste and sludge) in which the solid waste is applied within three feet of the surface of the land.

(65) **Leachate** - A liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.

(66) **Lead** - The metal element, atomic number 82, atomic weight 207.2, with the chemical symbol Pb.

(67) **Lead acid battery** - A secondary or storage battery that uses lead as the electrode and dilute sulfuric acid as the electrolyte and is used to generate electrical current.

(68) **License** -

(A) A document issued by an approved county authorizing and governing the operation and maintenance of a municipal solid waste facility used to process, treat, store, or dispose of municipal solid waste, other than hazardous waste, in an area not in the territorial limits or extraterritorial jurisdiction of a municipality.

(B) An occupational license as defined in Chapter 30 of this title (relating to Occupational Licenses and Registrations).

(69) **Licensed professional geoscientist** - A geoscientist who maintains a current license through the Texas Board of Professional Geoscientists in accordance with its requirements for professional practice.

(70) **Liquid waste** - Any waste material that is determined to contain “free liquids” as defined by EPA Method 9095 (Paint Filter Test), as described in “Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods” (EPA Publication Number SW-846).

(71) **Litter** - Rubbish and putrescible waste.

(72) **Lower explosive limit** - The lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at 25 degrees Celsius and atmospheric pressure.

(73) **Man-made inert material** - Those non-putrescible, essentially insoluble materials fabricated by man that are not included under the definition of rubbish.

(74) **Medical waste** - Waste generated by health-care-related facilities and associated with health-care activities, not including garbage or rubbish generated from offices, kitchens, or other non-health-care activities. The term includes special waste from health care-related facilities which is comprised of animal waste, bulk blood and blood products, microbiological waste, pathological waste, and sharps as those terms are defined in 25 TAC §1.132 (relating to Definitions). The term does not include medical waste produced on farmland and ranchland as defined in Agriculture Code, §252.001(6) (Definitions - Farmland or ranchland), nor does the term include artificial, nonhuman materials removed from a patient and requested by the patient, including, but not limited to, orthopedic devices and breast implants.

(75) **Monofill** - A landfill or landfill trench into which only one type of waste is placed.

(76) **MSWLF** - Municipal solid waste landfill facility.

(77) **Municipal hazardous waste** - Any municipal solid waste or mixture of municipal solid wastes that has been identified or listed as a hazardous waste by the administrator of the EPA.

(78) **Municipal solid waste** - Solid waste resulting from, or incidental to, municipal, community, commercial, institutional, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste.

(79) **Municipal solid waste facility** - All contiguous land, structures, other appurtenances, and improvements on the land used for processing, storing, or disposing of solid waste. A facility may be publicly or privately owned and may consist of several processing, storage, or disposal operational units, e.g., one or more landfills, surface impoundments, or combinations of them.

(80) **Municipal solid waste landfill unit** - A discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 Code of Federal Regulations §257.2. A municipal solid waste landfill (MSWLF) unit also may receive other types of RCRA Subtitle D wastes, such as

commercial solid waste, nonhazardous sludge, conditionally exempt small-quantity generator waste, and industrial solid waste. Such a landfill may be publicly or privately owned. An MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion.

(81) **Municipal solid waste site** - A plot of ground designated or used for the processing, storage, or disposal of solid waste.

(82) **Navigable waters** - The waters of the United States, including the territorial seas.

(83) **New municipal solid waste landfill unit** - Any municipal solid waste landfill unit that has not received waste prior to October 9, 1993.

(84) **Nonpoint source** - Any origin from which pollutants emanate in an unconfined and unchanneled manner, including, but not limited to, surface runoff and leachate seeps.

(85) **Non-RACM** - Non-regulated asbestos-containing material as defined in 40 Code of Federal Regulations Part 61. This is asbestos material in a form such that potential health risks resulting from exposure to it are minimal.

(86) **Nuisance** - Municipal solid waste that is stored, processed, or disposed of in a manner that causes the pollution of the surrounding land, the contamination of groundwater or surface

water, the breeding of insects or rodents, or the creation of odors adverse to human health, safety, or welfare.

(87) **Open burning** - The combustion of solid waste without:

(A) control of combustion air to maintain adequate temperature for efficient combustion;

(B) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(C) control of the emission of the combustion products.

(88) **Operate** - To conduct, work, run, manage, or control.

(89) **Operating record** - All plans, submittals, and correspondence for a municipal solid waste landfill facility required under this chapter; required to be maintained at the facility or at a nearby site acceptable to the executive director.

(90) **Operation** - A municipal solid waste site or facility is considered to be in operation from the date that solid waste is first received or deposited at the municipal solid waste site or facility until the date that the site or facility is properly closed in accordance with this chapter.

(91) **Operator** - The person(s) responsible for operating the facility or part of a facility.

(92) **Opposed case** - A case when one or more parties appear, or make their appearance, in opposition to an application and are designated as opponent parties by the hearing examiner either at or before the public hearing on the application.

(93) **Other regulated medical waste** - Medical waste that is not included within special waste from health care-related facilities but that is subject to special handling requirements within the generating facility by other state or federal agencies, excluding medical waste subject to 25 TAC Chapter 289 (concerning Radiation Control).

(94) **Owner** - The person who owns a facility or part of a facility.

(95) **PCB** - Polychlorinated biphenyl molecule.

(96) **Polychlorinated biphenyl waste(s)** - Those polychlorinated biphenyls (PCBs) and PCB items that are subject to the disposal requirements of 40 Code of Federal Regulations (CFR) Part 761. Substances that are regulated by 40 CFR Part 761 include, but are not limited to: PCB articles, PCB article containers, PCB containers, PCB-contaminated electrical equipment, PCB equipment, PCB transformers, recycled PCBs, capacitors, microwave ovens, electronic equipment, and light ballasts and fixtures.

(97) **Permit** - A written permit issued by the commission that, by its conditions, may authorize the owner or operator to construct, install, modify, or operate a specified municipal solid waste storage, processing, or disposal facility in accordance with specific limitations.

(98) **Point of compliance** - A vertical surface located no more than 500 feet from the hydraulically downgradient limit of the waste management unit boundary, extending down through the uppermost aquifer underlying the regulated units, and located on land owned by the owner of the permitted facility.

(99) **Point source** - Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, or discrete fissure from which pollutants are or may be discharged.

(100) **Pollutant** - Contaminated dredged spoil, solid waste, contaminated incinerator residue, sewage, sewage sludge, munitions, chemical wastes, or biological materials discharged into water.

(101) **Pollution** - The man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of an aquatic ecosystem.

(102) **Poor foundation conditions** - Areas where features exist which indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a municipal solid waste landfill unit.

(103) **Population equivalent** - The hypothetical population that would generate an amount of solid waste equivalent to that actually being managed based on a generation rate of five pounds per capita per day and applied to situations involving solid waste not necessarily generated by individuals. It is assumed, for the purpose of these sections, that the average volume per ton of waste entering a municipal solid waste disposal facility is three cubic yards. For the purposes of these sections, the following population equivalents shall apply:

(A) 8,000 persons - 20 tons per day or 60 cubic yards per day;

(B) 5,000 persons - 12 1/2 tons or 37 1/2 cubic yards per day;

(C) 1,500 persons - 3 3/4 tons or 11 1/4 cubic yards per day;

(D) 1,000 persons - 225 pounds of wastewater treatment plant sludge per day
(dry-weight basis).

(104) **Post-consumer waste** - A material or product that has served its intended use and has been discarded after passing through the hands of a final user. For the purposes of this subchapter, the term does not include industrial or hazardous waste.

(105) **Premises** - A tract of land with the buildings thereon, or a building or part of a building with its grounds or other appurtenances.

(106) **Processing** - Activities including, but not limited to, the extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal, including the treatment or neutralization of hazardous waste, designed to change the physical, chemical, or biological character or composition of any hazardous waste to neutralize such waste, or to recover energy or material from the waste, or to render such waste nonhazardous or less hazardous; safer to transport, store, dispose of, or make it amenable for recovery, amenable for storage, or reduced in volume. Unless the executive director determines that regulation of such activity under these rules is necessary to protect human health or the environment, the definition of “processing” does not include activities relating to those materials exempted by the administrator of the EPA under the federal Solid Waste Disposal Act, as amended by RCRA, 42 United States Code, §§6901 *et seq.*, as amended.

(107) **Public highway** - The entire width between property lines of any road, street, way, thoroughfare, bridge, public beach, or park in this state, not privately owned or controlled, if any part of the road, street, way, thoroughfare, bridge, public beach, or park is opened to the public for

vehicular traffic, is used as a public recreational area, or is under the state's legislative jurisdiction through its police power.

(108) **Putrescible waste** - Organic wastes, such as garbage, wastewater treatment plant sludge, and grease trap waste, that is capable of being decomposed by microorganisms with sufficient rapidity as to cause odors or gases or is capable of providing food for or attracting birds, animals, and disease vectors.

(109) **Qualified groundwater scientist** - A licensed geoscientist or licensed engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has sufficient training in groundwater hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable the individual to make sound professional judgments regarding groundwater monitoring, contaminant fate and transport, and corrective action.

(110) **RACM** - Regulated asbestos-containing material as defined in 40 Code of Federal Regulations Part 61, as amended, includes: friable asbestos material, Category I nonfriable asbestos-containing material (ACM) that has become friable; Category I nonfriable ACM that will be, or has been, subjected to sanding, grinding, cutting, or abrading; or Category II nonfriable ACM that has a high probability of becoming, or has become, crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations.

(111) **Radioactive waste** - Waste that requires specific licensing under Texas Health and Safety Code, Chapter 401, and the rules adopted by the commission under that law.

(112) **Recyclable material** - A material that has been recovered or diverted from the nonhazardous waste stream for purposes of reuse, recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials. Recyclable material is not solid waste. However, recyclable material may become solid waste at such time, if any, as it is abandoned or disposed of rather than recycled, whereupon it will be solid waste with respect only to the party actually abandoning or disposing of the material.

(113) **Recycling** - A process by which materials that have served their intended use or are scrapped, discarded, used, surplus, or obsolete are collected, separated, or processed and returned to use in the form of raw materials in the production of new products. Except for mixed municipal solid waste composting, that is, composting of the typical mixed solid waste stream generated by residential, commercial, and/or institutional sources, recycling includes the composting process if the compost material is put to beneficial use.

(114) **Refuse** - Same as rubbish.

(115) **Registration** - The act of filing information for specific solid waste management activities that do not require a permit, as determined by this chapter.

(116) **Regulated hazardous waste** - A solid waste that is a hazardous waste as defined in 40 Code of Federal Regulations (CFR) §261.3, and that is not excluded from regulation as a hazardous waste under 40 CFR §261.4(b), or that was not generated by a conditionally exempt small-quantity generator.

(117) **Relevant point of compliance** - See point of compliance.

(118) **Resource recovery** - The recovery of material or energy from solid waste.

(119) **Resource recovery site** - A solid waste processing site at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

(120) **Rubbish** - Nonputrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

(121) **Run-off** - Any rainwater, leachate, or other liquid that drains over land from any part of a facility.

(122) **Run-on** - Any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

(123) **Salvaging** - The controlled removal of waste materials for utilization, recycling, or sale.

(124) **Saturated zone** - That part of the earth's crust in which all voids are filled with water.

(125) **Scavenging** - The uncontrolled and unauthorized removal of materials at any point in the solid waste management system.

(126) **Scrap tire** - Any tire that can no longer be used for its original intended purpose.

(127) **Seasonal high water table** - The highest measured or calculated water level in an aquifer during investigations for a permit application and/or any groundwater characterization studies at a site.

(128) **Septage** - The liquid and solid material pumped from a septic tank, cesspool, or similar sewage treatment system.

(129) **Site** - Same as facility.

(130) **Site development plan** - A document, prepared by the design engineer, that provides a detailed design with supporting calculations and data for the development and operation of a solid waste site.

(131) **Site operating plan** - A document, prepared by the design engineer in collaboration with the site operator, that provides guidance to site management and operating personnel in sufficient detail to enable them to conduct day-to-day operations throughout the life of the site in a manner consistent with the engineer's design and the commission's regulations.

(132) **Site operator** - The holder of, or the applicant for, a permit (or license) for a municipal solid waste site.

(133) **Sludge** - Any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water-supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

(134) **Small municipal solid waste landfill** - A municipal solid waste landfill at which less than 20 tons of municipal solid waste are disposed of daily based on an annual average.

(135) **Solid waste** - Garbage, rubbish, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal,

commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:

(A) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under Texas Water Code, Chapter 26;

(B) soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or

(C) waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under Natural Resources Code, §91.101, unless the waste, substance, or material results from activities associated with gasoline plants, natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants and is hazardous waste as defined by the administrator of the EPA under the federal Solid Waste Disposal Act, as amended by RCRA, as amended (42 United States Code, §§6901 *et seq.*).

(136) **Source-separated recyclable material** - Recyclable material from residential, commercial, municipal, institutional, recreational, industrial, and other community activities, that at the point of generation has been separated, collected, and transported separately from municipal solid

waste, or transported in the same vehicle as municipal solid waste, but in separate containers or compartments. Source-separation does not require the recovery or separation of non-recyclable components that are integral to a recyclable product, including:

(A) the non-recyclable components of white goods, whole computers, whole automobiles, or other manufactured items for which dismantling and separation of recyclable from non-recyclable components by the generator are impractical, such as insulation or electronic components in white goods;

(B) source-separated recyclable material rendered unmarketable by damage during collection, unloading, and sorting, such as broken recyclable glass; and

(C) tramp materials, such as:

(i) glass from recyclable metal windows;

(ii) nails and roofing felt attached to recyclable shingles;

(iii) nails and sheetrock attached to recyclable lumber generated through the demolition of buildings; and

(iv) pallets and packaging materials.

(137) **Special waste** - Any solid waste or combination of solid wastes that because of its quantity, concentration, physical or chemical characteristics, or biological properties requires special handling and disposal to protect the human health or the environment. If improperly handled, transported, stored, processed, or disposed of or otherwise managed, it may pose a present or potential danger to the human health or the environment. Special wastes are:

(A) hazardous waste from conditionally exempt small-quantity generators that may be exempt from full controls under §§335.401 - 335.403 and 335.405 - 335.412 of this title (relating to Household Materials Which Could Be Classified as Hazardous Waste);

(B) Class I industrial nonhazardous waste not routinely collected with municipal solid waste;

(C) special waste from health-care-related facilities (refers to certain items of medical waste);

(D) municipal wastewater treatment plant sludges, other types of domestic sewage treatment plant sludges, and water-supply treatment plant sludges;

(E) septic tank pumpings;

(F) grease and grit trap wastes;

(G) wastes from commercial or industrial wastewater treatment plants; air pollution control facilities; and tanks, drums, or containers, used for shipping or storing any material that has been listed as a hazardous constituent in 40 Code of Federal Regulations (CFR), Part 261, Appendix VIII but has not been listed as a commercial chemical product in 40 CFR §261.33(e) or (f);

(H) slaughterhouse wastes;

(I) dead animals;

(J) drugs, contaminated foods, or contaminated beverages, other than those contained in normal household waste;

(K) pesticide (insecticide, herbicide, fungicide, or rodenticide) containers;

(L) discarded materials containing asbestos;

(M) incinerator ash;

(N) soil contaminated by petroleum products, crude oils, or chemicals;

(O) light ballasts and/or small capacitors containing polychlorinated biphenyl compounds;

(P) waste from oil, gas, and geothermal activities subject to regulation by the Railroad Commission of Texas when those wastes are to be processed, treated, or disposed of at a solid waste management facility permitted under this chapter;

(Q) waste generated outside the boundaries of Texas that contains:

(i) any industrial waste;

(ii) any waste associated with oil, gas, and geothermal exploration, production, or development activities; or

(iii) any item listed as a special waste in this paragraph;

(R) any waste stream other than household or commercial garbage, refuse, or rubbish;

(S) lead acid storage batteries; and

(T) used-oil filters from internal combustion engines.

(138) **Special waste from health care-related facilities** - Includes animal waste, bulk human blood, blood products, body fluids, microbiological waste, pathological waste, and sharps as defined in 25 TAC §1.132 (concerning Definitions).

(139) **Stabilized sludges** - Those sludges processed to significantly reduce pathogens, by processes specified in 40 Code of Federal Regulations, Part 257, Appendix II.

(140) **Storage** - The holding of solid waste for a temporary period, at the end of which the solid waste is processed, disposed of, or stored elsewhere. Facilities established as a neighborhood collection point for only nonputrescible source-separated recyclable material, as a collection point for consolidation of parking lot or street sweepings or wastes collected and received in sealed plastic bags from such activities as periodic city-wide cleanup campaigns and cleanup of rights-of-way or roadside parks, or for accumulation of used or scrap tires prior to transportation to a processing or disposal site are considered examples of storage facilities. Storage includes operation of pre-collection and post-collection as follows:

(A) pre-collection-that storage by the generator, normally on his premises, prior to initial collection;

(B) post-collection-that storage by a transporter or processor, at a processing site, while the waste is awaiting processing or transfer to another storage, disposal, or recovery facility.

(141) **Storage battery** - A secondary battery, so called because the conversion from chemical to electrical energy is reversible and the battery is thus rechargeable. Secondary or storage batteries contain an electrode made of sponge lead and lead dioxide, nickel-iron, nickel-cadmium, silver-zinc, or silver-cadmium. The electrolyte used is sulfuric acid. Other types of storage batteries contain lithium, sodium-liquid sulfur, or chlorine-zinc using titanium electrodes.

(142) **Store** - To keep, hold, accumulate, or aggregate.

(143) **Structural components** - Liners, leachate collections systems, final covers, run-on/run-off systems, and any other component used in the construction and operation of the municipal solid waste landfill that is necessary for protection of human health and the environment.

(144) **Surface impoundment** - A facility or part of a facility that is a natural topographic depression, human-made excavation, or diked area formed primarily of earthen materials (although it may be lined with human-made materials) that is designed to hold an accumulation of liquids; examples include holding, storage, settling, and aeration pits, ponds, or lagoons.

(145) **Surface water** - Surface water as included in water in the state.

(146) **Texas Civil Statutes** - Vernon's Texas Revised Civil Statutes Annotated.

(147) **Transfer station** - A fixed facility used for transferring solid waste from collection vehicles to long-haul vehicles (one transportation unit to another transportation unit). It is not a storage facility such as one where individual residents can dispose of their wastes in bulk storage containers that are serviced by collection vehicles.

(148) **Transportation unit** - A truck, trailer, open-top box, enclosed container, rail car, piggy-back trailer, ship, barge, or other transportation vehicle used to contain solid waste being transported from one geographical area to another.

(149) **Transporter** - A person who collects and transports solid waste; does not include a person transporting his or her household waste.

(150) **Trash** - Same as Rubbish.

(151) **Treatment** - Same as Processing.

(152) **Triple rinse** - To rinse a container three times using a volume of solvent capable of removing the contents equal to 10% of the volume of the container or liner for each rinse.

(153) **Uncompacted waste** - Any waste that is not a liquid or a sludge, has not been mechanically compacted by a collection vehicle, has not been driven over by heavy equipment prior to

collection, or has not been compacted prior to collection by any type of mechanical device other than small, in-house compactor devices owned and/or operated by the generator of the waste.

(154) **Unified soil classification system** - The standardized system devised by the United States Army Corps of Engineers for classifying soil types.

(155) **Unconfined water** - Water that is not controlled or impeded in its direction or velocity.

(156) **Unit** - Municipal solid waste landfill unit.

(157) **Unstable area** - A location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terrains.

(158) **Uppermost aquifer** - The geologic formation nearest the natural ground surface that is an aquifer; includes lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

(159) **Vector** - An agent, such as an insect, snake, rodent, bird, or animal capable of mechanically or biologically transferring a pathogen from one organism to another.

(160) **Washout** - The carrying away of solid waste by waters.

(161) **Waste management unit boundary** - A vertical surface located at the hydraulically downgradient limit of the unit. This vertical surface extends down into the uppermost aquifer.

(162) **Waste-separation/intermediate-processing center** - A facility, sometimes referred to as a materials recovery facility, to which recyclable materials arrive as source-separated materials, or where recyclable materials are separated from the municipal waste stream and processed for transport off-site for reuse, recycling, or other beneficial use.

(163) **Waste-separation/recycling facility** - A facility, sometimes referred to as a material recovery facility, in which recyclable materials are removed from the waste stream for transport off-site for reuse, recycling, or other beneficial use.

(164) **Water in the state** - Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(165) **Water table** - The upper surface of the zone of saturation at which water pressure is equal to atmospheric pressure, except where that surface is formed by a confining unit.

(166) **Waters of the United States** - All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide, with their tributaries and adjacent wetlands, interstate waters and their tributaries, including interstate wetlands; all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, and wetlands, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters that are or could be used by interstate or foreign travelers for recreational or other purposes; from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; that are used or could be used for industrial purposes by industries in interstate commerce; and all impoundments of waters otherwise considered as navigable waters; including tributaries of and wetlands adjacent to waters identified herein.

(167) **Wetlands** - As defined in Chapter 307 of this title (relating to Texas Surface Water Quality Standards) and areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include playa lakes, swamps, marshes, bogs, and similar areas.

(168) **Yard waste** - Leaves, grass clippings, yard and garden debris, and brush, including clean woody vegetative material not greater than six inches in diameter, that results from landscaping maintenance and land-clearing operations. The term does not include stumps, roots, or shrubs with intact root balls.

§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, except as provided for in 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 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) In accordance with the requirements of subsection (a) of this section, no generator, transporter, owner or operator of a facility, or any other person may cause, suffer, allow, or permit wastes to be stored, processed, or disposed of at an unauthorized facility or in violation of a permit. In the event this requirement is violated, the executive director may seek recourse against not only the person who stored, processed, or disposed of the waste but also against the transporter, owner or

operator, or other person who caused, suffered, allowed, or permitted its waste to be stored, processed, or disposed.

(c) A separate permit is not required for the storage or processing of the following types of MSW: grease trap wastes; grit trap wastes; or septage that contains free liquids if the waste is treated/processed at a permitted Type I 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 transfer station facility that is used in the transfer of MSW to a solid waste processing or disposal facility from:

(1) a municipality with a population of less than 50,000;

(2) a county with a population of less than 85,000;

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

(4) a transfer station located within the permitted boundaries of an MSW 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 Sites).

(e) A request for registration for sites or facilities exempted from permits under subsections (c) and (d) of this section shall be submitted in a format provided by the executive director and shall include all information requested thereon and any additional information considered necessary by the applicant or that may be requested by the executive director.

(f) Facilities must obtain a permit or registration as applicable under subsection (a), (d), or (g) of this section unless otherwise exempted under this chapter, or:

(1) the facility or site is used as:

(A) a citizens' collection station;

(B) a collection and processing point for only nonputrescible source-separated recyclable material, provided that the facility is in compliance with §§328.3 - 328.5 of this title (relating to General Requirements; Limitations on Storage of Recyclable Materials; and Reporting and Recordkeeping Requirements);

(C) a collection and processing point for mulching or composting of only source-separated recyclable material, provided that the facility is in compliance with Chapter 332 of this title (relating to Composting); or

(D) a collection point for parking lot or street sweepings or wastes collected and received in sealed plastic bags from such activities as periodic city-wide cleanup campaigns and cleanup of rights-of-way or roadside parks; or

(2) the site is used for the disposal of soil, dirt, rock, sand, or other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements.

(g) A permit amendment is not required to establish a waste-separation/recycling facility established in conjunction with a permitted MSW site, or composting facility at an existing permitted MSW 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). 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) A permit is not required for a site or facility where the only operation is the storage and/or processing of used and scrap tires as provided for in Chapter 328 of this title (relating to Waste Minimization and Recycling). Facilities exempted from a permit under this subsection shall be registered with the executive director in accordance with Chapter 328 of this title. Failure to operate

such registered facilities in accordance with the requirements established in Chapter 328 of this title may be grounds for the revocation of the registration.

(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.

(k) A licensed hospital may function as a medical waste collection and transfer facility for generators that generate less than 50 pounds of untreated medical waste per month and that transports its own waste if:

(1) the hospital is located in an incorporated area with a population of less than 25,000 and in a county with a population of less than one million; or

(2) the hospital is located in an unincorporated area that is not within the extraterritorial jurisdiction of a city with a population more than 25,000 or within a county with a population of more than one million. The hospital shall submit a request to the executive director for registration as a medical waste collection station.

(l) A permit is not required for an on-site medical waste incinerator used by a licensed hospital for incineration of only on-site generated medical wastes.

(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 and Registration Modifications). 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 to address the items covered by the requested change.

(n) For energy and material recovery and gas recovery operations relating to MSW, a registration is required. A permit is not required for an MSW 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 and §§330.200 - 330.206 of this title (relating to Groundwater Protection Design and Operation) shall not require a permit amendment or modification.

(p) A permit or registration is not required for the drying of grit trap waste at a car wash facility as long as these wastes are disposed of in compliance with applicable federal, state, and local regulations. Grit trap waste from car wash facilities may be transported for drying purposes to another car wash facility if the facilities have the same owner and if the facilities are located within 50 miles of each other. This subsection is not intended to preempt or supersede local government regulation of grit trap waste-drying facilities. Drying facilities must comply with Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) if applicable.

(q) In addition to permit exemptions established in subsection (d) of this section, a permit is not required for any new MSW 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) Materials recovery. The transfer facility must recover 10% or more by weight or weight equivalent of the total incoming waste stream for reuse or recycling. The applicant must demonstrate in the registration application the method that will be used to assure the 10% requirement is achieved. The effective date of this subsection is February 2, 1995.

(2) Distance to a landfill. The transfer facility must demonstrate in the registration application that it will transfer the remaining nonrecyclable waste to a landfill not more than 50 miles from the facility.

(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) Revocation. Failure to operate such registered facilities in accordance with the requirements established in Subchapter G of this chapter (relating to Operational Standards for Solid Waste Processing and Experimental Sites) may be grounds for revocation of the registration.

(r) A permit is not required for an MSW 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 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. A separate permit or registration is required for the storage, transportation, or handling of used oil mixtures collected from oil/water separators. Any person who intends to conduct such activity shall comply with the regulatory requirements of Chapter 324 of this title (relating to Used Oil Standards).

(s) A permit is not required for an MSW 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) the facility can attain a 10% recovery of material for beneficial use from the incoming waste. Recovery of material for beneficial use is considered to be the recovery of fats, oils, greases, and the recovery of food solids for composting, but does not include the recovery of water;

(2) the Type V processing facility is located within the permit boundaries of a commission permitted Type I landfill; or

(3) the Type V processing facility is located at a manned treatment facility permitted under the Texas Water Code, Chapter 26 and which is permitted to discharge at least 1 million gallons per day and which is owned by and operated for the benefit of a political subdivision of this state. Facilities meeting any of these exemptions must obtain a registration by meeting the operational criteria and design criteria established in §330.71 of this title (relating to Registration for Municipal Solid Waste Facilities That Process Grease Trap Waste, Grit Trap Waste, or Septage).

(t) A registration is required for a mobile liquid waste processing facility that processes grease trap waste, grit trap waste, or septage or a combination of these three liquid wastes. Mobile liquid waste processing facilities must obtain a registration by meeting the operational criteria and design criteria established in §330.72 of this title (relating to Registration of Mobile Liquid Waste Processing Units).

(u) A permit is not required for an MSW 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) the litter or waste is generated on land the individual owns;

(2) the litter or waste is not generated as a result of an activity related to a commercial purpose;

(3) the disposal occurs on land the individual owns;

(4) the disposal is not for a commercial purpose;

(5) the waste disposed of is not hazardous waste or industrial waste;

(6) the volume of waste disposed of by the individual does not exceed 2,000 pounds per year;

(7) the waste disposal method complies with §§111.201 - 111.221 of this title (relating to Outdoor Burning);

(8) the waste disposal method does not contribute to a nuisance and does not endanger the public health or the environment. Exceeding 2,000 pounds per individual's residence per year is considered to be a nuisance; and

(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.

(w) A permit or registration is not required for the disposal of animal carcasses from government roadway maintenance where:

(1) either of the following:

(A) the animals were killed on county or municipal roadways and the carcasses are buried on property owned by the entity that is responsible for road maintenance; or

(B) the animals were killed on state highway right-of-way and the carcasses are disposed of by the Texas Department of Transportation by burying the carcasses on state highway right-of-way; and

(2) the waste disposal method does not contribute to a nuisance and does not endanger the public health or the environment; and

(3) the animal carcasses are covered with at least two feet of soil within 24 hours of collection in accordance with §330.136(b)(2) of this title (relating to Disposal of Special Wastes).

(x) A major permit amendment, as defined by §305.62 of this title, is required to reopen a Type I, Type I-AE, Type IV, or Type IV-AE MSW 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 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 RCRA, Subtitle D and the implementing Texas state regulations. If an MSW 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 facility that has received a permit but never received waste, or that received an approved Subtitle D permit modification before September 1, 2001.

(y) A permit or registration is not required for disposal of the remains from an animal that dies in the care of a veterinarian licensed by the Texas State Board of Veterinary Medical Examiners where all of the following occur:

(1) the veterinarian disposes of the remains of an animal and the remains do not include any other type of medical waste;

(2) the veterinarian does not charge for the disposal;

(3) the disposal is on property owned by the veterinarian;

(4) the disposal occurs in a county with a population of less than 10,000;

(5) the waste disposal does not contribute to a nuisance and does not endanger the public health or the environment;

(6) the veterinarian complies with the deed recordation and notification requirements in §330.7 and §330.8 of this title;

(7) the animal carcasses are covered with at least two feet of soil within 24 hours of disposal in accordance with §330.136(b)(2) of this title;

(8) uncontrolled access is prevented; and

(9) the disposal complies with §111.209 of this title (relating to Exception for Disposal Fires).

(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 Operational Requirements 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.

(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

§330.66

STATUTORY AUTHORITY

The amendment is adopted under Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out its powers and duties under the code and other laws of the state, and to adopt rules repealing any statement of general applicability that interprets law or policy; Texas Water Code, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; THSC, §361.011, which gives the commission all powers necessary and convenient to carry out its responsibilities concerning the regulation and management of municipal solid waste; 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, §371.028, which directs the commission to implement the used oil recycling program by adopting rules, standards, and procedures.

§330.66. Liquid Waste Transfer Facility Design and Operation.

(a) Applicability.

(1) This section shall apply to a municipal solid waste (MSW) management facility that handles only liquid waste and which is exempt from permit requirements under §330.4(r) of this title (relating to Permit Required). This section shall not apply to transfer facilities that handle only liquid

wastes that contain recyclable used oil from oil/water separators or any other similar waste management unit designated to collect oil which are regulated under Chapter 324 of this title (relating to Used Oil Standards).

(2) New liquid waste transfer facilities with permanent holding vessels (fixed facilities) must comply with all requirements of this section prior to operation.

(3) New liquid waste transfer facilities that only transfer from vehicle to vehicle must comply with applicable requirements of this section prior to operation.

(4) Existing liquid waste transfer facilities must comply with applicable requirements of this section and must notify the Texas Commission on Environmental Quality (TCEQ) of their operation within 30 days of the effective date of these regulations.

(5) Temporary storage facilities as defined in §312.147 of this title (relating to Temporary Storage) that store 8,000 gallons or less for a period of four days or less in mobile containers are not required to follow the liquid waste transfer station rules in this section. Owners and operators of temporary storage facilities that store 8,000 gallons or less for a period of four days or less must follow the notification rules in this section.

(6) Secondary transporters of liquid wastes as defined in §312.148 of this title (relating to Secondary Transportation of Waste) are subject to all applicable requirements in this section.

(7) This section is applicable to liquid waste transfer facilities located on or at other TCEQ authorized facilities.

(b) Public meeting. The owner or operator of each liquid waste transfer facility shall conduct a public meeting in the local area within 30 days of facility operation, or as determined by the executive director, to describe the proposed action to the general public. A onetime notice of the public meeting shall be provided by the facility owner or operator two weeks prior to the meeting in the format prescribed in Texas Health and Safety Code (THSC), §361.0791(d) and (e) (relating to Public Meeting and Notice Requirements). Evidence that the meeting was held shall be submitted to the TCEQ in the form of a copy of the meeting notice as published and a notarized statement from the facility owner or operator stating that the meeting was held and stating the meeting date and location. This meeting requirement is applicable to all liquid waste transfer facilities.

(c) Notification. The owner or operator shall notify the executive director in writing of the intent to operate a liquid waste transfer facility 30 days prior to the operation of the facility by completing a TCEQ form entitled "Notice of Intent to Operate a Liquid Waste Transfer Facility," available from the TCEQ. The facility will be issued a registration number by the TCEQ upon receipt of the form. Documentation of the facility design and operation shall be maintained as follows.

(1) Waste data. For all liquid waste transfer facilities, documentation of the incoming and outgoing liquid waste rate shall be maintained at the facility or at the facility headquarters, as

applicable. The incoming liquid waste rate shall be supported by trip ticket receipts and annual reports. Random sampling and analysis of the incoming waste should be conducted and records maintained.

(2) Site plan. For fixed facilities only, a site layout plan, signed and sealed by a registered professional engineer, and a location map must be maintained at the facility.

(3) Land-use. For all liquid waste transfer facilities, the owner or operator shall maintain documentation at the facility of local government approval/acceptance of the site location, e.g., conformity with local zoning restrictions, a building permit, license, nonconforming use authorization, deed restrictions, etc. These regulations do not grant authorization for any activities of the facility that are not in compliance with local government ordinances and regulations.

(4) Site operating plan.

(A) A site operating plan shall be maintained at the facility or at the facility headquarters for all liquid waste transfer facilities. The site operating plan shall include, at a minimum, a description of the general liquid waste data, the facility operation, facility maintenance, safety provisions, emergency procedures, fire protection, operating hours, spill control procedures, and vector control procedures.

(B) For each facility, the plan shall also address alternate procedures in the event that the facility becomes inoperable for periods longer than 24 hours.

(C) For all liquid waste transfer facilities, the liquid waste data shall be maintained to include an estimate of the amount of liquid waste to be received daily, the maximum amount of liquid waste to be stored, the maximum and average lengths of time that liquid waste is to remain on the site, and the intended destination of the liquid waste received. The data shall be maintained either at the facility or at the facility headquarters.

(D) The plan shall address emergency procedures for catastrophic vessel failure, for accidental discharges, and for spills of liquid waste. For fixed storage facilities, a plan shall be maintained on site that addresses yearly vessel inspection and procedures to repair leaks, if found. In the event of a discharge or spill of waste at the transfer facility the owner or operator of the facility must take appropriate action to protect human health and the environment, e.g., notify local law enforcement and health authorities; dike the discharge area; clean up any waste discharge that occurs; or take such action as may be required or approved by federal, state, or local officials having jurisdiction so that the waste discharge no longer presents a public health or environmental problem.

(5) Legal description. For all liquid waste transfer facilities, a legal description of the property, including the book and page number of the county deed records of the current property owner, shall be maintained at the site or at the facility headquarters. If the property is platted, the book and page number of the final plat record and a copy of the final plat shall be maintained on site or at the facility headquarters.

(6) Evidence of financial assurance. For fixed facilities only, evidence of assurance shall be submitted to the TCEQ in accordance with Subchapter K of this chapter (relating to Closure, Post-Closure, and Corrective Action) and Chapter 37, Subchapter R of this title (relating to Financial Assurance for Municipal Solid Waste Facilities). A cost estimate of the cost to close the facility shall be submitted with the notice. The financial assurance document shall be submitted prior to facility operation. The financial assurance instrument will be released upon approval of the executive director.

(7) Statement of owner or operator. The following document shall be signed, notarized, and submitted with the notification form.

Figure: 30 TAC §330.66(c)(7)

(A) I, _____, state that I have knowledge of the facts set forth in the plans and that these facts are true and correct, to the best of my knowledge and belief. I further state that, to my knowledge and belief, the project does not in any way violate any law, rule, ordinance, or decree of the duly authorized governmental entity having jurisdiction. I further state that I am the facility owner or operator or am authorized to act for the owner or operator.

(Signature)

(Type Name and Title)

(Date)

(B) Notary public's certificate: Subscribed and sworn to before me, by the said _____, this ____ day of _____ 20____, to certify which witness my hand and seal of office.

_____ Notary Public in and for _____ County, Texas.

My commission expires on _____.

(d) Design criteria.

(1) Facility design. The facility shall be designed in accordance with all local building codes, land development code requirements, and deed restrictions, if applicable. Building setback lines

shall be followed, if applicable. Vehicle parking shall be provided on-site for equipment and employees. Necessary water connections for facility cleaning shall be provided.

(2) Water pollution control. Lagoons, opentop storage facilities, and open vessels are prohibited. Underground storage facilities are prohibited. Provisions for the handling of spilled liquids and any washdown waters from the facility shall be provided. Normally, at fixed facilities, concrete pads with raised curbs around the perimeter, asphalt-paved areas with berms, or the equivalent containment facilities should be utilized to control spills of waste and any other contaminated water. Other spill control methods are acceptable.

(3) Odor control. All liquid waste transfer facilities shall be designed to transfer liquids with a minimal time exposure of liquid waste to the air. The owner or operator shall consider all necessary measures to prevent or eliminate nuisance odors. All liquid waste shall be stored in odor retaining containers and vessels. The applicant should consider additional on-site buffer zones for odor control. The facility shall be designed and operated to prevent nuisance odors from leaving the property boundary of the facility. If nuisance odors are found to be passing the facility property boundary, the facility owner or operator may be required to suspend operations until the nuisance is abated.

(4) Visual screening. Screening or other measures to minimize adverse visual impacts should be considered where appropriate.

(5) Site drainage. For fixed facilities only, drainage provisions for controlling surface water on or near the site shall be provided. The locations of any proposed dikes, berms, storm sewers, levees, detention ponds, and the outfall point shall be identified in the site plan.

(6) 100-year flood. If the fixed facility is located in a 100-year floodplain, the facility shall be designed to prevent washout of contaminants. Such designs normally include levees and other flood control structures.

(7) Site access. The site access road from a publicly owned roadway to each facility shall be at least a two-lane gravel or paved road, designed for the expected traffic flow. Safe on-site access for waste transporter vehicles shall be provided. The access road design shall include adequate turning radii according to the vehicles that will utilize the site and shall avoid disruption of normal traffic patterns. A positive means to control dust and mud shall be provided.

(8) Access control. Access to each site should be controlled by a perimeter fence, four-foot barbed wire or six-foot chain-link, or equivalent, with lockable gates. A sign shall be provided that gives the site name, owner or operator's name, facility registration number, operating hours, telephone number, and site rules.

(e) General prohibitions. A person may not cause, suffer, allow, or permit the collection, storage, transportation, processing, or disposal of liquid waste, or the use or operation of a liquid waste

facility to store, process, or dispose of liquid waste, in violation of THSC, Chapter 361, or any regulations, rules, permit, license, order of the commission or in such a manner so as to cause:

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

(2) the creation and maintenance of a nuisance; or

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