

The Texas Commission on Environmental Quality (commission) proposes amendments to §§330.2, 330.4, and 330.66.

#### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED 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 petition 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 has identified language modifications that are needed in Chapters 312, 324, and 330 regarding this matter and, therefore, rule language modifications are being proposed concurrently for these chapters.

#### SECTION BY SECTION DISCUSSION

Throughout these sections, administrative changes are proposed in accordance with *Texas Register* requirements and to be consistent with other agency rules.

Proposed §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 proposes to delete renumbered paragraph (137)(O) because the term “used oil” is addressed in Chapter 324.

Proposed §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.

Proposed §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.

#### FISCAL NOTE

Jan Washburn, Manager of Strategic Planning, has determined that, for the first five-year period the proposed rules are in effect, there will be no significant fiscal implications for the agency or any other unit of state or local government as a result of administration or enforcement of the proposed rules.

There will be no fiscal impact to the agency.

Ms. Washburn also determined that, for each of the first five years the proposed rules are in effect, the public benefit anticipated from the enforcement of the proposed rules will be potentially increased readability of the rules by persons regulated by the agency. This should assist the regulated community in selecting the best management practice for their particular waste. Additionally, it is anticipated the change will assist agency Field Operations staff in enforcement of the rules. No significant fiscal implications are anticipated for any individual or business due to implementation of the proposed rules. Additionally, no significant fiscal implications are anticipated for any small or micro-business due to implementation of the proposed rules. The commission has determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

#### DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in that statute. The proposed 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. This proposed rule amendments do not satisfy the definition of a major environmental rule. This rulemaking proposes to add 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 engineered for oil-water separation, are not regulated under Chapter 312. In addition, the proposed rules contain language stating that 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 draft regulatory impact assessment is not required because the rulemaking does not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a). The rulemaking does not exceed a standard set by federal law, but conforms with federal law. The 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 proposed on an emergency basis to protect the environment or to reduce risks to human health from environmental exposure. The commission invites public comment on the draft regulatory analysis determination.

#### TAKINGS IMPACT ASSESSMENT

The commission performed a preliminary analysis for this proposed rulemaking in accordance with Texas Government Code, §2007.043. The specific purpose of the 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 engineered for oil-water separation are not regulated under Chapter 312. In addition, the proposed rules contain language stating that oil-water mixtures from the waste management units designed for oil-water separation must comply with the requirements found in Chapter 324. The proposed 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 proposed 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, the proposed rulemaking will not constitute a takings under Texas Government Code, Chapter 2007.

#### CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the proposed rulemaking and found that the proposal is a rulemaking identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2), 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 has prepared a consistency determination for the proposed rules under 31 TAC §505.22 and found that the proposed rulemaking is consistent with the applicable CMP goals and policies. The following is a summary of that determination. The CMP goal applicable to the proposed 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 proposed 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 proposed 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. The proposed rulemaking defines grit trap and grit trap waste and indicates that a separate permit or registration is not required for the storage, transportation, or handling of used oil mixtures collected

from oil/water separators. The commission invites public comment on the consistency determination of the proposed rules.

#### SUBMITTAL OF COMMENTS

Comments may be submitted to Lola Brown, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808.

Comments must be received by 5:00 p.m., July 7, 2003, and should reference Rule Log Number 1999-074-312-WS. For further information, please contact Michael Bame, Policy and Regulations Division, at (512) 239-5658.

## **SUBCHAPTER A: GENERAL INFORMATION**

### **§330.2, §330.4**

#### **STATUTORY AUTHORITY**

The amendments are proposed under Texas Water Code (TWC), §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; TWC, §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.

The proposed amendments implement TWC, §5.103 and §5.105; and THSC, §361.024 and §371.028

#### **§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) - (2) (No change.)

(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 [Closure and Post-Closure]).

(4) - (51) (No change.)

(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 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 interceptors 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) [(52)] Groundwater - Water below the land surface in a zone of saturation.

(55) [(53)] 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) [(54)] Holocene - The most recent epoch of the Quaternary Period, extending from the end of the Pleistocene Epoch to the present.

(57) [(55)] 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) [(56)] Industrial hazardous waste - Hazardous waste determined to be of industrial origin.

(59) [(57)] **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) [(58)] **Inert material** - A naturally occurring nonputrescible material that is essentially insoluble such as soil, dirt, clay, sand, gravel, and rock.

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

(62) [(60)] **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) [(61)] **Lateral expansion** - A horizontal expansion of the waste boundaries of an existing municipal solid waste landfill unit.

(64) [(62)] **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) [(63)] **Leachate** - A liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.

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

(67) [(65)] **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) [(66)] **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) [(67)] **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) [(68)] **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) [(69)] **Litter** - Rubbish and putrescible waste.

(72) [(70)] **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) [(71)] **Man-made inert material** - Those non-putrescible, essentially insoluble materials fabricated by man that are not included under the definition of rubbish.

(74) [(72)] **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) [(73)] **Monofill** - A landfill or landfill trench into which only one type of waste is placed.

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

(77) [(75)] **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) [(76)] **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) [(77)] **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) [(78)] **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) [(79)] **Municipal solid waste site** - A plot of ground designated or used for the processing, storage, or disposal of solid waste.

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

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

(84) [(82)] **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) [(83)] **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) [(84)] **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) [(85)] **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) [(86)] **Operate** - To conduct, work, run, manage, or control.

(89) [(87)] **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) [(88)] **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) [(89)] **Operator** - The person(s) responsible for operating the facility or part of a facility.

(92) [(90)] **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) [(91)] **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) [(92)] **Owner** - The person who owns a facility or part of a facility.

(95) [(93)] **PCB** - Polychlorinated biphenyl molecule.

(96) [(94)] **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) [(95)] **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) [(96)] **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) [(97)] **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) [(98)] **Pollutant** - Contaminated dredged spoil, solid waste, contaminated incinerator residue, sewage, sewage sludge, munitions, chemical wastes, or biological materials discharged into water.

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

(102) [(100)] **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) [(101)] **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) [(102)] **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) [(103)] **Premises** - A tract of land with the buildings thereon, or a building or part of a building with its grounds or other appurtenances.

(106) [(104)] **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) [(105)] **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) [(106)] **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) [(107)] **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) [(108)] **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) [(109)] **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) [(110)] **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) [(111)] **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) [(112)] **Refuse** - Same as rubbish.

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

(116) [(114)] **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) [(115)] **Relevant point of compliance** - See point of compliance.

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

(119) [(117)] **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) [(118)] **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) [(119)] **Run-off** - Any rainwater, leachate, or other liquid that drains over land from any part of a facility.

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

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

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

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

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

(127) [(125)] **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) [(126)] **Septage** - The liquid and solid material pumped from a septic tank, cesspool, or similar sewage treatment system.

(129) [(127)] **Site** - Same as facility.

(130) [(128)] **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) [(129)] **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) [(130)] **Site operator** - The holder of, or the applicant for, a permit (or license) for a municipal solid waste site.

(133) [(131)] **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) [(132)] **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) [(133)] **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) [(134)] **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) [(135)] **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) used oil;]

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

(P) [(Q)] 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) [(R)] 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) [(S)] any waste stream other than household or commercial garbage, refuse, or rubbish;

(S) [(T)] lead acid storage batteries; and

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

(138) [(136)] **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) [(137)] **Stabilized sludges** - Those sludges processed to significantly reduce pathogens, by processes specified in 40 Code of Federal Regulations, Part 257, Appendix II.

(140) [(138)] **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) [(139)] **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) [(140)] **Store** - To keep, hold, accumulate, or aggregate.

(143) [(141)] **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) [(142)] **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) [(143)] **Surface water** - Surface water as included in water in the state.

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

(147) [(145)] **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) [(146)] **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) [(147)] **Transporter** - A person who collects and transports solid waste; does not include a person transporting his or her household waste.

(150) [(148)] **Trash** - Same as Rubbish.

(151) [(149)] **Treatment** - Same as Processing.

(152) [(150)] **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) [(151)] **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) [(152)] **Unified soil classification system** - The standardized system devised by the United States Army Corps of Engineers for classifying soil types.

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

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

(157) [(155)] **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) [(156)] **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) [(157)] **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) [(158)] **Washout** - The carrying away of solid waste by waters.

(161) [(159)] **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) [(160)] **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) [(161)] **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) [(162)] **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) [(163)] **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) [(164)] **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) [(165)] **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) [(166)] **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) - (c) (No change.)

(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) - (3) (No change.)

(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 [Facilities]).

(e) (No change.)

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

(1) the facility or site is used as:

(A) - (C) (No change.)

(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 [citywide] cleanup campaigns and cleanup of rights-of-way or roadside parks; or

(2) (No change.)

(g) - (l) (No change.)

(m) Any change to a condition or term of an issued permit requires a permit amendment in accordance with §305.62 of this title (relating to Amendment) or a permit modification in accordance with §305.70 of this title (relating to Municipal Solid Waste Permit and Registration Modifications [Modification]). The owner or operator shall submit an amendment or modification application in accordance with the requirements contained in §§330.50 - 330.65 of this title to address the items covered by the requested change.

(n) - (q) (No change.)

(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) - (3) (No change.)

(t) - (w) (No change.)

(x) A major permit amendment, as defined by §305.62 of this title [(relating to Amendment)], is required to reopen a Type I, Type I-AE, Type IV, or Type IV-AE MSW 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 [of the federal Resource Conservation and Recovery Act of 1976 (42 United States Code, §§6901 *et seq.*)] and the implementing Texas state regulations. If an MSW 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) - (8) (No change.)

(9) the disposal complies with §111.209 of this title (relating to Exception [Exceptions] 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 [(relating to Permit Application for Municipal Solid Waste Facilities)].

(aa) (No change.)

## **SUBCHAPTER E: PERMIT PROCEDURES**

### **§330.66**

#### **STATUTORY AUTHORITY**

The amendment is proposed under TWC, §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; TWC, §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.

The proposed amendment implements TWC, §5.103 and §5.105; and THSC, §361.024 and §371.028.

#### **§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 which are regulated under Chapter 324 of this title (relating to Used Oil Standards).

(2) - (3) (No change.)

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

(5) - (6) (No change.)

(7) This section is applicable to liquid waste transfer facilities located on or at other TCEQ [TNRCC] 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 [one time] 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) [the Health and Safety Code], §361.0791(d) and (e) (relating to Public Meeting and Notice Requirements). Evidence that the meeting

was held shall be submitted to the TCEQ [TNRCC] 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 [TNRCC Form] entitled "Notice of Intent to Operate a Liquid Waste Transfer Facility," available from the TCEQ [TNRCC]. The facility will be issued a registration number by the TCEQ [TNRCC] upon receipt of the form [Form]. Documentation of the facility design and operation shall be maintained as follows.

(1) - (5) (No change.)

(6) Evidence of financial assurance. For fixed facilities only, evidence of assurance shall be submitted to the TCEQ [TNRCC] 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 [19]\_\_\_\_, to certify which witness my hand and seal of office.

\_\_\_\_\_ Notary Public in and for \_\_\_\_\_ County, Texas.

My commission expires on \_\_\_\_\_.

(d) (No change.)

(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 [the Texas Solid Waste Disposal Act], or any regulations, rules, permit, license, order of the commission or in such a manner so as to cause:

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