

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes to amend §§330.1, 330.9, 330.11, 330.13, 330.103, 330.171, and 330.219 and proposes the repeal of §§330.1201, 330.1203, 330.1205, 330.1207, 330.1209, 330.1211, 330.1213, 330.1215, 330.1217, 330.1219, and 330.1221.

### **Background and Summary of the Factual Basis for the Proposed Rules**

House Bill (HB) 2244, passed by the 84th Texas Legislature, 2015, amends the Texas Health and Safety Code (THSC), Chapter 361 by adding THSC, §361.0905 (Regulation of Medical Waste) requiring the commission to adopt regulations under a new chapter specific for the handling, transportation, storage, and disposal of medical waste. The proposed rulemaking would move the rules related to medical waste from 30 TAC Chapter 330 (Municipal Solid Waste) to proposed new 30 TAC Chapter 326 (Medical Waste Management). HB 2244 was effective immediately on June 10, 2015, upon the Governor signing it into law. The legislation also states that the commission must adopt any rules required to implement HB 2244 by June 1, 2016.

### **Section by Section Discussion**

#### *Subchapter A: General Information*

#### *§330.1, Purpose and Applicability*

Section 330.1(a)(6), requiring medical waste mobile treatment units to transition to a different authorization level in accordance with the rules that went into effect on March 27 2006, is proposed to be removed.

Section 330.1(e), is added to provide a transition for relocating the medical waste management rules from this chapter to proposed new Chapter 326.

*§330.9, Registration Required*

Section 330.9(e), concerning hospitals acting as medical waste collections and transfer facilities, is proposed to be removed and relocated to proposed new §326.43 (Medical Waste Collection and Transfer by Licensed Hospitals). Subsequent subsections are proposed to be re-lettered.

Section 330.9(l), concerning registration by rule for transporters of untreated medical waste, is proposed to be removed and relocated to proposed new §326.53, Transporters.

Section 330.9(m), concerning registration by rule for mobile treatment units, is proposed to be removed and relocated to proposed new §326.55, Mobile Treatment Unit.

Section 330.9(n), concerning registration for facilities that store or process untreated medical waste from offsite sources, is proposed to be removed and relocated to proposed new §326.61, Applicability and General Information. Subsequent subsections are proposed to be re-lettered.

*§330.11, Notification Required*

Section 330.11(f), concerning notification of treatment process unit for on-site generated

medical waste, is proposed to be removed and relocated to proposed new §326.39, Small Quantity Generator On-Site Treatment Facility. Subsequent subsections are proposed to be re-lettered.

Section 330.11(h), concerning notification as self-transporters, is proposed to be removed and relocated to proposed new §326.53.

*§330.13, Waste Management Activities Exempt from Permitting, Registration, or Notification*

Section 330.13(d) and (e), concerning on-site storage of medical waste generated on-site, and self-transport of medical waste, are proposed to be removed and relocated to proposed new §326.31, Exempt Medical Waste Operations. Subsequent subsections are proposed to be re-lettered.

*Subchapter C: Municipal Solid Waste Collection and Transportation*

*§330.103, Collection and Transportation Requirements*

Section 330.103(f) concerning transporters of untreated medical waste is proposed to be removed, revised and relocated to proposed new §326.53.

*Subchapter D: Operational Standards for Municipal Solid Waste Landfill Facilities*

*§330.171, Disposal of Special Wastes*

Section 330.171(c)(1), concerning untreated medical waste received at landfills is proposed

to be amended to update the reference to treatment procedures from Chapter 330, Subchapter Y, to proposed new Chapter 326.

*Subchapter E: Operational Standards for Municipal Solid Waste Storage and Processing Units*

*§330.219, Recordkeeping and Reporting Requirements*

Section 330.219(h), concerning operators of Type V processing facility accepting untreated medical waste, is proposed to be removed and relocated to proposed new §326.75, Site Operating Plan.

*Subchapter Y: Medical Waste Management*

*§330.1201, Purpose*

This section is proposed to be repealed and relocated to proposed new §326.1, Purpose and Applicability.

*§330.1203, Applicability*

This section is proposed to be repealed and relocated to proposed new §326.1.

*§330.1205, Definitions*

This section is proposed to be repealed and relocated to proposed new §326.3, Definitions.

*§330.1207, Generators of Medical Waste*

This section is proposed to be repealed and relocated to proposed new §§326.17, 326.19, 326.21, 326.23, 326.31, 326.37, 326.43, and 326.53.

*§330.1209, Storage of Medical Waste*

This section is proposed to be repealed and relocated to proposed new §326.43.

*§330.1211, Transporters of Untreated Medical Waste*

This section is proposed to be repealed and relocated to proposed new §§326.23, 326.31, 326.53, 326.87, and 326.89.

*§330.1213, Transfer of Shipments of Medical Waste*

This section is proposed to be repealed and relocated to proposed new §326.53.

*§330.1215, Interstate Transportation*

This section is proposed to be repealed and relocated to proposed new §326.53.

*§330.1217, Medical Waste Collection Stations*

This section is proposed to be repealed and relocated to proposed new §326.43.

*§330.1219, Treatment and Disposal of Medical Waste*

This section is proposed to be repealed and relocated to proposed new §§326.39, 326.41, 326.61, and 326.75.

*§330.1221, On-Site Treatment Services on Mobile Treatment Units*

This section is proposed to be repealed and relocated to proposed new §§326.39, 326.41, 326.55, and 326.87.

**Fiscal Note: Costs to State and Local Government**

Jeffrey Horvath, Analyst in the Chief Financial Officer Division, has determined that for the first five-year period the proposal is in effect, no significant fiscal implications are anticipated for the agency or for other units of state or local government.

The proposed rulemaking implements HB 2244. HB 2244 directs TCEQ to adopt a new chapter to consolidate all relevant medical waste rules currently in the Texas Administrative Code and to clearly separate these rules from those applicable to landfills. The proposed rulemaking would move the current rules related to medical waste from Chapter 330 to the proposed new Chapter 326. HB 2244 also requires the agency to adopt some new regulations under the proposed new Chapter 326. The new regulations will make minor changes such as reducing buffer zone requirements and amending regulations related to the storage of medical waste in transport vehicles. These changes are not expected to significantly increase reporting or compliance requirements for regulated entities.

There will be costs to the agency to implement the proposal; however, the costs can be

reasonably absorbed using current resources. Because fees and essentially all other reporting requirements will remain unchanged, the proposed rulemaking will not have significant fiscal implications for any state or local governments that handle, store, dispose, or transport medical waste. The proposed rulemaking will affect medical waste transporters, treatment and transfer facilities, health care-related facilities (hospitals, clinics, nursing homes) and mobile treatment units.

### **Public Benefits and Costs**

Mr. Horvath has also determined that for each year of the first five years the proposed rulemaking is in effect, the public benefit anticipated from the administration and enforcement of the proposal will be enhanced compliance due to more clear and concise rules for the management of medical waste.

No significant fiscal implications are anticipated for businesses or individuals as a result of the administration of the proposal. The proposed rulemaking would move the current rules related to medical waste from Chapter 330, to the proposed new Chapter 326. As required under HB 2244, the proposed rulemaking will also make minor changes such as reducing buffer zone requirements and amending regulations related to the storage of medical waste in transport vehicles. These changes are minor and not expected to significantly increase reporting or compliance requirements for regulated entities. The proposed rulemaking will affect medical waste transporters, treatment and transfer facilities, health care-related facilities (hospitals, clinics, nursing homes) and mobile treatment units.

### **Small Business and Micro-Business Assessment**

No adverse fiscal implications are anticipated for small or micro-businesses as a result of the proposal. A small business is expected to experience the same fiscal impact as that experienced by individuals or large business under the proposed rulemaking. It is not known how many small or micro-businesses may be affected by the proposal. But for those that are, they can expect that the proposed rulemaking will not significantly change fees or most all other reporting requirements. The proposed rulemaking will make minor changes such as reducing buffer zone requirements and regulations related to the storage of medical waste in transport vehicles. These changes are not expected to result in significant fiscal implications.

### **Small Business Regulatory Flexibility Analysis**

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rulemaking is necessary in order to comply with state law and does not adversely affect small or micro-businesses in a material way for the first five years that the proposed rulemaking is in effect.

### **Local Employment Impact Statement**

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

rulemaking is in effect.

### **Draft Regulatory Impact Analysis Determination**

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined the rulemaking does not meet the definition of a "major environmental rule." Under Texas Government Code, §2001.0225, "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 proposed rulemaking is intended to implement HB 2244 by consolidating and revising the rules governing medical waste into one new chapter. In addition to implementing HB 2244, the new Chapter 326 includes other updates and revisions which are not expected to have a significant impact on the industry or the public.

Furthermore, the proposal does not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225 only applies to a major environmental rule which: 1) exceeds a standard set by federal law, unless the rule is specifically required by state law; 2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; 3) exceeds a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopts a rule

solely under the general powers of the agency instead of under a specific state law.

In this case, the proposed rulemaking does not meet any of these applicability requirements. First, there are no standards set for authorizing these types of facilities by federal law. The proposed rulemaking include revisions to reconcile any conflict with federal laws governing the transportation of medical waste. Second, the proposed rulemaking does not exceed an express requirement of state law. There are no specific statutory requirements for authorizing these types of facilities. Third, the proposed rulemaking does not exceed an express 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. Fourth, the commission does not propose the rulemaking solely under the general powers of the agency, but rather under the authority of THSC, §361.011, which establishes the commission's jurisdiction over all aspects of the management of municipal solid waste; THSC, §361.024, which provides the commission with rulemaking authority; THSC, §361.061, which authorizes the commission to require and issue permits governing the construction, operation, and maintenance of solid waste facilities used to store, process, or dispose of solid waste; and, THSC, §361.0905 (HB 2244), which governs the regulation of medical waste. Therefore, the commission does not propose the adoption of the rulemaking solely under the commission's general powers.

Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments

section of this preamble.

### **Takings Impact Assessment**

The commission evaluated the proposed rulemaking and performed an assessment of whether the proposed rulemaking constitutes a taking under Texas Government Code, Chapter 2007. The specific intent of the proposed rulemaking is to implement HB 2244 by consolidating and revising the rules governing medical waste into one new chapter. In addition to implementing HB 2244, the new Chapter 326 includes other updates and revisions which are not expected to have a significant impact on the industry or the public.

The rulemaking does not impose a burden on a recognized real property interest and therefore does not constitute a taking. The promulgation of the proposed rulemaking is neither a statutory nor a constitutional taking of private real property by the commission. Specifically, the proposed rulemaking does not affect a landowner's rights in a recognized private real property interest because this rulemaking neither: burdens (constitutionally) or restricts or limits the owner's right to the property that would otherwise exist in the absence of this rulemaking; nor would it reduce its value by 25% or more beyond that value which would exist in the absence of the proposed rules. Therefore, the proposed rulemaking will not constitute a taking under Texas Government Code, Chapter 2007.

### **Consistency with the Coastal Management Program**

The commission reviewed the proposed rulemaking and found that it is neither identified

in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2) or (4), nor would it affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(6). Therefore, the proposed rulemaking is not subject to the Texas Coastal Management Program.

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

### **Announcement of Hearing**

The commission will hold a public hearing on this proposal in Austin on January 25, 2016, at 10:00 a.m. in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

### **Submittal of Comments**

Written comments may be submitted to Derek Baxter, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at:

*<http://www1.tceq.texas.gov/rules/ecomments/>*. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2015-019-326-WS. The comment period closes on February 8, 2016. Copies of the proposed rulemaking can be obtained from the commission's website at *[http://www.tceq.texas.gov/rules/propose\\_adopt.html](http://www.tceq.texas.gov/rules/propose_adopt.html)*. For further information, please contact Mario Perez, Municipal Solid Waste Permits Division, (512) 239-6681.

## **SUBCHAPTER A: GENERAL INFORMATION**

### **§§330.1, 330.9, 330.11, 330.13**

#### **Statutory Authority**

The amendments are proposed under Texas Water Code (TWC), §5.103, which authorizes the commission to adopt any rules necessary to carry out its powers and duties; TWC, §26.011, which provides the commission with the authority to adopt any rules necessary to carry out its powers, duties, and policies and to protect water quality in the state; and Texas Health and Safety Code (THSC), §§361.011, 361.017 and 361.024, which provide the commission the authority to adopt rules necessary to carry out its powers and duties under the Texas Solid Waste Disposal Act.

The proposed amendments implement THSC, §361.0905, which requires the commission to adopt rules in a new chapter to regulate medical waste.

#### **§330.1. Purpose and Applicability.**

(a) The regulations promulgated in this chapter cover aspects of municipal solid waste (MSW) management and air emissions from MSW landfills and transfer stations under the authority of the commission and are based primarily on the stated purpose of Texas Health and Safety Code, Chapter 361 and Chapter 382. The provisions of this chapter apply to any person as defined in §3.2 of this title (relating to Definitions) involved in any aspect of the management and control of MSW and MSW facilities including, but

not limited to, storage, collection, handling, transportation, processing, and disposal. Furthermore, these regulations apply to any person that by contract, agreement, or otherwise arranges to process, store, or dispose of, or arranges with a transporter for transport to process, store, or dispose of, solid waste owned or possessed by the person, or by any other person or entity. The comprehensive rule revisions in this chapter as adopted in 2006 (2006 Revisions) are effective 20 days after they are filed with the Office of the Secretary of State.

(1) Permits and registrations, issued by the commission and its predecessors, that existed before the 2006 Revisions became effective, remain valid until suspended or revoked except as expressly provided otherwise in this chapter. Facilities may operate under existing permits and registrations subject to: requirements in the 2006 Revisions, which expressly supersede provisions contained in existing authorizations or require revisions to existing authorizations; and those requirements mandated by the United States Environmental Protection Agency in 40 Code of Federal Regulations (CFR) Parts 257 and 258, as amended, which implement certain requirements of Resource Conservation and Recovery Act, Subtitle D. For those federally mandated requirements and the equivalent state requirements, the effective dates listed in 40 CFR Parts 257 and 258, as amended, shall apply. For those federally mandated requirements, the permittee is under an obligation to apply for a permit change in accordance with §305.62 of this title (relating to Amendments [Amendment]) or §305.70 of this title (relating to Municipal Solid Waste Permit and Registration Modifications), as applicable, to incorporate the

required standard. The application shall be submitted no later than six months from the effective date of the required standard.

(2) Applications for new permits and major amendments to existing permits that are administratively complete and registration applications for which the executive director has completed a technical review, as of the effective date of the 2006 Revisions, shall be considered under the former rules of this chapter unless the applicant elects otherwise. Existing authorizations are subject to the 2006 Revisions, which expressly supersede provisions contained in existing authorizations or require modifications of existing authorizations regardless of whether a major amendment is being considered for the same facility under the former rules. For new permits and major amendments to increase solid waste disposal capacity, only complete applications (Parts I - IV), which are submitted and declared administratively complete before the effective date of the 2006 Revisions, may be considered under existing Chapter 330 rules. Such applications are not subject to §305.127(4)(B) of this title (relating to Conditions to be Determined for Individual Permits) and the owner or operator must submit the modifications required by the 2006 Revisions within one year after the commission's decision on the application has become final and appealable, unless a longer period of time is specified in the rules.

(3) Authorizations, other than permits and registrations that existed before the 2006 Revisions became effective shall comply with the 2006 Revisions within 120 days of the 2006 Revisions becoming effective unless expressly provided otherwise in this

chapter. These authorizations include notifications, exemptions, permits by rule, and registrations by rule.

(4) Authorizations, other than permits and registrations that had not been claimed or did not exist before the 2006 Revisions became effective shall comply with the 2006 Revisions.

(5) Applications for modifications or for amendments that do not increase solid waste disposal capacity that are filed before the 2006 Revisions become effective, or filed within 180 days after the 2006 Revisions become effective, are subject to the former rules. Such applications are not subject to §305.127(4)(B) of this title, and the owner or operator must submit the modifications required by the 2006 Revisions within 180 days after the effective date of the 2006 Revisions, unless a longer period of time is specified in the rules.

[(6) Owners or operators of medical waste mobile treatment units, operating under an existing authorization may continue operating if they file a timely notice of intent to operate under a registration by rule in accordance with §330.9(m) of this title (relating to Registration Required).]

(b) The commission at its discretion may include one or more different types of units in a single permit if the units are located at the same facility with the exception of a

facility authorized by an MSW permit by rule. Persons shall seek separate authorizations at a facility that qualifies for an MSW permit by rule.

(c) This chapter does not apply to any person that prepares sewage sludge or domestic septage, fires sewage sludge in a sewage sludge incinerator, applies sewage sludge or domestic septage to the land, or to the owner/operator of a surface disposal site as applicable under Chapter 312 of this title (relating to Sludge Use, Disposal, and Transportation); to sewage sludge or domestic septage applied to the land or placed on a surface disposal site, to sewage sludge fired in a sewage sludge incinerator, to land where sewage sludge or domestic septage is applied to a surface disposal site or to a sewage sludge incinerator as applicable under Chapter 312 of this title; any person that transports sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste; to any person that applies water treatment sludge for disposal in a land application unit, as defined in §312.121 of this title (relating to Purpose, Scope, and Standards) to water treatment sludge that is disposed of in a land application unit, as defined in §312.121 of this title. Persons managing such wastes shall comply with the requirements of Chapter 312 of this title.

(d) This chapter does not apply to any person that composts MSW in accordance with the requirements of Chapter 332 of this title (relating to Composting), except for those persons that must apply for a permit in accordance with §332.3(a) of this title (relating to Applicability). Those persons that must submit a permit application for a compost

operation shall follow the applicable requirements of Subchapter B of this chapter (relating to Permit and Registration Application Procedures).

(e) This chapter does not apply to any person that manages medical waste in accordance with the requirements of Chapter 326 of this title (relating to Medical Waste Management). Persons disposing of medical waste at municipal solid waste landfills shall comply with applicable provisions of this chapter. The medical waste provisions being relocated from this chapter to Chapter 326 of this title will remain in effect and continue to apply to authorizations issued under this chapter until the later of two years from the effective date of Chapter 326 of this title or until a final decision is made on a timely request for an authorization to be updated to comply with Chapter 326 of this title. Authorizations under the existing Chapter 330 rules must be updated by filing a new application within two years to comply with Chapter 326 of this title. The executive director is authorized to extend this deadline based on an authorized entity making a request supported by good cause. A person who has an application for the management of medical waste pending before the effective date of Chapter 326 of this title shall be considered under the former Chapter 330 rules unless the applicant elects otherwise.

### **§330.9. Registration Required.**

(a) Except as provided in §§330.7, 330.11, 330.13, or 330.25 of this title (relating to Permit Required; Notification Required; Waste Management Activities Exempt from

Permitting, Registration, or Notification; Relationship with County Licensing System), no person may cause, suffer, allow, or permit any activity of storage, processing, removal, or disposal of any municipal solid waste (MSW) unless that activity is authorized by a registration or other authorization from the commission. In the event this requirement is violated, the executive director may seek recourse against not only the person that stored, processed, or disposed of the waste but also against the generator, transporter, owner or operator, or other person who caused, suffered, allowed, or permitted waste to be stored, processed, or disposed. No person may commence physical construction of a new MSW management facility subject to this registration requirement without first having submitted a registration application in accordance with §§330.57, 330.59, 330.61, 330.63, and 330.65 of this title (relating to Permit and Registration Application Procedures) and received a registration from the commission. A person shall include a statement justifying the facility's eligibility for a registration as established under this section. A person shall submit a claim for a registration by rule in duplicate with one copy sent directly to the appropriate Texas Commission on Environmental Quality regional office.

(b) A registration is required for an MSW transfer station facility that is used in the transfer of MSW to a solid waste processing or disposal facility from any of the following:

(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 or Type IV facility as specified in §330.5(a) of this title (relating to Classification of Municipal Solid Waste Facilities).

(c) A registration is required to establish a waste-separation/recycling facility established at a permitted MSW facility if owned by the permittee.

(d) A registration is required for a 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). These facilities 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.

[(e) 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 transport their 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.]

(e) [(f)] A registration is required for any new MSW Type V transfer station that includes a material recovery operation that meets all of the following requirements.

(1) Materials recovery. The owner or operator must recover 10% or more by weight or weight equivalent of the total incoming waste stream for reuse or recycling; ensure that the incoming waste has already been reduced by at least 10% through a source-separation recycling program; or, also operate one or more source-separation recycling programs in the county where the transfer station is located and those source-separation recycling programs manage a total weight or weight equivalent of recyclable materials equal to 10% or more by weight or weight equivalent of the incoming waste stream to all transfer stations to which credit is being applied. The owner or operator must demonstrate in the registration application the method that will be used to assure that the 10% requirement is achieved.

(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.

(f) [(g)] Except as provided in §330.11(d) of this title, a registration is 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 in accordance with either paragraph (1) or (2) of this subsection. For the purposes of this section, grit trap waste means grit trap waste from commercial car washes and excludes grit trap waste from other generators.

(1) The facility must 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. The Type V processing facilities issued a registration under a permit exemption based on 10% recovery of material for beneficial use must maintain records in accordance with the requirements of §330.219(b)(9) of this title (relating to Recordkeeping and Reporting Requirements). Records and a report must be provided on a quarterly basis to the executive director that demonstrate that at least 10% of the volume of the waste received was processed to recover solid material that was recycled or reused. Failure to achieve the relevant percent recycling rate in any two quarters within any one-year period will cause a registration to terminate and will require the owner or operator of the facility

to obtain a permit to continue facility operations. The quarterly report must provide the volume received, percent solids, and the method of determining the percent solids, processed, disposed, and recycled or reused. Records must be kept on a volume basis in gallons except that solids passing the paint filter test may be reported in cubic yard volume converted to gallons. The methods of recycling or reuse must be specified in the report. Records must be kept for solids and recyclable material leaving these facilities in the form of manifests, shipping documents, or trip tickets. The quarterly report must include manifests, shipping documents, or trip tickets to show where the recyclable material was taken for recycling, and the recycled material must be reconciled with the volume of waste received. Water discharged from processing is not allowed to be counted as part of the 10% recovery of material. Recovery and recycling or reuse of fats, oils, and greases may be considered a part of recycling for this activity. Composting of solids resulting from waste processing may be considered to be recycling as part of this activity. Any material such as lime, polymer, or flocculent added as part of the facility process is not allowed to be considered as part of the 10% recovery of material from the waste stream and must be subtracted from the material considered as recycled. Diversion of material from the waste stream without processing is not considered to be recycling as part of this activity.

(2) The Type V processing facility must be located at a manned treatment facility that is permitted under Texas Water Code, Chapter 26; is permitted to discharge at least one million gallons per day; and is owned by and operated for the benefit of a political subdivision of this state. Facilities that have received a permit and wish to add capacity

may apply for a registration in lieu of a permit amendment if the facilities meet the registration requirements established in this chapter.

~~(g)~~ [(h)] A registration is required for a mobile liquid waste processing unit that processes only grease trap waste, grit trap waste, or septage or a combination of these three liquid wastes. For the purposes of this section, grit trap waste means grit trap waste from commercial car washes and excludes grit trap waste from other generators. Registration applications shall contain the information specified in §§330.59(a) and (e) - (h), 330.61(a) and (b), and 330.63(a), (d)(6), (h), and (j) of this title (relating to Contents of Part I of the Application; Contents of Part II of the Application; and Contents of Part III of the Application). The following requirements also apply.

(1) Mobile liquid waste processing shall be limited to the processing of liquid waste while at the generator's trap.

(2) Effluent from the processing of the liquid waste must be discharged to the generator's trap or interceptor.

(3) The mobile liquid waste processing units regulated under this section include truck-mounted processes that are also known as separator trucks, and any other liquid waste processes that are not considered to be fixed to a specific location.

(4) This section is not meant to supplant rules or ordinances of local governments where stricter standards are in effect.

(5) This section is not applicable to septage if waste has received only a pH adjustment prior to or during transportation for disposal at a treatment facility permitted under Texas Water Code, Chapter 26, or other authorized facility. Transporters who only adjust septage pH during transportation shall register in accordance with §312.142 of this title (relating to Transporter Registration).

(h) [(i)] A registration is required for an MSW Type VI facility that demonstrates new management methods for processing or handling grease trap waste, grit trap waste, septage, or a combination of these three liquid wastes. For the purposes of this section, grit trap waste means grit trap waste from commercial car washes and excludes grit trap waste from other generators. Those facilities meeting this exemption must obtain a registration by meeting the operational criteria and design criteria established in §330.63(d)(9) of this title.

(i) [(j)] A registration is required for the following material recovery operations from a landfill. The following operations are subject to the general requirements found in §330.601 of this title (relating to General Requirements), and the requirements set for soil end product standards in §330.615 of this title (relating to Final Soil Product Grades and

Allowable Uses), and the air quality requirements in §330.607 of this title (relating to Air Quality Requirements):

(1) operations that recover reusable or recyclable material buried in permitted or closed MSW landfill facilities, or MSW landfill facilities that were never permitted;

(2) operations that reclaim soil from permitted or closed MSW landfills, or from MSW landfill facilities that were never permitted; and

(3) facilities that have received prior approval for excavation of buried materials through permits, permit amendments, or other agency authorization, which are exempt from further authorization requirements, as established in this subchapter, for the specific authorization received. Soil final product standards shall be applicable for all registered facilities.

(j) [(k)] A registration by rule is granted for the owner or operator of a Type IX MSW facility that recovers landfill gas for beneficial use if all of the following conditions are met.

(1) The owner or operator shall submit the following information at least 60 days prior to commencing operations:

(A) a large-scale plan drawing of the facility showing the following:

(i) facility boundaries (show permit boundaries and/or boundaries and dimensions of tract or land or closed MSW landfill units on which the gas recovery system is to be developed); and

(ii) landfill gas treatment, gas compression, electrical power generation equipment, and any other beneficial gas-use equipment, indicating limits of waste placement and additional easements required;

(B) for enclosed structures, provisions for fire control facilities (fire hydrants, fire extinguisher, water tanks, and waterwell), continuous methane monitoring, and explosion-proof fixtures;

(C) a discussion of the proposed method for condensate disposal, including during the landfill post-closure care period;

(D) an estimation of average daily gas production;

(E) an estimation of the design daily gas production;

(F) descriptions of the process units;

(G) a cost estimate for closure following the requirements of §330.505 of this title (relating to Closure Cost Estimates for Storage and Processing Units); and

(H) a description of the financial assurance mechanism required by Chapter 37, Subchapter R of this title (relating to Financial Assurance for Municipal Solid Waste Facilities).

(2) The owner or operator shall acquire all authorizations regarding air emissions for the facility and comply with the following regulations:

(A) Subchapter E of this chapter (relating to Operational Standards for Municipal Solid Waste Storage and Processing Units);

(B) §330.459 and §330.461 of this title (relating to Closure Requirements for Municipal Solid Waste Storage and Processing Units; and Certification of Final Facility Closure); and

(C) §330.505 of this title.

[(1) A registration by rule is granted for persons that plan to transport untreated medical waste and that are not the generator of the waste if all of the following conditions are met.]

[(1) The registrant completes registration forms provided by the commission and provides the following information at least 60 days prior to commencing operations:]

[(A) name, address, and telephone number of registrant;]

[(B) name, address, and telephone number of partners, corporate officers, and directors; and]

[(C) description of each transportation unit, including:]

[(i) make, model, and year;]

[(ii) motor vehicle identification number, if applicable;]

[(iii) license plate (tag) number, including state and year; and]

[(iv) name of transportation unit owner.]

[(2) The owner or operator submits the fee required by §330.1211(l) of this title (relating to Transporters of Untreated Medical Waste) along with the claim for the registration by rule.]

[(3) Registrations by rule expire after one year. The owner or operator must submit an annual fee in accordance with §330.1211(l) of this title. Failure to timely pay the annual fee eliminates the option to manage wastes until the owner or operator claims a new or renewed registration by rule.]

[(4) Persons that claim the registration maintain a copy of the registration form, as annotated by the executive director with an assigned registration number, at their designated place of business and with each transportation unit used to transport untreated medical waste.]

[(5) The owner or operator submits annual summary reports in accordance with applicable provisions in §330.1211(m) of this title.]

[(m) A registration by rule is granted for owners or operators of mobile treatment units conducting on-site treatment of medical waste who are not the generator if the following conditions are met.]

[(1) The registrant completes registration forms provided by the commission and provides the following information at least 60 days prior to commencing operations or expiration of a registration issued under the former rules before the comprehensive rule revisions in this chapter as adopted in 2006 (2006 Revisions) became effective:]

[(A) name, address, and telephone number of registrant;]

[(B) name, address, and telephone number of partners, corporate officers, and directors;]

[(C) description of each mobile treatment unit, including:]

[(i) make, model, and year;]

[(ii) motor vehicle identification number, if applicable; and]

[(iii) license plate (tag) number, including state and year;]

[(D) name of mobile treatment unit owner;]

[(E) description of approved treatment method to be employed and chemical preparations, as well as the procedure to be utilized for routine performance testing/parameter monitoring;]

[(F) evidence of competency;]

[(G) a description of the management and disposal of process waters generated during treatment events;]

[(H) a written contingency plan that describes the handling and disposal of waste in the event of treatment failure or equipment breakdown; and]

[(I) an estimate of the cost to remove and dispose of waste and disinfect the waste treatment equipment and evidence of financial assurance using procedures specified in Subchapter L of this chapter (relating to Closure, Post-Closure, and Corrective Action Cost Estimates) and Chapter 37, Subchapter R of this title.]

[(2) The owner or operator submits the fee required by §330.1221(l) of this title (relating to On-Site Treatment Services on Mobile Treatment Units) along with the claim for the registration by rule.]

[(3) The executive director will send a copy of the registration form, annotated with an assigned registration number, to the owner or operator.]

[(4) Registrations by rule expire after one year. The owner or operator must submit an annual renewal fee in accordance with §330.1221(l) of this title. Failure to timely pay the annual fee eliminates the option to manage wastes until the owner or operator claims a new or renewed registration by rule.]

[(5) The owner or operator submits annual summary reports in accordance with applicable provisions in §330.1221(m) of this title.]

[(6) Providers of on-site treatment of medical waste in mobile units notify the executive director, by letter, within 30 days of any changes to their registration if:]

[(A) the method employed to treat medical waste changes;]

[(B) the office or place of business is moved;]

[(C) the name of registrant or owner of the operation is changed;]

[(D) the name of the partners, corporate directors, or corporate officers change; or]

[(E) the unit information changes.]

[(n) A registration is required for facilities that store or process untreated medical waste that is received from off-site sources. For the purposes of this subsection, off-site shall be based on the definition of on-site found in §330.1205(b) of this title (relating to Definitions).]

(k) [(o)] A registration is required for a new 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.

(l) [(p)] A registration is required for a new liquid waste transfer facility to be located on, or at, other commission-authorized facilities.

### **§330.11. Notification Required.**

(a) Except as provided by §330.13 of the title (relating to Waste Management Activities Exempt from Permitting, Registration, or Notification) and recycling facilities that notify in accordance with §328.5 of this title (relating to Reporting and Recordkeeping Requirements), a person that intends to store, process, or dispose of municipal solid waste (MSW) without a permit as authorized by §330.7 of this title (relating to Permit Required),

registration as authorized by §330.9 of this title (relating to Registration Required), or §330.25 of this title (relating to Relationship with County Licensing System), shall notify the executive director, and any local pollution agency with jurisdiction that has requested to be notified, in writing, that storage, processing, or disposal activities are planned, at least 90 days prior to engaging in these activities, except for recycling and other activities as may be specifically exempted. Additional information may be requested to enable the executive director to determine whether such storage, processing, or disposal is in compliance with the terms of this chapter. This information may include, but is not limited to, type of waste, waste management methods, facility engineering plans and specifications, and the geology and hydrogeology at the facility. Any information provided under this subsection shall be submitted to the executive director in duplicate with one copy sent directly to the Texas Commission on Environmental Quality (TCEQ) regional office. A person shall include a statement justifying the facility's eligibility for a notification as established under this section.

(b) Any person that stores, processes, or disposes of MSW shall have the continuing obligation to provide prompt written notice to the executive director of any changes or additional information concerning waste type, waste management methods, facility engineering plans and specifications, and geology and hydrogeology at the facility additional to that reported in subsection (a) of this section, authorized in any permit or registration, or stated in any application filed with the executive director. Any information provided under this subsection shall be submitted to the executive director in duplicate

form with copies sent directly to the TCEQ's regional office and any local pollution agency with jurisdiction that has requested to be notified.

(c) A person that stores, processes, or disposes of MSW shall notify the executive director, and any local pollution agency with jurisdiction that has requested to be notified, in writing of any closure activity or activity of facility expansion not authorized by permit or registration, at least 90 days prior to conducting this activity. The executive director may request additional information to determine whether such activity is in compliance with this chapter. Any information provided under this subsection shall be submitted to the executive director in duplicate form.

(d) A notification is 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 MSW facility.

(e) A notification is required for the following facilities or locations:

(1) a citizens' collection station;

(2) 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);

(3) a facility to treat petroleum-contaminated soil if the contaminated soil is treated/processed at a permitted Type I MSW facility;

(4) an MSW transfer station in existence prior to the comprehensive rule revisions in this chapter as adopted in 2006 (2006 Revisions) 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. These liquid waste transfer stations must be designed and operated in accordance with the requirements of Subchapter E of this chapter (relating to Operational Standards for Municipal Solid Waste Storage and Processing Units);

(5) a temporary storage facility regulated under §312.147 of this title (relating to Temporary Storage) that stores 8,000 gallons or less for a period of four days or less in containers. This facility is not required to follow the requirements of Subchapter E of this chapter;

(6) a liquid waste transfer facility in existence prior to the effective date of the 2006 Revisions located on or at other commission authorized facilities if the facility is

designed and operated in accordance with the requirements of Subchapter E of this chapter; or

(7) a pet cemetery. A person that intends to operate a pet cemetery shall comply with the requirements of §330.19 of this title (relating to Deed Recordation) 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 may not be disposed of in a pet cemetery authorized under this subsection.

[~~(f)~~ A generator is required to notify the commission of the operation of an approved treatment process unit used only for the treatment of on-site generated medical waste, as defined in §330.1205(b) of this title (relating to Definitions).]

~~(f)~~ [(g)] An operator is required to notify the commission of the intended operation of a low-volume transfer station subject to the following conditions.

(1) The operator must own or otherwise effectively control the facility.

(2) Prior to notification, the operator must coordinate with the county authority to ensure compliance with all appropriate ordinances.

(3) The operator must notify the adjacent landowners, by first-class mail, concurrent with commission notification.

(4) Collected waste shall be sent off-site to an authorized facility at least weekly.

[(h) Generators that generate greater than 50 pounds per month of untreated medical waste and that transport their own untreated waste to an authorized medical waste storage or processing facility shall notify the commission.]

**§330.13. Waste Management Activities Exempt from Permitting, Registration, or Notification.**

(a) A permit, registration, notification, or other authorization is not required for the disposal of up to 2,000 pounds per year of litter or other solid waste generated by an individual on that individual's own land and is not required to comply with §330.19 of this title (relating to Deed Recordation) provided that:

(1) the litter or waste is generated on land that 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 that 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 waste disposal method complies with Chapter 111, Subchapter B of this title (relating to Outdoor Burning); and

(7) 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.

(b) A permit, registration, notification, or other authorization 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 rights-of-way and the carcasses are disposed of by the Texas Department of Transportation by burying the carcasses on state highway rights-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 §330.171(c)(2) of this title (relating to Disposal of Special Wastes).

(c) A permit, registration, notification, or other authorization is not required for veterinarians performing activities as authorized by Texas Occupations Code, §801.361, Disposal of Animal Remains. Disposal by burning under this section must comply only with §111.209(3) of this title (relating to Exception for Disposal Fires).

[(d) A permit, registration, notification, or other authorization is not required for on-site storage of medical waste for a generator that uses a medical waste storage facility

only for medical waste generated on-site. Storage of medical waste generated on-site must be in compliance with §330.1209(a) of this title (relating to Storage of Medical Waste).]

(e) A permit, registration, notification, or other authorization is not required for generators that generate less than 50 pounds per month of untreated medical waste that transport their own waste to an authorized medical waste storage or processing facility.]

(d) [(f)] Except as required by §330.7(c)(2) and §330.9(a) [\$330.9(1)] of this title (relating to Permit Required; and Registration Required), a permit, registration, notification, or other authorization is not required for transporters of municipal solid waste.

(e) [(g)] A permit, registration, notification, or other authorization is not required for 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.

(f) [(h)] A permit, registration, notification, or other authorization is not required from a car wash facility for drying grit trap waste as long as these wastes are dried and 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 other property if the car wash facility and the property with the drying bed 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.

**SUBCHAPTER C: MUNICIPAL SOLID WASTE COLLECTION AND  
TRANSPORTATION**

**§330.103**

**Statutory Authority**

The amendment is proposed under Texas Water Code (TWC), §5.103, which authorizes the commission to adopt any rules necessary to carry out its powers and duties; TWC, §26.011, which provides the commission with the authority to adopt any rules necessary to carry out its powers, duties, and policies and to protect water quality in the state; and Texas Health and Safety Code (THSC), §§361.011, 361.017 and 361.024, which provide the commission the authority to adopt rules necessary to carry out its powers and duties under the Texas Solid Waste Disposal Act.

The proposed amendment implements THSC, §361.0905 , which requires the commission to adopt rules in a new chapter to regulate medical waste.

**§330.103. Collection and Transportation Requirements.**

(a) Municipal solid waste (MSW) containing putrescibles shall be collected a minimum of once weekly to prevent propagation and attraction of vectors and the creation of public health nuisances. Collection should be made more frequently in circumstances where vector breeding or harborage potential is significant.

(b) Transporters of MSW shall be responsible for ensuring that all solid waste collected is unloaded only at facilities authorized to accept the type of waste being transported. Off-loading at an unauthorized location or at a facility not authorized to accept such waste is a violation of this subchapter. Allowable wastes at a particular solid waste management facility may be determined by reviewing the following regulations as applicable:

(1) §330.5 of this title (relating to Classification of Municipal Solid Waste Facilities);

(2) Subchapter D of this chapter (relating to Operational Standards for Municipal Solid Waste Landfill Facilities);

(3) Subchapter E of this chapter (relating to Operational Standards for Municipal Solid Waste Storage and Processing Units);

(4) Chapter 312, Subchapters A - E of this title (relating to General Provisions;[, ] Land Application for Beneficial Use and Storage at Beneficial Use Sites;[, ] Surface Disposal;[, ] Pathogen and Vector Attraction Reduction; and[, ] Guidelines and Standards for Sludge Incineration); and

(5) §330.15(e) of this title (relating to General Prohibitions).

(c) All transporters of solid waste shall maintain records for at least three years to document that waste was taken to an authorized MSW facility. Upon request of the executive director or of a local government with jurisdiction, a transporter is responsible for providing adequate documentation regarding the destination of all collected waste including billing documents to prove that the proper disposal procedure is being followed.

(d) Each transporter delivering waste to a solid waste management facility shall immediately remove any non-allowable wastes delivered to the solid waste management facility or, at the option of the disposal facility operator, pay any applicable surcharges to have the disposal facility operator remove the non-allowable waste.

(e) If non-allowable wastes are discovered in a load of waste being discharged at an MSW facility, the transporter shall immediately take all necessary steps to determine the origin of the non-allowable waste and to assure that non-allowable wastes are either not collected or are taken to a facility approved to accept such wastes.

[(f) Transporters of untreated medical waste shall follow the requirements of §330.1211 of this title (relating to Transporters of Untreated Medical Waste).]

**SUBCHAPTER D: OPERATIONAL STANDARDS FOR MUNICIPAL SOLID  
WASTE LANDFILL FACILITIES**

**§330.171**

**Statutory Authority**

The amendment is proposed under Texas Water Code (TWC), §5.103, which authorizes the commission to adopt any rules necessary to carry out its powers and duties; TWC, §26.011, which provides the commission with the authority to adopt any rules necessary to carry out its powers, duties, and policies and to protect water quality in the state; and Texas Health and Safety Code (THSC), §§361.011, 361.017 and 361.024, which provide the commission the authority to adopt rules necessary to carry out its powers and duties under the Texas Solid Waste Disposal Act.

The proposed amendment implements THSC, §361.0905, which requires the commission to adopt rules in a new chapter to regulate medical waste.

**§330.171. Disposal of Special Wastes.**

(a) Type IV and Type IVAE landfills may accept special wastes consistent with the limitations established in §330.5(a)(2) of this title (relating to Classification of Municipal Solid Waste Facilities) and the waste acceptance plan required by §330.61(b) of this title (relating to Contents of Part II of the Application).

(b) The acceptance and/or disposal of a special waste as defined in §330.3 of this title (relating to Definitions), that is not specifically identified in subsection (c) or (d) of this section, or in §330.173 of this title (relating to Disposal of Industrial Wastes), requires prior written approval from the executive director.

(1) Approvals will be waste-specific and/or site-specific and will be granted only to appropriate facilities operating in compliance with this chapter.

(2) Requests for approval to accept special wastes must be submitted by the generator to the executive director or to a facility with an approved plan and must include, but are not limited to, the following:

(A) a complete description of the chemical and physical characteristics of each waste, a statement as to whether or not each waste is a Class 1 industrial waste as defined in §330.3 of this title, and the quantity and rate at which each waste is produced and/or the expected frequency of disposal;

(B) for Class 1 industrial solid waste, a hazardous waste determination as required by §335.6(c) of this title (relating to Notification Requirements);

(C) an operational plan containing the proposed procedures for handling each waste and listing required protective equipment for operating personnel and on-site emergency equipment; and

(D) a contingency plan outlining responsibility for containment and cleanup of any accidental spills occurring during the delivery and/or disposal operation.

(3) A vacuum truck, as used in this section, refers to any vehicle that transports liquid waste to a solid waste disposal or processing facility. A vacuum truck must transport liquid waste to a landfill that has a sludge stabilization and solidification process or to a Type V processing facility for sludge, grease trap, or grit trap waste. The owner or operator shall submit written notification to the executive director of the liquids-processing activity as required in §330.11 of this title (relating to Notification Required).

(4) Soils contaminated by petroleum products, crude oils, or chemicals in concentrations of greater than 1,500 milligram per kilogram (mg/kg) total petroleum hydrocarbons; or contaminated by constituents of concern that exceed the concentrations listed in Table 1, Constituents of Concern and Their Maximum Leachable Concentrations in §335.521(a)(1) of this title (relating to Appendices) must be disposed in dedicated cells that meet the requirements of §330.331(e) of this title (relating to Design Criteria).

(5) The executive director may authorize the receipt of special waste with a written concurrence from the owner or operator; however, the facility operator is not required to accept the waste.

(6) The executive director may revoke an authorization to accept special waste if the owner or operator does not maintain compliance with these rules or conditions imposed in the authorization to accept special waste.

(c) Receipt of the following special wastes does not specifically require written authorization for acceptance provided the waste is handled in accordance with the noted provisions for each waste.

(1) Medical wastes that have not been treated in accordance with the procedures specified in Chapter 326 of this title [Subchapter Y of this chapter] (relating to Medical Waste Management) must not be accepted at a landfill unless authorized in writing by the executive director. The executive director may provide this authorization when a situation exists that requires disposal of untreated medical wastes in order to protect the human health and the environment from the effects of a natural or man-made disaster.

(2) Dead animals and/or slaughterhouse waste may be accepted at any Type I or Type IAE landfill without further approval from the executive director provided the

carcasses and/or slaughterhouse waste are covered by three feet of other solid waste or at least two feet of earthen material immediately upon receipt.

(3) Regulated asbestos-containing material (RACM) as defined in 40 Code of Federal Regulations Part 61 may be accepted at a Type I or Type IAE landfill in accordance with subparagraphs (A) - (I) of this paragraph provided the landfill has been authorized to accept RACM. The facility operator proposing to accept RACM shall provide written notification to the executive director of the intent to accept RACM.

(A) To receive authorization to accept RACM, the owner or operator shall dedicate a specific area or areas of the landfill to receive RACM and shall provide written notification to the executive director of the area or areas to be designated for receipt of RACM. After initial authorization to receive RACM is issued, additional areas may be designated by providing written notice to the executive director.

(B) The location of the area designated to receive the RACM must be surveyed and marked by a registered professional land surveyor and identified on a current site diagram that is maintained at the landfill. A copy of the current site diagram identifying the RACM area must be submitted to the executive director immediately upon completion of the diagram. The operator shall maintain a record of each load of RACM accepted as to its location, depth, and volume of material.

(C) Upon closure of the unit that accepted RACM, a specific notation that the facility accepted RACM must be placed in the deed records for the facility with a diagram identifying the RACM disposal areas. Concurrently, a notice of the deed recordation and a copy of the diagram identifying the asbestos disposal areas must be submitted to the executive director.

(D) Delivery of the RACM to the landfill unit must be coordinated with the on-site supervisor so the waste will arrive at a time it can be properly handled and covered.

(E) RACM must only be accepted at the facility in tightly closed and unruptured containers or bags or must be wrapped with at least six-mil polyethylene.

(F) The bags or containers holding the RACM must be placed below natural grade level. Where this is not possible or practical, provisions must be made to ensure that the waste will not be subject to future exposure through erosion or weathering of the intermediate and/or final cover. RACM that is placed above natural grade must be located in the landfill unit such that it is, at closure of the landfill unit, not less than 20 feet from any final side slope of the unit and must be at least ten feet below the final surface of the unit.

(G) The bags or containers holding the RACM must be carefully unloaded and placed in the final disposal location. The RACM must be covered immediately with 12 inches of earthen material or three feet of solid waste containing no asbestos. Care must be exercised in the application of the cover so that the bags or containers are not ruptured.

(H) A contingency plan in the event of accidental spills (e.g., ruptured bags or containers) shall be prepared by the owner or operator prior to accepting RACM. The plan must specify the responsible person(s) and the procedure for the collection and disposal of the spilled material.

(I) RACM that has been designated as a Class 1 industrial waste may be accepted by a Type I landfill authorized to accept RACM provided the RACM waste is handled in accordance with the provisions of this paragraph and the landfill operator complies with the provisions of §330.173(g) - (i) of this title [(relating to Disposal of Industrial Wastes)].

(4) Nonregulated asbestos-containing materials (non-RACM) may be accepted for disposal at a Type I, Type IAE, Type IV, or Type IVAE landfill provided the wastes are placed on the active working face and covered in accordance with this chapter. Under no circumstances may any material containing non-RACM be placed on any surface

or roadway that is subject to vehicular traffic or disposed of by any other means by which the material could be crumbled into a friable state.

(5) Empty containers that have been used for pesticides, herbicides, fungicides, or rodenticides must be disposed of in accordance with subparagraphs (A) and (B) of this paragraph.

(A) These containers may be disposed of at any landfill provided that:

(i) the containers are triple-rinsed prior to receipt at the landfill;

(ii) the containers are rendered unusable prior to or upon receipt at the landfill; and

(iii) the containers are covered by the end of the same working day they are received.

(B) Those containers for which triple-rinsing is not feasible or practical (e.g., paper bags, cardboard containers) may be disposed of under the provisions of paragraph (6) of this subsection or in accordance with §330.173 of this title, as applicable.

(6) Municipal hazardous waste from a conditionally exempt small quantity generator may be accepted at a Type I or Type IAE landfill without further approval from the executive director provided the amount of waste does not exceed 220 pounds (100 kilograms) per month per generator, and provided the landfill owner or operator authorizes acceptance of the waste.

(7) Sludge, grease trap waste, grit trap waste, or liquid wastes from municipal sources can be accepted at a Type I or Type IAE landfill for disposal only if the material has been, or is to be, treated or processed and the treated/processed material has been tested, in accordance with Test Method 9095 (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (United States Environmental Protection Agency Publication Number SW-846), as amended, and is certified to contain no free liquids. Prior to treatment or processing of this waste at the landfill, the owner or operator shall submit written notification to the executive director of the liquids processing activity as required in §330.11 of this title.

(d) Used oil filters from internal combustion engines must not be intentionally and knowingly accepted for disposal at landfills permitted under this chapter except as provided in paragraphs (1) and (2) of this subsection.

(1) Used oil filters must not be offered for disposal by a generator and/or be intentionally and knowingly accepted for landfill disposal unless the filter has been:

(A) crushed to less than 20% of its original volume to remove all free-flowing used oil; or

(B) processed by a method other than crushing to remove all free-flowing used oil. A filter is considered to have been processed if:

(i) the filter has been separated into component parts and the free-flowing used oil has been removed from the filter element by some means of compression in order to remove free-flowing used oil;

(ii) the used filter element of a filter consisting of a replaceable filtration element in a reusable or permanent housing has been removed from the housing and pressed to remove free-flowing used oil; or

(iii) the housing is punctured and the filter is drained for at least 24 hours.

(2) Used oil filters (to include filters that have been crushed and/or processed to remove free-flowing used oil) must not be offered for landfill disposal by any non-

household generator and must not be intentionally or knowingly accepted by any landfill permitted and regulated under this chapter.

**SUBCHAPTER E: OPERATIONAL STANDARDS FOR MUNICIPAL SOLID  
WASTE STORAGE AND PROCESSING UNITS**

**§330.219**

**Statutory Authority**

The amendment is proposed under Texas Water Code (TWC), §5.103, which authorizes the commission to adopt any rules necessary to carry out its powers and duties; TWC, §26.011, which provides the commission with the authority to adopt any rules necessary to carry out its powers, duties, and policies and to protect water quality in the state; and Texas Health and Safety Code (THSC), §§361.011, 361.017 and 361.024, which provide the commission the authority to adopt rules necessary to carry out its powers and duties under the Texas Solid Waste Disposal Act.

The amendment implements THSC, §361.0905, which requires the commission to adopt rules in a new chapter to regulate medical waste.

**§330.219. Recordkeeping and Reporting Requirements.**

(a) A copy of the permit or registration, the approved permit or registration application, and any other required plan or other related document shall be maintained at the municipal solid waste facility at all times during construction. After completion of construction, an as-built set of construction plans and specifications shall be maintained at the facility or at an alternative location approved by the executive director. These plans

shall be made available for inspection by agency representatives or other interested parties. These documents shall be considered a part of the operating record for the facility.

(b) The owner or operator shall promptly record and retain in an operating record, the following information:

(1) all location-restriction demonstrations;

(2) inspection records and training procedures;

(3) closure plans and any monitoring, testing, or analytical data relating to closure requirements;

(4) all cost estimates and financial assurance documentation relating to financial assurance for closure;

(5) copies of all correspondence and responses relating to the operation of the facility, modifications to the permit, approvals, and other matters pertaining to technical assistance;

(6) all documents, manifests, shipping documents, trip tickets, etc., involving special waste;

(7) any other document(s) as specified by the approved authorization or by the executive director;

(8) record retention provisions for trip tickets as required by §312.145 of this title (relating to Transporters--Recordkeeping [Transporters - Record Keeping]); and

(9) recordkeeping provisions to justify, on a quarterly basis, that the relevant percentage of the incoming waste is processed to recover recycled products for applicable facilities. Failure to achieve the relevant percent recycling rate in any two quarters within any one-year period will cause a change in a facility's status and require the owner or operator of the facility to obtain a registration or permit, as appropriate, to continue facility operations. The owner or operator shall submit an annual report to the executive director by March 1st summarizing the recycling activities and percent of incoming solid waste that was recycled during the past calendar year.

(c) For signatories to reports, the following conditions apply.

(1) The owner or operator shall sign all reports and other information requested by the executive director as described in §305.44(a) of this title (relating to Signatories to Applications) or by a duly authorized representative of the owner or operator. A person is a duly authorized representative only if:

(A) the authorization is made in writing by the owner or operator as described in §305.44(a) of this title;

(B) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity or for environmental matters for the owner or operator, such as the position of plant manager, environmental manager, or a position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

(C) the written authorization is submitted to the executive director.

(2) If an authorization under this section is no longer accurate because of a change in individuals or position, a new authorization satisfying the requirements of this section must be submitted to the executive director prior to, or together with, any reports, information, or applications to be signed by an authorized representative.

(3) Any person signing a report shall make the certification in §305.44(b) of this title.

(d) For permitted municipal solid waste composting and landfill mining facilities, the operator shall maintain records on-site, available for inspection by the executive director for a period consisting of the two most recent calendar years, except as noted in paragraphs (1) - (3) of this subsection. The records must consist of the following:

(1) a log of abnormal events at the facility, including, but not limited to, hazardous constituents uncovered, fires, explosions, process disruptions, extended equipment failures, injuries, and weather damage;

(2) results of final product testing required by §330.613 of this title (relating to Sampling and Analysis Requirements for Final Soil Product) or §332.71 of this title (relating to Sampling and Analysis Requirements for Final Product); and

(3) copies of the annual report for the five most recent calendar years.

(e) All information contained in the operating record shall be furnished upon request to the executive director and shall be made available at all reasonable times for inspection by the executive director.

(f) The owner or operator shall retain all information contained within the operating record and the different plans required for the facility for the life of the facility.

(g) The executive director may set alternative schedules for recordkeeping and notification requirements as specified in subsections (a) - (e) of this section.

[(h) Owners or operators of a Type V processing facility accepting delivery of untreated medical waste for which a shipping document is required under §330.1211 of this title (relating to Transporters of Untreated Medical Waste) for processing shall ensure each of the following requirements are met:]

[(1) a shipping document accompanies the shipment, which designates the Type V facility to receive the waste;]

[(2) the owner or operator signs the shipping document and immediately gives at least one copy of the signed shipping document to the transporter;]

[(3) the owner or operator retains one copy of the shipping document; and]

[(4) within 45 days after the delivery, the owner or operator sends a written or electronic copy of the shipping document to the generator that includes a statement that the medical waste was treated in accordance with 25 TAC §1.136 (relating to Approved Methods of Treatment and Disposition).]

**[SUBCHAPTER Y: MEDICAL WASTE MANAGEMENT]**

**[§§330.1201, 330.1203, 330.1205, 330.1207, 330.1209, 330.1211, 330.1213,  
330.1215, 330.1217, 330.1219, 330.1221]**

**Statutory Authority**

The repeal is proposed under Texas Water Code (TWC), §5.103, which authorizes the commission to adopt any rules necessary to carry out its powers and duties; TWC, §26.011, which provides the commission with the authority to adopt any rules necessary to carry out its powers, duties, and policies and to protect water quality in the state; and Texas Health and Safety Code (THSC), §§361.011, 361.017 and 361.024, which provide the commission the authority to adopt rules necessary to carry out its powers and duties under the Texas Solid Waste Disposal Act.

The repeal of these sections implements THSC, §361.0905, which requires the commission to adopt rules in a new chapter to regulate medical waste.

**[§330.1201. Purpose.]**

[The purpose of this subchapter is to establish procedures and requirements for the handling, transportation, and disposal of medical waste as defined in §330.3 of this title (relating to Definitions) that the Board of Health has determined requires special handling to protect human health or the environment.]

**[§330.1203. Applicability.]**

[(a) Owners and operators shall comply with the comprehensive rule revisions to this subchapter as adopted in 2006 within 120 days of the effective date of the 2006 Revisions. This subchapter is applicable to persons who generate, collect, transport, store, process, treat or dispose of medical waste.]

[(b) This subchapter will not apply to waste that is subject to 25 TAC Chapter 289 (relating to Radiation Control).]

**[§330.1205. Definitions.]**

[(a) The words, terms, and abbreviations, when used in this chapter, are defined in 25 TAC §1.132 (relating to Definitions), 25 TAC §133.2 (relating to Definitions), and in §330.3 of this title (relating to Definitions). When the definitions found in 25 TAC §1.132 are changed, such changes shall prevail over the definitions found in §330.3 of this title.]

[(b) For the purpose of the subchapter, medical waste managed on property that is owned or effectively controlled by one entity and that is within 75 miles of the point of generation or at an affiliated facility shall be considered to be managed on-site. An affiliated facility means a health care-related facility that generates a medical waste that is

routinely stored, processed, or disposed of on a shared basis in an integrated medical waste management unit owned, operated by a hospital, and located within a contiguous health care complex.]

**[§330.1207. Generators of Medical Waste.]**

[(a) Health care-related facilities shall identify and segregate medical waste, as defined in §330.3 of this title (relating to Definitions), from ordinary rubbish and garbage produced within or by the facilities. Other municipal solid waste may be combined with medical waste or may be identified and segregated as a separate waste stream. Where medical waste and other municipal solid wastes are combined, the combined waste shall be considered to be medical waste.]

[(b) Requirements for shipment of untreated medical waste off-site are as follows.]

[(1) Generators may transport their own untreated waste or shall release waste only to transporters who are registered with the executive director to transport untreated medical waste as required in §330.1211 of this title (relating to Transporters of Untreated Medical Waste).]

[(2) Except for medical waste shipped via First Class or Priority Mail using the United States Postal Service, the generator shall obtain from the transporter a signed receipt for each shipment of medical waste.]

[(3) The generator shall maintain a file of receipts for shipments of untreated medical waste for a period of three years following the date of shipment. This time period may be extended by the executive director for investigative purposes or in case of enforcement action.]

[(4) The file of receipts for shipments of untreated medical waste shall be available for inspection by commission personnel during normal business hours without prior notice.]

[(c) Requirements for identification and packaging of untreated medical waste are as follows.]

[(1) Medical waste, other than sharps, shall be placed in a plastic bag that meets the requirements of the American Society for Testing and Materials Standards (ASTM) Number D1709.01 and ASTM D1922.00a, or as otherwise required by the United States Department of Transportation under regulations set forth in 49 Code of Federal Regulations §171.7. If empty containers that held free liquids are placed into the bag, one

cup of absorbent material for each six cubic feet, or fraction thereof, of bag volume must be placed in the bottom of the bag.]

[(2) The bag containing medical waste shall be placed in a rigid container that is leak resistant, impervious to moisture, of sufficient strength to prevent tearing and bursting under normal conditions of use and handling, and sealed to prevent leakage or as otherwise required by the United States Department of Transportation under regulations set forth in 49 Code of Federal Regulations §173.134.]

[(3) If the waste contains free liquids in containers, the plastic bag and/or the rigid container shall contain absorbent material sufficient to absorb 150% of the volume of free liquids placed in the bag.]

[(4) The outer container shall be conspicuously marked with a warning legend that must appear in English and in Spanish, along with the international symbol for biohazardous material. The warning must appear on the sides of the container, twice in English and twice in Spanish. The wording of the warning legend shall be as follows: "CAUTION, contains medical waste which may be biohazardous" and "CAUCI N, contiene desechos medicos que pueden ser biopeligroso." The outer container shall also be labeled in accordance with 49 Code of Federal Regulations §173.134(c).]

[(5) The generator shall affix to each container a label that contains the name and address of the generator, the weight and contents of the container, and either the date of shipment or an identification number for the shipment.]

[(6) The transporter shall affix to each container a label that contains the name, address, telephone number, and state registration number of the transporter. This information may be printed on the container.]

[(7) The printing on labels required in paragraphs (5) and (6) of this subsection shall be done in indelible ink with letters at least 0.5 inch in height. A single label may be used to satisfy the requirements of paragraphs (5) and (6) of this subsection. If a single label is used, the transporter shall insure the label is affixed to or printed on the container.]

[(8) The requirements of paragraphs (5) and (6) of this subsection shall not apply to shipments where the United States Postal Service is the transporter.]

[(9) Sharps must be placed in a marked, puncture-resistant rigid container designed for sharps. If the container is not leakproof as defined in 49 Code of Federal Regulations §173.24(f), the container must be placed in the plastic bag described in paragraph (1) of this subsection. The bag must then be placed in a rigid container as described in paragraph (2) of this subsection.]

[(d) The executive director may waive any or all of the requirements in this section if a situation exists that requires a waiver of such requirements in order to protect the public health and safety from the effects of a natural or man-made disaster.]

**[\$330.1209. Storage of Medical Waste.]**

[(a) The storage of medical waste shall be in a secure manner and location that affords protection from theft, vandalism, inadvertent human or animal exposure, rain, water, and wind. The waste shall be managed so as not to provide a breeding place or food for insects or rodents, and not generate noxious odors.]

[(b) Except for generators and treatment facilities, persons storing putrescible or biohazardous untreated medical waste for longer than 72 hours after pickup from the generator shall maintain a storage temperature of 45 degrees Fahrenheit or less. Treatment facilities storing putrescible or biohazardous untreated medical waste for longer than 72 hours after receipt shall maintain a storage temperature of 45 degrees Fahrenheit or less.]

**[\$330.1211. Transporters of Untreated Medical Waste.]**

[(a) The requirements of this section are applicable to any person that collects for transport or that transports untreated medical waste unless that person is exempt under the following provisions.]

[(1) Generators who generate 50 pounds or less per month of medical waste may transport their own untreated waste to an authorized medical waste collection station, transfer station, storage facility, or processing facility without complying with the requirements of this section.]

[(2) Generators who generate more than 50 pounds per month of medical waste may transport their own waste to a transfer station, storage facility, or processing facility authorized to receive medical waste and shall comply with subsections (d) - (l) of this section. These generators must notify the commission that they are transporting their own waste, provide the executive director with the information required in subsection (b) of this section, and submit an annual summary report as required by subsection (m) of this section.]

[(3) Medical waste transported by the United States Postal Service in accordance with the Domestic Mail Manual, incorporated by reference in 39 Code of Federal Regulations Part 111 (relating to General Information on Postal Service).]

[(b) Transporters shall notify the executive director, and any local pollution agency with jurisdiction that has requested to be notified, by letter, within 30 days of any changes to their registration if:]

[(1) the amount of untreated medical waste or total operation is expanded by 50% over that originally registered;]

[(2) the office or place of business is moved;]

[(3) the name of registrant or owner of the operation is changed; or]

[(4) the name of the partners, corporate directors, or corporate officers change.]

[(c) Requirements for transportation units used to collect or transport untreated medical waste are as follows.]

[(1) Transportation units used to collect and or transport medical waste shall:]

[(A) have a fully enclosed, leak-proof, cargo-carrying body, such as a cargo compartment, box trailer, or roll-off box;]

[(B) protect the waste from mechanical stress or compaction;]

[(C) carry spill cleanup equipment including, but not limited to, disinfectants, absorbent materials, personal protective equipment, such as gloves, coveralls, and eye protection, and leakproof containers or packaging materials; and]

[(D) have the following identification on the two sides and back of the cargo-carrying compartment in letters at least three inches high: (the name of the transporter); TCEQ; (registration number); and Caution: Medical Waste.]

[(2) The cargo compartment of the vehicle or trailer shall:]

[(A) be maintained in a sanitary condition;]

[(B) be locked when the vehicle or trailer is in motion;]

[(C) be locked or secured when waste is present in the compartment except during loading or unloading of waste;]

[(D) have a floor and sides made of an impervious, nonporous material;]

[(E) have all discharge openings securely closed during operation of the vehicle or trailer; and]

[(F) maintain a temperature of 45 degrees Fahrenheit or less for putrescible or biohazardous untreated medical waste transported for more than 72 hours after initial receipt from the generator.]

[(d) Transportation units used to transport untreated medical waste shall not be used to transport any other material until the transportation unit has been cleaned and the cargo compartment disinfected. A written record of the date and the process used to clean and disinfect the transportation unit shall be maintained for three years unless the commission directs a longer holding period. The record must identify the transportation unit by motor vehicle identification number or license tag number. The owner of the transportation unit, if not the registrant, shall be notified in writing by the registrant that the transportation unit has been used to transport medical waste and when and how the transportation unit was disinfected.]

[(e) Shipments of untreated medical waste, properly containerized Animal and Plant Health Inspection Services waste, and nonhazardous pharmaceutical waste shall not be commingled or mixed during transport or storage with any other waste (such as rubbish, garbage, hazardous waste, asbestos, or radioactive waste regulated under 25 TAC Chapter

289 (relating to Radiation Control)), provided that the entire shipment of co-transported untreated medical waste, Animal and Plant Health Inspection Services waste, and nonhazardous pharmaceutical waste are delivered to the same treatment facility.]

[(f) Financial assurance shall be provided in accordance with Chapter 37, Subchapter U of this title (relating to Financial Assurance for Medical Waste Transporters).]

[(g) The transporter shall furnish the generator a signed receipt for each shipment at the time of collection of the waste. The receipt shall include the name, address, telephone number, and registration number of the transporter. The receipt shall also identify the generator by name and address, and shall list the weight of waste collected and date of collection. If certified scales are not available, the number of containers shall be listed, and the transporter must provide the generator with a written or electronic statement of the total weight of the containers within 45 days.]

[(h) The transporter shall initiate and maintain a record of each waste shipment collection and deposition. The record shall be in the form of a waste shipping document or other similar documentation and copies may be maintained in electronic format. The transporter shall retain a copy of all waste shipping documents showing the collection and disposition of the medical waste. Copies of waste shipping documents shall be retained by the transporters for three years in the main transporter office and made available to the

commission upon request. The waste shipping document or other similar documentation shall include the:]

[(1) transporter's name, address, telephone number, and commission's assigned transporter registration number;]

[(2) name and address of the person that generated the untreated medical waste and the date collected;]

[(3) number of containers of untreated medical waste collected for transportation and the total weight of the containers from each generator, which must be added when certified scales are available;]

[(4) name of persons collecting, transporting, and unloading the waste;]

[(5) date and place where the untreated medical waste was deposited or unloaded;]

[(6) identification (permit or registration number, location, and operator) of the facility where the untreated medical waste was deposited; and]

[(7) name and signature of facility representative acknowledging receipt of the untreated medical waste and the weight of waste received.]

[(i) The transporter must be able to provide documentation of each waste shipment from the point of collection through and including the unloading of the waste at a facility authorized to accept the waste. The original shipping document must accompany each shipment of untreated waste to its final destination. The transporter is responsible for the proper collection and deposition of untreated medical waste accepted for transport.]

[(j) Shipments of untreated medical waste shall be deposited only at a facility that has been authorized by the commission to accept untreated medical waste. Untreated medical waste that is transported out of the state must be deposited at a facility that is authorized by the appropriate agency having jurisdiction over such waste.]

[(k) Transporters shall not accept untreated medical waste unless the generator has packaged the waste in accordance with the provisions of §330.1207(c) of this title (relating to Generators of Medical Waste). Transporters shall not accept containers of waste that are leaking or damaged unless or until the shipment has been repackaged.]

[(l) Transporter fees are as follows.]

[(1) Transporters are required to pay an annual registration fee to the commission based upon the total weight of untreated medical waste transported.]

[(2) The amount of the annual fee shall be based upon the total weight of untreated medical waste transported under each registration. The fee for the first year of operation under a registration shall be based upon an estimate of the total weight of untreated medical waste to be transported. The fee paid for the first year of operation will be adjusted after submission of at least one annual report and one registration renewal, indicating the actual weight of untreated medical waste transported. An overpayment will be credited to the next year's registration fee or will be refunded. A billing notice for underpayment of the registration fee will be sent and payment will be due within 30 days after the date of the notice.]

[(3) The fees shall be determined as follows.]

[(A) For a total annual weight transported of 1,000 pounds of medical waste or less, the fee is \$100.]

[(B) For a total annual weight transported greater than 1,000 pounds of medical waste but equal to or less than 10,000 pounds of medical waste, the fee is \$250.]

[(C) For a total annual weight transported greater than 10,000 pounds of medical waste but equal to or less than 50,000 pounds of medical waste, the fee is \$400.]

[(D) For a total annual weight transported greater than 50,000 pounds of medical waste, the fee is \$500.]

[(4) The annual fee shall accompany the owner or operator's original or renewal registration by rule claim and shall be submitted in the form of a check or money order made payable to the Texas Commission on Environmental Quality and delivered or mailed to: Cashiers Office, Texas Commission on Environmental Quality, P.O. Box 13088, Austin, Texas 78711-3088.]

[(m) Transporters shall submit to the executive director an annual summary report of their activities for the calendar year from January 1 through December 31 of each year. The report shall be submitted no later than March 1 of the year following the end of the report period. The report shall include the name(s) and address(es) of the facilities where the waste was deposited/unloaded, the registration/permit number of the facilities, and the amount of waste deposited/unloaded at each facility. The report shall indicate the amount of waste shipped out of state, the amount of waste shipped into the state, and the amount of waste generated and unloaded in the state.]

**[§330.1213. Transfer of Shipments of Medical Waste.]**

[Packages of untreated medical waste shall not be transferred between transportation units unless the transfer occurs at and on the premises of a facility authorized as a transfer station, as a storage facility, or as a treatment/processing facility that has been approved to function as a transfer station except as provided in §330.1217 of this title (relating to Medical Waste Collection Stations).]

[(1) In case of transportation unit malfunction, the waste shipment may be transferred to an operational transportation unit and the executive director, and any local pollution agency with jurisdiction that has requested to be notified, shall be notified of the incident in writing within five working days. The incident report shall list all transportation units involved in transporting the waste and the cause, if known, of the transportation unit malfunction.]

[(2) In case of a traffic accident, the waste shipment may be transferred to an operating transportation unit if necessary. Any containers of waste that were damaged in the accident shall be repackaged as soon as possible. The nearest regional office, and any local pollution agency with jurisdiction that has requested to be notified, shall be notified of the incident no later than the end of the next working day. The incident report shall list all vehicles involved in transporting the waste.]

**[§330.1215. Interstate Transportation.]**

[Persons that engage in the transportation of untreated medical waste from Texas to other states or countries or from other states or countries to Texas, or persons that collect or transport waste in Texas but have their place of business in another state, shall comply with all of the requirements for transporters contained in §330.1211 of this title (relating to Transporters of Untreated Medical Waste). If such persons also engage in any activity of managing waste in Texas by storage, processing, or disposal, they shall follow the applicable requirements for facility operators of such activities. Persons who engage in the transportation of waste that does not originate or terminate in Texas are exempt from these regulations, except for §330.1211(c)(1) and (2) of this title.]

**[§330.1217. Medical Waste Collection Stations.]**

[A facility that has been registered by the commission as a medical waste collection station shall comply with the following provisions.]

[(1) A registered medical waste collection station may accept untreated medical waste only from those generators who generate 50 pounds or less per month of medical waste and who transport their own waste to the collection station.]

[(2) Waste delivered to a medical waste collection station must be packaged in accordance with the provisions of §330.1207(c) of this title (relating to Generators of Medical Waste) by the generator.]

[(3) A medical waste collection station must comply with the requirements for storage of medical waste that are applicable to permitted medical waste transfer and/or medical waste storage facilities.]

[(4) A facility registered as a medical waste collection station must release the waste only to a registered medical waste transporter. The collection station must provide the transporter with a list of the waste collected at the station including the identity of the waste generator.]

[(5) A facility registered as a medical waste collection station may not otherwise treat the waste unless authorized as a treatment facility.]

**[§330.1219. Treatment and Disposal of Medical Waste.]**

[(a) Treatment requirements for medical waste shall be as follows.]

[(1) Medical waste shall be treated in accordance with the provisions of 25 TAC §1.136 (relating to Approved Methods of Treatment and Disposition). Alternative

treatment technologies may be approved in accordance with requirements found in 25 TAC §1.135 (relating to Performance Standards for Commercially-Available Alternate Treatment Technologies for Special Waste from Health Care-Related Facilities).]

[(2) A generator of 50 pounds or less per calendar month of medical waste that treats all or part of the wastes on-site shall maintain a written record that, at a minimum, contains the following information:]

[(A) the date of treatment;]

[(B) the amount of waste treated;]

[(C) the method/conditions of treatment;]

[(D) the name (printed) and initials of the person(s) performing treatment; and]

[(E) if applicable, name, address, telephone number, and registration number of the entity providing treatment.]

[(3) A generator of more than 50 pounds per calendar month of medical waste that treats all or part of the wastes on-site and persons that treat medical wastes off-

site shall maintain a written record that, at a minimum, contains the following information for each batch of waste treated:]

[(A) the date of treatment;]

[(B) the amount of waste treated;]

[(C) the method/conditions of treatment;]

[(D) the name (printed) and initials of the person(s) performing treatment; and]

[(E) a written procedure for the operation and testing of any equipment used and a written procedure for the preparation of any chemicals used in treatment.]

[(i) The operator shall demonstrate a minimum four log ten reduction (as defined in 25 TAC §1.132 (relating to Definitions)) on routine performance testing using appropriate Bacillus species biological indicators (as defined in 25 TAC §1.132). The operator shall conduct testing at the following intervals:]

[I] for generators of more than 50 pounds but less than or equal to 100 pounds per month, testing shall be conducted at least once per month;]

[II] for generators of more than 100 pounds but less than or equal to 200 pounds per month, testing shall be conducted at least biweekly; and]

[III] for generators of more than 200 pounds per month and persons that treat medical wastes off-site, testing shall be conducted at least weekly.]

[ii] For those processes that the manufacturer has documented compliance with the performance standard prescribed in 25 TAC §1.135 based on specified parameters (for example, pH, temperature, pressure, etc.), and for previously approved treatment processes that a continuous readout and record of operating parameters is available, the operator may substitute routine parameter monitoring for biological monitoring. The operator shall confirm that any chemicals or reagents used as part of the treatment process are at the effective treatment strength. The operator will maintain records of operating parameters and reagent strength, if applicable, for three years.]

[iii] The manufacturer of single-use, disposable treatment units shall be responsible for maintaining adequate quality control for each lot of single-use products. The treating facility or entity shall be responsible for following the manufacturer's instructions.]

[(iv) Owners or operators of medical waste incinerators shall comply with the requirements in §111.123 of this title (relating to Medical Waste Incinerators) in lieu of biological or parametric monitoring.]

[(b) Requirements for disposal of medical wastes that have been treated in accordance with the provisions of 25 TAC §1.136 are as follows.]

[(1) Treated microbiological waste, blood, blood products, body fluids, laboratory specimens of blood and tissue, and animal bedding may be disposed of in a permitted landfill in accordance with the provisions of subsection (e) of this section. Any markings that identify the waste as a medical waste shall be covered with a label that identifies the waste as treated medical waste. The identification of the waste as treated may be accomplished by the use of color-coded, disposable containers for the treated waste or by a label that states that the contents of the disposable container have been treated in accordance with the provisions of 25 TAC §1.136.]

[(2) Treated carcasses and body parts of animals designated as a medical waste may, after treatment, be disposed of in a permitted landfill in accordance with the provisions of §330.171(c)(2) of this title. The collection and transportation of these wastes shall conform to the applicable local ordinance or rule, if such ordinance or rule is more stringent than these sections.]

[(3) Treated recognizable human body parts, tissues, fetuses, organs, and the products of human abortions, spontaneous or induced, shall not be disposed of in a municipal solid waste landfill. These items shall be disposed of in accordance with the provisions of 25 TAC §1.136(a)(4).]

[(4) Treated sharps shall be disposed of as follows.]

[(A) Broken glassware and pipets may be placed in puncture-resistant packaging and discarded in a Type I or Type IAE municipal solid waste landfill.]

[(B) Whole hypodermic needles, syringes with attached needles, scalpel blades, and/or razors shall be placed in containers designed for sharps that is marked or labeled as containing treated waste.]

[(C) Sharps placed in containers designed for sharps may be encapsulated by addition of an agent to the container that will solidify and encase the contents of the container with a solid matrix. The agent must completely fill the container. The container and solidified contents must withstand an applied pressure of 40 pounds per square inch without disintegration. The container shall be identified as containing sharps that have been encapsulated in accordance with this subparagraph and may be discarded in a Type I or Type IAE municipal solid waste landfill.]

[(D) Sharps that have been treated by an approved method that incorporates grinding and/or shredding may be disposed in a Type I or Type IAE municipal solid waste landfill if the sharps have been made unrecognizable and significantly reduced in ability to cause puncture wounds.]

[(c) Unused hypodermic needles, syringes with attached needles, and scalpel blades shall be disposed of as treated sharps as specified in subsection (b)(4)(B) - (D) of this section.]

[(d) Operators of medical waste treatment equipment shall use backflow preventers on any potable water connections to prevent contamination of potable water supplies.]

[(e) Treated medical waste may be managed as routine municipal solid waste. Treated medical waste that contains whole, nonencapsulated hypodermic needles or syringes or intact red bags that are sent to a landfill for disposal shall be accompanied by a shipping document that includes a statement that the shipment contains whole, nonencapsulated hypodermic needles or syringes or intact red bags, as applicable, and that the medical waste was treated in accordance with 25 TAC §1.136 of this title (relating to Approved Methods of Treatment and Disposition).]

**[\$330.1221. On-Site Treatment Services on Mobile Treatment Units.]**

[(a) The requirements of this section are applicable to any person that treats medical waste on mobile treatment units on the site of generation, but is not the generator of the waste.]

[(b) Persons that claim a registration by rule shall maintain a copy of the registration form, as annotated by the commission with an assigned registration number, at their designated place of business and in each mobile treatment unit used in treating medical waste.]

[(c) Requirements for mobile treatment units used in the treatment of medical waste are as follows.]

[(1) Treatment units used in the treatment of medical waste shall:]

[(A) have a fully encloseable, leak-proof, cargo carrying body, such as a cargo compartment or box trailer; and]

[(B) carry spill cleanup equipment including, but not limited to, disinfectants, absorbent materials, personal protective equipment, such as gloves, coveralls, and eye protection, and leakproof containers or packaging materials.]

[(2) The cargo compartment of the vehicle and any self-contained treatment unit(s) shall:]

[(A) be maintained in a sanitary condition;]

[(B) be secured when the vehicle is in motion;]

[(C) be made of such impervious, non-porous materials as to allow adequate disinfection/cleaning of the compartment or unit(s); and]

[(D) have all discharge openings securely closed during operation of the vehicle.]

[(d) Mobile treatment units used in the treatment of medical waste shall not be used to transport any other material until the unit has been cleaned and disinfected. A written record of the date and the process used to clean and disinfect the unit shall be maintained for three years unless the executive director requires a longer holding period. The record must identify the unit by motor vehicle identification number or license tag number. The owner of the unit, if not the registrant, shall be notified in writing that the unit has been used in the treatment of medical waste and when and how the unit was disinfected.]

[(e) Untreated medical waste shall not be commingled or mixed with hazardous waste, asbestos, or radioactive waste regulated under 25 TAC Chapter 289 (relating to Radiation Control) either before or after treatment.]

[(f) Providers of on-site treatment of medical waste on mobile treatment units shall furnish the generator the documentation required in §330.1219(a)(3)(A) - (D) of this title (relating to Treatment and Disposal of Medical Waste) and a statement that the medical waste was treated in accordance with 25 TAC §1.136 of this title (related to Approved Methods of Treatment and Disposition) for the generator's records.]

[(g) Providers of on-site treatment of medical waste on mobile treatment units shall maintain records of all waste treatment, which includes the following information:]

[(1) the name, address, and phone number of each generator;]

[(2) the date of treatment;]

[(3) the amount of waste treated;]

[(4) the method/conditions of treatment;]

[(5) the name (printed) and initials of the person(s) performing the treatment;]

[(6) a written procedure for the operation and testing of any equipment used and a written procedure for the preparation of any chemicals used in treatment. Routine performance testing using biological indicators and/or monitoring of parametric controls shall be conducted in accordance with §330.1219(a)(3)(E) of this title; and]

[(7) identification of performance test failures including date of occurrence, corrective action procedures, and retest dates.]

[(h) Providers of on-site treatment of medical waste on mobile treatment units shall not transport untreated waste unless they are registered in accordance with §330.9 of this title (relating to Registration Required).]

[(i) Providers of on-site treatment of medical waste on mobile treatment units shall ensure adequate training of all operators in the use of any equipment used in treatment.]

[(j) Providers of on-site treatment of medical waste on mobile treatment units shall have a contingency plan available in the event of any malfunction of equipment. If there is any question as to the adequacy of treatment of any load, that load shall be run again utilizing biological indicators to test for microbial reduction before the material is released

for landfill disposal. If the waste must be removed from the facility before treatment is accomplished, a registered transporter shall remove the waste and all other applicable sections of this chapter shall be in effect.]

[k] Owners or operators shall maintain the treatment equipment so as to not result in the creation of nuisance conditions.]

[l] Fees to be assessed of providers of on-site treatment of medical waste on mobile treatment units are as follows.]

[1] Treatment providers are required to pay an annual fee to the agency based upon the total weight of medical waste treated on-site under each provider registration.]

[2] The amount of the annual fee shall be based upon the total weight of medical waste treated on-site.]

[3] The fees shall be determined as follows.]

[A] For a total annual weight of waste treated on-site of 1,000 pounds or less, the fee is \$100.]

[(B) For a total annual weight of waste treated on-site greater than 1,000 but equal to or less than 10,000 pounds, the fee is \$250.]

[(C) For a total annual weight of waste treated on-site greater than 10,000 but equal to or less than 50,000 pounds, the fee is \$400.]

[(D) For a total annual weight of waste treated on-site greater than 50,000 pounds, the fee is \$500.]

[(4) The annual fee for each provider of on-site treatment of medical waste on mobile treatment units shall accompany the owner or operator's original or renewal registration by rule claim and shall be submitted in the form of a check or money order made payable to the Texas Commission on Environmental Quality and delivered or mailed to: Cashiers Office, Texas Commission on Environmental Quality, P.O. Box 13088, Austin, Texas 78711-3088.]

[(m) Providers of on-site treatment of medical waste on mobile treatment units shall submit to the executive director an annual summary report of their activities for the calendar year from January 1 through December 31 of each year. The report shall be submitted no later than March 1 of the year following the end of the report period and shall contain all the information required in subsection (g) of this section.]