From:
Sent: Tuesday, August 25, 2015 9:31 PM
To: MSWPER
Subject: Medical Waste Rule Revisions

TO WHOM IT MAY CONCERN:

This is in regards to the recent open discussion meeting hosted by the TCEQ, about Medical Waste Rule Revisions. I submit these comments on behalf of my company.

- Transporters of medical waste should be allowed to transfer between company owned and registered medical waste transport vehicles, this will enable medical waste to be transferred from short range or local vehicles, to long range travel vehicles. This is a more efficient way than having to manage schedules of vehicle capacity when vehicles are picking up from the generators.
- This is also a more efficient way to handle weighing and labeling medical waste for the generators, especially large generators.
- This should state also this is only between company owned and vehicles registered as medical waste transport units, along with all proper financial assurance.
- Transporters should be authorized to remove medical waste from transport vehicles for the purpose of weighing and labeling boxes of regulated medical waste.
- Refrigeration requirements should be lifted when picking up medical waste that is old or aged, transporters see a lot of medical waste that has been stored by generators for months, in closets and rooms, then once it is picked up by transporters a refrigeration requirement is in effect after 72 hours.
- This is an invalid requirement as it may have been in storage by generators for months on end without this requirement.
- Low quantity (low volume) transfer stations should be allowed in incorporated areas, In order to serve those areas.

Sincerely,

From:
Sent: Tuesday, August 25, 2015 11:02 PM
To: MSWPER
Subject: Medical Waste Rule Revisions

I'd encourage the TCEQ to consider the need for section 330.1213:

'**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).

Medical Waste collected from a generator is individually containerized. Moving the waste from one vehicle to another poses no more damage to human health and the environment than moving the waste from the generator to the RMW transport vehicle. Traditionally a transfer of waste requires that the waste touch the ground or be comingled with waste from another generator. RMW is containerized per generator and transferring containers from one vehicle to another should never encounter a situation where the actual waste is comingled or removed from the container. If the concern is a leaking container, consider adding some spill cleanup procedures rather than prohibiting the practice all together.

Thanks for letting us be a part of this process –

From:
Sent: Tuesday, August 25, 2015 3:11 PM
To: MSWPER
Cc:
Subject: Medical Waste Rule Revisions

Dear Mr. Perez:

Please find attached some suggestions for changes to 330.Y. Medical Waste Rules per your request at the meeting last Tuesday August 18th in Austin.
In an attempt to make this easier to follow, I used a Word Version of the chapter and employed the Track Changes tool in Word. My comments are in red either the section I am interested in commenting on, or at the end of the document if it is currently unaddressed.
If you have any questions or need further clarification, please feel free to contact me.
Sincerely,

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
Effective March 27, 2006

▪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.

Adopted March 1, 2006 Effective March 27, 2006

▪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).

Adopted March 1, 2006 Effective March 27, 2006

▪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.

Adopted March 1, 2006 Effective March 27, 2006

§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. Option for paperless manifests should be offer and defined.

(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. Mention UN3291 Packaging Requirements from the DOT

(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.

Free liquids should only be allowed in a sealed plastic container if cardboard boxes are used by the customer. Optional if a rigid plastic tub is used for the transport container.

(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 "CAUCIÓN, 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. Weight has no relevance in the shipment. The date of shipment helps determine the transit time to the disposal facility. It can be of particular need for the storage, but is very important if the waste is to be transferred to a site some distance away, such as incineration waste collected long distances away from the disposal site.

(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. Letter in 1/2" are very difficult to fit onto many normal label sizes that may be obtained in quantity. The added cost of does not justify the reason for having ½" letter.

(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. Other options than USPS exist that should be available to generators and disposal sites.

(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. Almost no container is "leakproof" by definition. The DOT has developed a reasonable packaging rule that can be substituted for this language.

(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.

Adopted March 1, 2006 Effective March 27, 2006

▪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. This rule should be applied to generators with a maximum time limit for onsite storage at their site.

(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. Again, generators should bear the responsibility for some part of this rule, possibly to a lesser degree, but still in the interest of cleanliness and environmental responsibility the generators should not be able to store for an unlimited time.

Adopted March 1, 2006 Effective March 27, 2006

§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; Why should be sides be of impervious material? A spill of medical waste does not generate large amounts of liquid.

(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. There are things that can reasonably be transported with medical waste in sealed containers, such as hazardous waste, universal waste and APHIS Waste.

(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). Financial Assurance is a reasonable request, but the style and manner it is currently requested limits the amount of money available to the TCEQ for a cleanup, and puts onerous requirements on the Transporter. A valid, properly defined insurance policy with higher limits and the appropriate language would do a better job with significantly less expense to the transporter.

(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. Stamps should be acceptable for the signature

(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. When multiple parties are involved in the transportation of the waste, there is a breakdown in the documentation to comply with this rule. Small transporters who take medical waste to a permitted site for treatment often collect incineration waste that should be transferred to the only incinerator in the State of Texas.

(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. If the Transporter is only a Transporter and does not have their own facility for accepting untreated medical waste, is it the responsibility of the accepting facility to make sure this rule is enforced properly? In other words, if the treatment facility accepts any untreated medical waste, do they also accept the compliance of the packaging, labeling and integrity of the containers? If so, and I would think the accepting facility does take responsibility for these things, it should be defined in the rules.

(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.

Adopted March 1, 2006 Effective March 27, 2006

§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. Transfers should also include untreated medical waste that may come to a permitted transfer facility on a single manifest with a portion of the untreated waste to be transferred to another facility for treatment. To explain, currently separate manifests are not required for a pickup at a generator to list all the types of untreated medical waste collected. That single manifest may have standard “red bag” waste, pharmaceutical waste, pathological waste and trace chemotherapeutic waste. The boxes should have a label, but the accompanying manifest for the pickup does not separate them. If the first treatment facility can only treat the red bag waste by their permit, and all the other waste needs to be transferred to an incinerator, then new paperwork needs to be generated. Currently this is a confusing situation, especially for companies that are only a Transporter. There should be a further definition as to how this can best be handled and documented, for the operating companies and for the regulatory bodies that will inspect the manifests.

Adopted March 1, 2006 Effective March 27, 2006

§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. Please address the "option" for the public to come to a treatment facility to deliver their home generated sharps and other untreated medical waste for proper treatment.

(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.

Adopted March 1, 2006 Effective March 27, 2006

▪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).

Adopted March 1, 2006 Effective March 27, 2006

▪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.

Unaddressed Items:

Dental offices are required by many POTW facilities to capture any Amalgam residual that is generated during their normal activities. The method they use to capture this material is a filter that is placed in the waste water discharge from their treatment rooms. That filter needs to be changed on a regular basis, and they are allowed to place the filter in the normal solid waste receptacle given the fact that almost all dentists are Conditionally Exempt Small Quantity Generators. A large number of them choose to place those filters in the untreated medical waste collection system. The sad result is large quantities of Hg being sent to medical waste treatment facilities that are unaware of the presence of the material in the container, and if treated by any technology that uses heat, steam, fire or chemical turns the material directly into the waste water or air pollution that the original intent of the filter was trying to solve. If regulatory change is not capable of addressing this issue, a Guidance Document from the agency should be a minimum result to address this problem.

Pharmaceutical waste in a non-hazardous form needs further definition as to the appropriate means of disposal, or method of rendering the material non-reusable though maceration or shredding.

Buffer Zone issues are addressed in House Bill 2244, and should be addressed at each registered treatment facility, regardless of whether they are old or new under the rules. The application of this rule has caused a number of problems for registered treatment facilities and really shouldn’t be allowed to exist any longer.

August 26, 2015

Mr. Mario Perez MC 124
TCEQ
P.O. Box 13087
Austin, Texas 78711-3087

Re: TCEQ Medical Waste Rule Revisions - Informal Comments

Dear Mr. Perez:

appreciates the opportunity to provide informal comments supporting the TCEQ rulemaking initiative as required by HB 2244. fully supports TCEQ's efforts and finds the regulatory structure the agency is proposing to be very workable.

An appropriate regulatory framework with clear requirements will guide generators, processors and disposers to ensure they protect human health and the environment and will comply on a level playing field. We applaud TCEQ's success in these areas and appreciate the benefits from these robust regulatory programs.

Toward that end, waste management programs in general spell out requirements with which generators must comply to ensure their waste is appropriately classified and managed at the point of generation. This same approach follows through the processing and treatment of waste and then ultimately to the disposal of these wastes. Further, this approach follows for most if not all solid waste programs in Texas including hazardous waste, industrial waste and municipal waste and for wastes generated in the remediation context. feels strongly that this same approach must be incorporated into the medical waste program and particularly for medical waste generators.

enjoys solid relationships with our colleagues that generate, process, transport and dispose of many forms of regulated waste streams including medical waste. Also, is aware that even in a highly regulated environment with clear rule language as a guide, issues with nonconforming wastes can plague any waste program.

Appropriate requirements must be incorporated into the TCEQ Medical Waste Rule Revisions to ensure that generators have the solid regulatory framework they need to ensure accountability and compliance as the waste they generate is processed, transported and ultimately disposed of. This will allow all regulatory entities that will manage this waste to ensure they remain in full compliance.

looks forward to working with the TCEQ in the development of this rule and will be happy to assist you at your convenience. If you have any questions or need additional information, please do not hesitate to contact me at

Sincerely,

From:
Sent: Wednesday, August 26, 2015 3:59 PM
To: MSWPER
Cc:
Subject: Medical Waste Rule Revision

On behalf of several of our clients who are members of the regulated community, is submitting the following comments for consideration during the rule revision required by House Bill (HB) 2244. While HB 2244 identifies specific MSW regulatory requirements that are not applicable to medical waste processing facilities, the comments below identify suggested regulatory changes to afford transporters and/or operators the ability to maintain compliance and stay current with industry practices.

1. **Comment:** Box Weight. §330.1207(c)(5) states that 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 of the shipment. Additionally, §330.1211 (g) also identifies that the transporter shall initiate and maintain a record of each waste shipment that includes the weight of the waste or if certified scales are not available, the number of containers. The generator will be furnished the total weight of the containers within 45 days.

Suggested Change: It is suggested that 330.1207(c)(5) be changed to read, *The generator shall affix to each container a label that contains the name and address of the generator, the weight or total number of containers collected and contents of the container, and either the date of shipment or an identification number of the shipment.*

The language change suggested for §330.1211(g) is, *the transporter shall furnish the generator a signed receipt for each shipment at the time of the 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 or total number of containers 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.*

2. **Comment:** Truck Breakdown. The current requirements for Transfer of Shipments of Medical Waste, §330.1213(1), states: *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*. There are scenarios where a registered transport unit breaks down and a rental truck must be obtained for transportation of the waste shipment. The rental trucks are only used on a short-term basis, typically 24-72 hours. In order to comply with §330.9(l) relating to registration by rule, the transporter's registration must be updated accordingly. As a result, transporters in this situation are currently updating their registration to add the rental vehicle and then updating the registration to remove the rental vehicle, even though the rental vehicle was in medical waste transport for a very limited time.

Suggested Change: It is suggested that §330.1213 (1) be changed to read: *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. Update to the Transporters Registration is required when the new unit is placed in medical waste transport service for a period of time exceeding 5 days. When using a unit not registered, the Transporter shall comply with §330.1211(c).* No changes to §330.9(l) are required.

3. **Comment:** Labeling Requirements. The current requirements found in 30 TAC §330.1207 (c) (7) state: *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.* Compliance with the requirement is burdensome as readily available labels are not of sufficient size to include all the required information without having to manipulate the font to reduce text width and/or abbreviate generator information to ensure all required information is able fit the available label space with letters at least 0.5 inch in height. DOT regulations relating to label specifications at *40 CFR §172.407* requires that elements of the label remain clearly visible and have a minimum text sizes ranging from 0.2 – 0.3 inches in height (not including the size for hazard class number, or division number).

Suggested Change It is suggested that the rule be revised to state: *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~~ 0.2 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.*

4. **Comment:** Impervious flooring. §330.1211(c)(2)(D) states that the cargo compartment shall *have floors and sides made of an impervious, nonporous material.* The leaking of free liquids is not a concern in the medical waste stream due to generator packaging requirements for free liquids, which specify use of absorbent material sufficient to absorb 150% of the volume of free liquids and containers are certified as Packing Group II (PGII) containers meeting DOT rules. The transportation of other municipal, industrial and hazardous waste streams do not have the regulatory burden of special cargo compartments. Additionally, in the event of a transportation unit malfunction, industry will typically need to rent an additional vehicle. Obtaining rental vehicles with impervious flooring is difficult and not always available.

   Suggested Change It is suggested that §330.1211 (c)(2)(D) be revised to read: ~~have floors and sides made of an impervious, nonporous material.~~ *The cargo compartment shall be constructed and maintained to prevent loss of waste material and minimize health and safety hazards to solid waste management personnel, the public, and the environment*.

5. **General Comment:** We respectfully request that TCEQ consider coordinating with Department of State Health Services (formerly TDH) to evaluate the need to regulate

companies (e.g. trauma scene cleanup, emergency response) that are hired to transport a material that would be similar to those waste streams included in the definition of medical waste.

Regards,

August 27, 2015

Texas Commission on Environmental Quality
Waste Permits Division
Ms. Gulay Aki – Program Lead
Mr. Mario Perez, Project Manager
P.O. Box 13087
Austin, TX 78711

Submitted Via Email

Re: Comments to Medical Waste Management Regulations - Pre-Rulemaking

Thank you for the opportunity to provide recommendations on the Medical Waste Rule Revisions. is a publicly traded company that employs over 10,000 people in the United States. Within the state of Texas employs approximately 1,200 employees with 3 operating autoclave treatment facilities, 2 mobile treatment operations and 5 registered medical waste transportation facilities, located throughout the state. takes matters regarding the Texas Commission on Environmental Quality (TCEQ) regulations as it relates to regulated medical waste and all matters of safely handling regulated medical waste very seriously. To further this effort, we have always taken the opportunity to communicate with TCEQ on the regulations as permitted by law or when requested. We find this a unique opportunity to provide our comments during the rule making as directed by House Bill 2244. We recognize that these regulations are on a tight timeline and will work with the department to address any questions regarding our comments as quickly as possible.

In order to provide the most direct comment to each section of the current regulations under TAC 330 applicable to regulated medical waste, we have highlighted and made comment within each relevant Subchapter. The following is a list of the Subchapters, which we feel, would need to be addressed in the new regulations:

- SUBCHAPTER A GENERAL INFORMATION
- SUBCHAPTER B PERMIT AND REGISTRATION APPLICATION PROCEDURES
- SUBCHAPTER C MUNICIPAL SOLID WASTE COLLECTION AND TRANSPORTATION
- SUBCHAPTER E OPERATIONAL STANDARDS FOR MUNICIPAL SOLID WASTE STORAGE AND PROCESSING UNITS
- SUBCHAPTER M LOCATION RESTRICTIONS
- SUBCHAPTER Y MEDICAL WASTE MANAGEMENT

The following are Subchapters which were reviewed. However, these Subchapters do not contain relevant information directly related to the management of medical waste. We did not feel these should be included in the regulations or may be included by reference (noted below):

- SUBCHAPTER D OPERATIONAL STANDARDS FOR MUNICIPAL SOLID WASTE LANDFILL FACILITIES
- SUBCHAPTER F ANALYTICAL QUALITY ASSURANCE AND QUALITY CONTROL
- SUBCHAPTER G SURFACE WATER DRAINAGE
- SUBCHAPTER H LINER SYSTEM DESIGN AND OPERATION
- SUBCHAPTER I LANDFILL GAS MANAGEMENT

- SUBCHAPTER J GROUNDWATER MONITORING AND CORRECTIVE ACTION
- SUBCHAPTER K CLOSURE AND POST-CLOSURE - We would recommend that the department look at the applicability of certain aspects of this requirement as it relates to the relevance of medical waste facilities (330.459, 330.461()(2)&(3))
- SUBCHAPTER L CLOSURE, POST-CLOSURE, AND CORRECTIVE ACTION COST ESTIMATES - We would recommend that the department look at the applicability of certain aspects of this requirement as it relates to the relevance of medical waste facilities. (330.505(a)(2)(A)-(C))
- SUBCHAPTER N LANDFILL MINING
- SUBCHAPTER O REGIONAL AND LOCAL SOLID WASTE MANAGEMENT PLANNING AND FINANCIAL ASSISTANCE GENERAL PROVISIONS
- SUBCHAPTER P FEES AND REPORTING – Much of the reporting and fees are already structured in section Y. There may be aspects of this that need to be considered for the new regulations.
- SUBCHAPTER S ASSISTANCE GRANTS AND CONTRACTS
- SUBCHAPTER T USE OF LAND OVER CLOSED MUNICIPAL SOLID WASTE LANDFILLS
- SUBCHAPTER U STANDARD AIR PERMITS FOR MUNICIPAL SOLID WASTE LANDFILL FACILITIES AND TRANSFER STATIONS

Additionally, has reviewed the **Off Site Treatment Administrative and Technical Review Checklist for Type V Medical Waste Processing Facilities**. This checklist will have to be modified accordingly per the new regulations with appropriate references (also attached and highlighted with sections we recommend to be reviewed).

has worked at the State and Federal level in modifying and updating other medical waste regulations. Recently, States like Colorado and Pennsylvania have updated their regulations recognizing the changing landscape of healthcare waste; we would also recommend looking at these regulations as a guiding point. Additionally, Federal Department of Transportation has made modifications to their rules which will need to be reviewed during this evaluation and development of regulations.

is committed to ensuring compliant services, protecting the environment and safety of our workers. We know this new effort will go a long way in laying the foundation for the best management of healthcare waste for all. We appreciate the opportunity to provide this information and look forward to continuing to work with the department. Please feel free to contact me if you have any further questions at

Respectfully submitted,

Enclosures

SUBCHAPTER A: GENERAL INFORMATION
§§330.1, 330.3, 330.5, 330.7, 330.9, 330.11, 330.13, 330.15, 330.17, 330.19, 330.21, 330.23, 330.25
Effective July 31, 2014

§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 it 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 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).

Adopted March 1, 2006 Effective March 27, 2006

§330.3. Definitions.

Unless otherwise noted, all terms contained in this section are defined by their plain meaning. This section contains definitions for terms that appear throughout this chapter. Additional definitions may appear in the specific section to which they apply. The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

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

(2) **Active disposal area**--All landfill working faces and areas covered with daily and alternative daily cover.

(3) **Active life**--The period of operation beginning with the initial receipt of solid waste and ending at certification/completion of closure activities in accordance with §§330.451 - 330.459 of this title (relating to Closure and Post-Closure).

(4) **Active portion**--That part of a facility or unit that has received or is receiving wastes and that has not been closed in accordance with §§330.451 - 330.459 of this title (relating to Closure and Post-Closure).

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

(6) **Ancillary equipment**--Any device that is used to distribute, meter, or control the flow of solid waste from its point of generation to a storage or processing tank(s), between solid waste storage and processing tanks to a point of disposal on-site, or to a point of shipment for disposal off-site. Such devices include, but are not limited to, piping, fittings, flanges, valves, and pumps.

(7) **Animal crematory**--A facility for the incineration of animal remains that meets the following criteria:

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

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

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

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

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

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

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

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

F, 40 CFR Part 763, §1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

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

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

(11) **ASTM**--The American Society for Testing and Materials.

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

(A) primary batteries (dry cells);

(B) storage or secondary batteries;

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

(D) fuel cells.

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

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

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

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

(17) **Boiler**--An enclosed device using controlled flame combustion and having the following characteristics.

(A) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases.

(B) The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design:

(i) process heaters (units that transfer energy directly to a process stream); and

(ii) fluidized bed combustion units.

(C) While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60%, calculated in terms of the recovered energy compared with the thermal value of the fuel.

(D) The unit must export and utilize at least 75% of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps.

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

(19) **Buffer zone**--A zone free of municipal solid waste processing and disposal activities within and adjacent to the facility boundary on property owned or controlled by the owner or operator.

(20) **Citizens' collection station**--A facility established for the convenience and exclusive use of residents (not commercial or industrial users or collection vehicles), except that in small communities where regular collections are not available, small quantities of commercial waste may be deposited by the generator of the waste. The facility may consist of one or more storage containers, bins, or trailers.

(21) **Class 1 wastes**--Any industrial solid waste or mixture of industrial solid wastes that because of its concentration, or physical or chemical characteristics is toxic, corrosive, flammable, a strong sensitizer or irritant, a generator of sudden pressure by decomposition, heat, or other means, or may pose a substantial present or potential danger to human health or the environment when improperly processed, stored, transported, or disposed of or otherwise managed, as further defined in §335.505 of this title (relating to Class 1 Waste Determination).

(22) **Class 2 wastes**--Any individual solid waste or combination of industrial solid waste that are not described as Hazardous, Class 1, or Class 3 as defined in §335.506 of this title (relating to Class 2 Waste Determination).

(23) **Class 3 wastes**--Inert and essentially insoluble industrial solid waste, usually including, but not limited to, materials such as rock, brick, glass, dirt, and certain plastics and rubber, etc., that are not readily decomposable, as further defined in §335.507 of this title (relating to Class 3 Waste Determination).

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

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

(26) **Commence physical construction**--The initiation of physical on-site construction on a site for which an application to authorize a municipal solid waste management unit is pending, the construction of which requires approval of the commission. Construction of actual waste management units and necessary appurtenances requires approval of the commission, but other features not specific to waste management are allowed without commission approval.

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

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

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

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

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

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

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

(34) **Container**--Any portable device in which a material is stored, transported, or processed.

(35) **Contaminate**--To alter the chemical, physical, biological, or radiological integrity of ground or surface water by man-made or man-induced means.

(36) **Contaminated water**--Leachate, gas condensate, or water that has come into contact with waste.

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

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

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

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

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

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

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

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

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

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

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

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

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

(50) **Existing municipal solid waste landfill unit**--Any municipal solid waste landfill unit that received solid waste as of October 9, 1993.

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

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

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

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

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

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

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

(58) **Generator**--Any person, by site or location, that produces solid waste to be shipped to any other person, or whose act or process produces a solid waste or first causes it to become regulated.

(59) **Grease trap waste**--Material collected in and from a grease interceptor in the sanitary sewer service line of a commercial, institutional, or industrial

food service or processing establishment, including the solids resulting from dewatering processes.

(60) **Grit trap waste**--Grit trap waste includes waste from interceptors placed in the drains prior to entering the sewer system at maintenance and repair shops, automobile service stations, car washes, laundries, and other similar establishments.

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

(62) **Hazardous waste**--Any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, 42 United States Code, §§6901 *et seq*., as amended.

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

(64) **Household waste**--Any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas); does not include brush.

(65) **Incinerator**--Any enclosed device that:

(A) uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace, as defined in §335.1 of this title (relating to Definitions); or

(B) meets the definition of infrared incinerator or plasma arc incinerator.

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

(67) **Inert material**--A natural or man-made nonputrescible, nonhazardous material that is essentially insoluble, usually including, but not limited to, soil, dirt, clay, sand, gravel, brick, glass, concrete with reinforcing steel, and rock.

(68) **Infrared incinerator**--Any enclosed device that uses electric-powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and is not listed as an industrial furnace as defined in §335.1 of this title (relating to Definitions).

(69) **Injection well**--A well into which fluids are injected.

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

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

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

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

(74) **Land treatment unit**--A solid waste management unit at which solid waste is applied onto or incorporated into the soil surface and that is not a corrective action management unit; such units are disposal units if the waste will remain after closure.

(75) **Landfill**--A solid waste management unit where solid waste is placed in or on land and which is not a pile, a land treatment unit, a surface impoundment, an injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.

(76) **Landfill cell**--A discrete area of a landfill.

(77) **Landfill mining**--The physical procedures associated with the excavation of buried municipal solid waste and processing of the material to recover material for beneficial use.

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

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

(80) **License**--

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

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

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

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

(83) **Low volume transfer station**--A transfer station used for the storage of collected household waste limited to a total storage capacity of 40 cubic yards located in an unincorporated area that is not within the extraterritorial jurisdiction of a city.

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

(85) **Medical waste**--Treated and untreated special waste from health care-related facilities that is comprised of animal waste, bulk blood, bulk human blood, bulk human body fluids, microbiological waste, pathological waste, and sharps as those terms are defined in 25 TAC §1.132 (relating to Definitions) from the sources specified in 25 TAC §1.134 (relating to Application), as well as regulated medical waste as defined in 49 Code of Federal Regulations §173.134(a)(5), except that the term does not include medical waste produced on a farm or ranch as defined in 34 TAC §3.296(f) (relating to Agriculture, Animal Life, Feed, Seed, Plants, and Fertilizer), nor does the term include artificial, nonhuman materials removed from a patient and requested by the patient, including, but not limited to, orthopedic devices and breast implants. Health care-related facilities do not include:

(A) single or multi-family dwellings; and

(B) hotels, motels, or other establishments that provide lodging and related services for the public.

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

(87) **Municipal hazardous waste**--Any municipal solid waste or mixture of municipal solid wastes that has been identified or listed as a hazardous waste by the administrator, United States Environmental Protection Agency.

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

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

(90) **Municipal solid waste landfill unit**--A discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 Code of Federal Regulations §257.2. A municipal solid waste (MSW) landfill unit also may receive other types of Resource Conservation and Recovery Act Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small-quantity generator waste, and industrial solid waste. Such a landfill may be publicly or privately owned. An MSW landfill unit may be a new MSW landfill unit, an existing MSW landfill unit, a vertical expansion, or a lateral expansion.

(91) **New facility**--A municipal solid waste facility that has not begun construction.

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

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

(94) **Notification**--The act of filing information with the commission for specific solid waste management activities that do not require a permit or a registration, as determined by this chapter.

(95) **Nuisance**--Municipal solid waste that is stored, processed, or disposed of in a manner that causes the pollution of the surrounding land, the contamination of groundwater or surface water, the breeding of insects or rodents, or the creation of odors adverse to human health, safety, or welfare. A nuisance is further set forth in Texas Health and Safety Code, Chapters 341 and 382; Texas Water Code, Chapter 26; and any other applicable regulation or statute.

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

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

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

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

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

(98) **Operating hours**--The hours when the facility is open to receive waste, operate heavy equipment, and transport materials on- or off-site.

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

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

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

(102) **Owner**--The person that owns a facility or part of a facility.

(103) **Permitted landfill**--Any type of municipal solid waste landfill that received a permit from the State of Texas to operate and has not completed post-closure operations.

(104) **Physical construction**--The first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles,

the construction of columns, the laying of underground pipework, or any work beyond the stage of excavation. Physical construction does not include land preparation, such as clearing, grading, excavating, and filling; nor does it include the installation of roads and/or walkways. Physical construction includes issuance of a building or other construction permit, provided that permanent construction commences within 180 days of the date that the building permit was issued.

(105) **Plasma arc incinerator**--Any enclosed device using a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and not listed as an industrial furnace as defined by §335.1 of this title (relating to Definitions).

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

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

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

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

(110) **Polychlorinated biphenyl (PCB)**--Any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances that contains such substance.

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

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

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

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

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

(116) **Process to further reduce pathogens**--The process to further reduce pathogens as described in 40 Code of Federal Regulations Part 503, Appendix B.

(117) **Processing**--Activities including, but not limited to, the extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal, including the treatment or neutralization of waste, designed to change the physical, chemical, or biological character or composition of any waste to neutralize such waste, or to recover energy or material from the waste, or render the waste safer to transport, store, dispose of, or make it amenable for recovery, amenable for storage, or reduced in volume.

(118) **Public highway**--The entire width between property lines of any road, street, way, thoroughfare, bridge, public beach, or park in this state, not privately owned or controlled, if any part of the road, street, way, thoroughfare, bridge, public beach, or park is opened to the public for vehicular traffic, is used as a public recreational area, or is under the state's legislative jurisdiction through its police power.

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

(120) **Qualified groundwater scientist**--A licensed geoscientist or licensed engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has sufficient training in groundwater hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable the individual

to make sound professional judgments regarding groundwater monitoring, contaminant fate and transport, and corrective action.

(121) **Radioactive waste**--Waste that requires specific licensing under 25 TAC Chapter 289 (relating to Radiation Control), and the rules adopted by the commission under the Texas Health and Safety Code.

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

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

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

(125) **Registration**--The act of filing information with the commission for review and approval for specific solid waste management activities that do not require a permit, as determined by this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(141) **Site operating plan**--A document, prepared by the design engineer in collaboration with the facility operator, that provides general instruction to facility management and operating personnel throughout the operating life of the facility in a manner consistent with the engineer's design and the commission's regulations to protect human health and the environment and prevent nuisances.

(142) **Site operator**--The holder of, or the applicant for, an authorization (or license) for a municipal solid waste facility.

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

(144) **Small municipal solid waste landfill**--A municipal solid waste landfill unit (Type IAE) at which less than 20 tons of authorized types of waste are disposed of daily based on an annual average and/or a Type IVAE landfill unit at which less than 20 tons of authorized types of waste are disposed of daily based on an annual average. A Type IAE landfill permit may include additional authorization for a separate Type IVAE landfill unit. If a permit contains dual authorization for Type IAE and Type IVAE landfill units, the permit must designate separate areas for the units and where all disposal cells will be located within each unit.

(145) **Solid waste**--Garbage, rubbish, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:

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

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

(C) waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other

substance or material regulated by the Railroad Commission of Texas under Natural Resources Code, §91.101, unless the waste, substance, or material results from activities associated with gasoline plants, natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants and is hazardous waste as defined by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended (42 United States Code, §§6901 *et seq*.).

(146) **Solid waste management unit**--A landfill, surface impoundment, waste pile, furnace, incinerator, kiln, injection well, container, drum, salt dome waste containment cavern, land treatment unit, tank, container storage area, or any other structure, vessel, appurtenance, or other improvement on land used to manage solid waste.

(147) **Source-separated recyclable material**--Recyclable material from residential, commercial, municipal, institutional, recreational, industrial, and other community activities, that at the point of generation has been separated, collected, and transported separately from municipal solid waste (MSW), or transported in the same vehicle as MSW, but in separate containers or compartments. Source-separation does not require the recovery or separation of non-recyclable components that are integral to a recyclable product, including:

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

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

(C) tramp materials, such as:

(i) glass from recyclable metal windows;

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

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

(iv) pallets and packaging materials.

(148) **Special waste**--Any solid waste or combination of solid wastes that because of its quantity, concentration, physical or chemical characteristics, or biological

properties requires special handling and disposal to protect the human health or the environment. If improperly handled, transported, stored, processed, or disposed of or otherwise managed, it may pose a present or potential danger to the human health or the environment. Special wastes are:

(A) hazardous waste from conditionally exempt small-quantity generators that may be exempt from full controls under Chapter 335, Subchapter N of this title (relating to Household Materials Which Could Be Classified as Hazardous Wastes);

(B) Class 1 industrial nonhazardous waste;

(C) untreated medical waste;

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

(E) septic tank pumpings;

(F) grease and grit trap wastes;

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

(H) slaughterhouse wastes;

(I) dead animals;

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

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

(L) discarded materials containing asbestos;

(M) incinerator ash;

(N) soil contaminated by petroleum products, crude oils, or chemicals in concentrations of greater than 1,500 milligrams per kilogram total

petroleum hydrocarbons; or contaminated by constituents of concern that exceed the concentrations listed in Table 1 of §335.521(a)(1) of this title (relating to Appendices);

(O) used oil;

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

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

(i) any industrial waste;

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

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

(R) lead acid storage batteries; and

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

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

(150) **Storage**--The keeping, holding, accumulating, or aggregating of solid waste for a temporary period, at the end of which the solid waste is processed, disposed, or stored elsewhere.

(A) Examples of storage facilities are collection points for:

(i) only nonputrescible source-separated recyclable material;

(ii) consolidation of parking lot or street sweepings or wastes collected and received in sealed plastic bags from such activities as periodic citywide cleanup campaigns and cleanup of rights-of-way or roadside parks; and

(iii) accumulation of used or scrap tires prior to transportation to a processing or disposal facility.

(B) Storage includes operation of pre-collection or post-collection as follows:

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

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

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

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

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

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

(155) **Tank**--A stationary device, designed to contain an accumulation of solid waste, which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) that provide structural support.

(156) **Tank system**--A solid waste storage or processing tank and its associated ancillary equipment and containment system.

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

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

(159) **Transporter**--A person that collects, conveys, or transports solid waste; does not include a person transporting his or her household waste.

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

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

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

(163) **Uncompacted waste**--Any waste that is not a liquid or a sludge, has not been mechanically compacted by a collection vehicle, has not been driven over by heavy equipment prior to collection, or has not been compacted prior to collection by any type of mechanical device other than small, in-house compactor devices owned and/or operated by the generator of the waste.

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

(165) **Universal waste**--Any of the following hazardous wastes that are subject to the universal waste requirements of Chapter 335, Subchapter H, Division 5 of this title (relating to Universal Waste Rule):

(A) batteries, as described in 40 Code of Federal Regulations (CFR) §273.2;

(B) pesticides, as described in 40 CFR §273.3;

(C) thermostats, as described in 40 CFR §273.4;

(D) paint and paint-related waste, as described in §335.262(b) of this title (relating to Standards for Management of Paint and Paint-Related Waste); and

(E) lamps, as described in 40 CFR §273.5.

(166) **Unloading areas**--Areas designated for unloading, including all working faces, active disposal areas, storage areas, and other processing areas.

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

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

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

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

(171) **Waste acceptance hours**--Those hours when waste is received from off-site.

(172) **Waste management unit boundary**--A vertical surface located at the perimeter of the unit This vertical surface extends down into the uppermost aquifer.

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

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

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

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

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

(178) **Wetlands**--As defined in Chapter 307 of this title (relating to Texas Surface Water Quality Standards).

(179) **White goods**--Discarded large household appliances such as refrigerators, stoves, washing machines, or dishwashers.

(180) **Working face**--Areas in a landfill where waste has been deposited for disposal but has not been covered.

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

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§330.5. Classification of Municipal Solid Waste Facilities.

(a) The commission has classified all municipal solid waste (MSW) facilities according to the method of processing or disposal of MSW. Subject to the limitations in §§330.15, 330.171, and 330.173 of this title (relating to General Prohibitions; Disposal of Special Wastes; and Disposal of Industrial Wastes), and with the written approval of the executive director, Type I, IV, V, and VI MSW facilities may also receive special wastes, including Class 1 industrial solid waste and hazardous waste from conditionally exempt small quantity generators, if properly handled and safeguarded in the facility.

(1) MSW facility - Type I. A Type I landfill unit is the standard landfill for the disposal of MSW. The commission may authorize the designation of special-use areas for processing, storage, and disposal or any other functions involving solid waste. Except as allowed in subsections (b) - (e) of this section, owners or operators shall follow the permit application requirements prescribed in Subchapter B of this chapter (relating to Permit and Registration Application Procedures) and the minimum design and operational requirements of Subchapter D of this chapter (relating to Operational Standards for Municipal Solid Waste Landfill Facilities); Subchapter F of this chapter (relating to Analytical Quality Assurance and Quality Control); Subchapter G of this chapter (relating to Surface Water Drainage); Subchapter H of this chapter (relating to Liner System Design and Operation); Subchapter I of this chapter (relating to Landfill Gas Management); Subchapter J of this chapter (relating to Groundwater Monitoring and Corrective Action); Subchapter K of this chapter (relating to Closure and Post-Closure); Subchapter L of this chapter (relating to Closure, Post-Closure, and Corrective Action Cost Estimates); Subchapter M of this chapter (relating to Location Restrictions); Subchapter T of this chapter (relating to Use of Land Over Closed Municipal Solid Waste Landfills); and Chapter 37, Subchapter R of this title (relating to Financial Assurance for Municipal Solid Waste Facilities). Those landfill units meeting the requirements of subsection (b) of this section shall be referred to as Type IAE landfill units. Type IAE landfill units are authorized to accept the same types of waste as Type I landfill units subject to the limitations in §330.173 of this title, and are exempt from Subchapters H and J of this chapter. Owners or operators of Type I landfill facilities that are authorized to operate a Type IV cell or trench shall operate the cell or trench in accordance with paragraph (2) of this subsection.

(2) MSW facility--Type IV. A Type IV landfill unit may only accept brush, construction, or demolition waste, and/or rubbish. A Type IV landfill unit may not accept putrescible wastes, conditionally exempt small-quantity generator waste, or household wastes. Except as allowed in subsection (b) of this section, owners or operators shall follow the permit application requirements prescribed in Subchapter B of this chapter and the minimum design and operational standards prescribed in Subchapters D, F, and G of this chapter; §§330.331(d), 330.335, 330.337, 330.339, and 330.341 of this title (relating to Liner System Design and Operation); §330.417 of this title (relating to Groundwater Monitoring at Type IV Landfills); §§330.453, 330.463(a), 330.465, and 330.467 of this title (relating to Closure and Post-Closure); Subchapter M of this chapter; and Chapter 37, Subchapter R of this title. Those landfill units meeting the requirements of subsection (b) of this section shall be referred to as Type IVAE landfill units. Type IVAE landfill units are authorized to accept the same types of waste as Type IV landfill units and are exempt from Subchapters H and J of this chapter.

(3) MSW facility--Type V. Separate solid waste processing facilities are classified as Type V. These facilities include processing plants that transfer, incinerate,

shred, grind, bale, salvage, separate, dewater, reclaim, and/or provide other storage or processing of solid waste. Owners or operators shall follow the minimum design and operational requirements prescribed in Subchapter E of this chapter (relating to Operational Standards for Municipal Solid Waste Storage and Processing Units); Subchapter F of this chapter; Subchapter G of this chapter; Subchapter H of this chapter, if required; Subchapter K of this chapter; Subchapter L of this chapter, if financial assurance is required; Subchapter M of this chapter; and Chapter 37, Subchapter R of this title, except that owners and operators of recycling facilities who store combustible material are required to comply with Chapter 37, Subchapter J of this title (relating to Financial Assurance for Recycling Facilities). Groundwater monitoring may be required by the executive director and shall be maintained in accordance with the requirements of Subchapter J of this chapter.

(4) MSW facility--Type VI. A Type VI facility or operation is a facility using a new or unproven method of managing or utilizing MSW, including resource and energy recovery projects for processes that are not currently in use in Texas. The commission may limit the size of these facilities until the method is proven. The minimum operational standards are prescribed in Subchapter E of this chapter.

(5) MSW facility--Type VII. A Type VII facility or operation is a facility for the land management of sludges and/or similar wastes. Operational standards, depending on the particular waste, facility purpose, and method of operation (land application for beneficial use, land disposal to include landfilling and land treatment, etc.) are contained in Chapter 312 of this title (relating to Sludge Use, Disposal, and Transportation).

(6) MSW facility--Type VIII. Facilities for the management of used or scrap tires are classified as Type VIII. Standards are prescribed in Chapter 328, Subchapter F of this title (relating to Management of Used or Scrap Tires).

(7) MSW facility--Type IX. A Type IX facility is an energy, material, gas recovery for beneficial use, or landfill mining facility located within or adjacent to a closed disposal facility, an inactive portion of a disposal facility, or an active disposal facility, used for extracting materials for energy and material recovery or for gas recovery for beneficial use. Registration by rule requirements for facilities that recover landfill gas for beneficial use are prescribed in §330.9(k) of this title (relating to Registration Required). Owners or operators of other Type IX facilities shall follow the registration application requirements prescribed in Subchapter B of this chapter. All owners and operators shall follow the minimum design and operational requirements of Subchapter E of this chapter; §330.459 of this title (relating to Closure Requirements for Municipal Solid Waste Storage and Processing Units); §330.461 of this title (relating to Certification of Final Facility Closure); §330.505 of this title (relating to Closure Cost Estimates for Storage and Processing Units); and Chapter 37, Subchapter R of this title.

Waste mining activities shall also follow the minimum design and operation requirements of §330.149 of this title (relating to Odor Management Plan); §330.151 of this title (relating to Disease Vector Control); §330.165 of this title (relating to Landfill Cover); and §330.167 of this title (relating to Ponded Water). Owners or operators of an MSW landfill facility applying for a non-beneficial use gas control system for any area within the facility's permit boundary shall apply for a permit modification under §305.70 of this title (relating to Municipal Solid Waste Permit and Registration Modifications). Type IX facility permits and registrations previously issued for the recovery and beneficial use of landfill gas are considered to remain valid under applicable permit provisions until amended, modified, or revoked by the commission. The owner or operator must submit all information necessary to complete the air quality review as prescribed by the commission and be approved by the executive director prior to the Type IX registration by rule becoming effective.

(b) Owners or operators of a Type IAE or Type IVAE landfill facility may qualify for an arid exemption, as follows.

(1) Owners or operators of new, existing, and lateral expansions of Type IAE or Type IVAE landfill units may qualify for an arid exemption and be exempt from Subchapters H and J of this chapter, provided all of the following conditions are met:

(A) the facility disposes less than 20 tons per day based on an annual average of authorized waste in a Type IAE landfill unit and/or less than 20 tons per day based on an annual average of authorized waste in a Type IVAE landfill unit for a total waste acceptance rate less than 40 tons per day for the facility considering all waste streams based on an annual average;

(B) there is no evidence of existing groundwater contamination from the facility;

(C) the facility serves a community that has no practicable waste management alternative; and

(D) the facility is located in an area that receives less than or equal to 25 inches of annual average precipitation based on precipitation data from the nearest official precipitation recording station for the most recent 30-year reporting period.

(2) Requests for exemptions under §330.63(d)(5) of this title (relating to Contents of Part III of the Application) may be approved administratively by the executive director, upon demonstration of compliance with all applicable criteria. The executive director may deny an exemption request if the available information indicates that granting the exemption could result in a substantial threat of groundwater contamination. Existing Type IAE landfill permits, which include a 20 tons per day

waste disposal limit, may be revised via a major amendment to allow for disposal of an additional less than 20 tons of authorized waste in a Type IVAE landfill unit located in a separate area of the same facility. Existing Type IAE landfill permits, which do not include a waste disposal limit or include a waste disposal limit in excess of limits allowed for Type IAE landfill units, may be modified consistent with the restrictions for small MSW landfills. Within 180 days of the effective date of the comprehensive rule revisions in this chapter as adopted in 2006 (2006 Revisions), owners and operators of such a permit shall comply with the waste acceptance rate limit for a Type IAE landfill unit or apply to modify such permit to include a Type IVAE landfill unit located in a separate area of the facility. Such permits remain valid until a final decision is made on the modification application. Such a modification must be processed in accordance with §305.70(l) of this title as a modification subject to public notice. Such a modification application must be submitted in conjunction with a corresponding application to modify the revised estimated waste acceptance rate under §330.125(h) of this title (relating to Recordkeeping Requirements).

(3) Owners or operators may appeal denials of a request for exemption to the commission for decision.

(4) If the owner or operator of a new, existing, or lateral expansion of a Type IAE or Type IVAE landfill facility who has previously asserted eligibility for the arid exemption has knowledge or becomes aware of groundwater contamination from the facility within a one-mile radius of the unit, the facility no longer meets the definition of a Type IAE or Type IVAE landfill facility, the waste reduction program is ineffective (based upon an evaluation of trends established after a minimum period of a year), or a practicable alternative becomes available, the owner or operator shall notify in writing the executive director of such condition(s) and thereafter comply with Subchapter B, Subchapter H, and Subchapter J of this chapter on a schedule specified by the executive director.

(5) The executive director may consider the economic investment made by the owner or operator in establishing the schedule for compliance.

(6) The minimum time allowed for compliance necessitated by loss of Type IAE or Type IVAE landfill facility status or availability of a practicable alternative shall be 18 months.

(7) A Type IAE or Type IVAE landfill facility that meets the requirements of this subsection shall maintain the integrity of any existing on-site groundwater monitor wells and make them available to the executive director for the collection of groundwater samples.

(c) For MSW landfills that stopped receiving waste before October 9, 1991, and unauthorized MSW sites, the closure provisions of §330.453 of this title (relating to Closure Requirements for Municipal Solid Waste Landfill Units that Stopped Receiving Waste Prior to October 9, 1991, Type IV Landfills, and Municipal Solid Waste Sites) apply. If not previously submitted, owners or operators shall submit a closure report that documents that MSW landfill units or unauthorized MSW sites, or portions thereof, have received final cover.

(d) MSW landfill units that receive waste after October 9, 1991, but stop receiving waste before October 9, 1993, are subject to the final cover requirements specified in §330.455 of this title (relating to Closure Requirements for Municipal Solid Waste Landfill Units that Received Waste on or after October 9, 1991, but Stopped Receiving Waste Prior to October 9, 1993). The final cover must be installed and certified in accordance with the requirements contained in §§330.451, 330.453, 330.455, and 330.457 of this title (relating to Closure and Post-Closure). Owners or operators of MSW landfill units described in this subsection that fail to complete cover installation and certification within the time limits specified in Subchapter K of this chapter will be subject to all the requirements of these regulations.

(e) All MSW landfill units that receive waste on or after October 9, 1993, must comply with all requirements of these regulations, unless otherwise specified.

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§330.7. Permit Required.

(a) Except as provided in §§330.9, 330.11, 330.13, or 330.25 of this title (relating to Registration Required; Notification Required; Waste Management Activities Exempt from Permitting, Registration, or Notification; and Relationship with County Licensing System), no person may cause, suffer, allow, or permit any activity of storage, processing, removal, or disposal of any solid waste unless such activity is authorized by a permit 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 its waste to be stored, processed, or disposed. No person may commence physical construction of a new municipal solid waste (MSW) management facility, a vertical expansion, or a lateral expansion without first having submitted a permit application in accordance with §§330.57, 330.59, 330.61, 330.63, and 330.65 of this title (relating to Permit and Registration Applications for Municipal Solid Waste Facilities; Contents of Part I of the Application; Contents of Part II of the Application; Contents of Part III of the Application; and Contents of Part IV of the Application, respectively) and received a permit from the commission, except as provided otherwise in this section.

(b) A separate permit is required for the storage, transportation, or handling of used oil mixtures collected from oil/water separators. Any person that intends to conduct such activity shall comply with the regulatory requirements of Chapter 324 of this title (relating to Used Oil Standards).

(c) Permits by rule may be granted for persons that compact or transport waste in enclosed containers or enclosed transportation units to a Type IV facility.

(1) A permit by rule is granted for a generator operating a stationary compactor that is only used to compact waste to be disposed of at a Type IV landfill, if all of the following conditions are met.

(A) The generator submits the following information and any requested additional information on forms provided by the executive director:

(i) generator contact person, company name, mailing address, street address, city, state, ZIP code, and telephone number;

(ii) contract renewal date, if applicable;

(iii) rated compaction capability in pounds per cubic yard;

(iv) container size;

(v) description of waste stream to enter compactor;

(vi) receiving MSW Type IV disposal facility name, permit number, mailing address, street address, city, state, ZIP code, telephone number, and contact person; and

(vii) a certification from the generator that states the following: I, (name) _____, (title) _____ of (company name) _____, located at (street address) _____ in (city) _____, certify that the contents of the compactor located at the location stated herein are free of and shall be maintained free of putrescible, hazardous, infectious, and any other waste not allowed in an MSW Type IV landfill.

(B) The generator submits a $75 fee along with the claim for the permit by rule.

(C) The generator complies with the operational requirements of §330.215 of this title (relating to Requirements for Stationary Compactors).

(D) A stationary compactor permit by rule expires after one year. The generator must submit an annual renewal fee in the amount of $75. Failure to timely pay the annual fee eliminates the option of disposal of these wastes at a Type IV landfill until the generator claims a new or renewed permit by rule.

(2) A permit by rule is granted for transporters using enclosed containers or enclosed vehicles to collect and transport brush, construction or demolition wastes, and rubbish along special collection routes to MSW Type IV landfill facilities if all of the following conditions are met.

(A) The owner or operator seeking a special collection route permit by rule submits to the executive director the following information and any requested additional information on forms provided by the executive director:

(i) name of owner and operator, mailing address, street address, city, state, ZIP code, name and title of a contact person, and telephone number;

(ii) receiving MSW Type IV disposal facility name, permit number, mailing address, street address, city, state, ZIP code, telephone number, and contact person;

(iii) information on each transportation unit, including, at a minimum, license number, vehicle identification number, year model, make, capacity in cubic yards, and rated compaction capability in pounds per cubic yard;

(iv) route information, which shall include as a minimum the collection frequency, the day of the week the route is to be collected, and the day and time span within which the route is to arrive at the MSW Type IV landfill;

(v) a description of the wastes to be transported;

(vi) an alternative contingency disposal plan to include alternate trucks to be used or alternative disposal facilities; and

(vii) a signed and notarized certification from the owner or operator that states the following: I, (name) _____, (title) _____, of _____ operating in _____ County, certify that the contents of the vehicles described above will be free of putrescible, household, hazardous, infectious, or any other waste not allowed in an MSW Type IV landfill.

(B) The transporter submits a $100 per vehicle fee along with the claim for a permit by rule.

(C) The transporter documents each load delivered with a trip ticket form provided by the executive director, and provides the trip ticket to the landfill operator prior to discharging the load.

(D) A special collection route permit by rule expires after one year. The owner or operator must submit an annual renewal fee in the amount of $100 per vehicle. Failure to timely pay the annual fee eliminates the option of disposal of these wastes at a Type IV landfill until the owner or operator claims a new or renewed permit by rule.

(E) This paragraph does not apply if the waste load is from a single collection point that is a stationary compactor authorized in accordance with paragraph (1) of this subsection.

(3) Revision requirements for stationary compactor permits or special collection route permits by rule identified in paragraphs (1) and (2) of this subsection are as follows.

(A) An update must be submitted if any information within the original permit by rule submittal changes.

(B) A submittal to update an existing permit by rule must include all of the same documentation required for an original permit by rule submittal.

(d) A major permit amendment, as defined by §305.62 of this title (relating to Amendments), is required to reopen a Type I, Type IAE, Type IV, or Type IVAE MSW facility permitted by the commission or any of its predecessor or successor agencies that has either stopped accepting waste, or only accepted waste in accordance with an emergency authorization, for a period of five years or longer. The MSW facilities covered by this subsection may not be reopened to accept waste again unless the permittee demonstrates compliance with all applicable requirements of the Resource Conservation and Recovery Act, Subtitle D and the implementing Texas state regulations. If an MSW facility was subject to a contract of sale on January 1, 2001, the scope of any public hearing held on the permit amendment required by this subsection is limited to land use compatibility, as provided by §330.57(a) of this title. This subsection does not apply to any MSW facility that has received a permit but never received waste, or that received an approved Subtitle D permit modification before September 1, 2001.

(e) A permit by rule is granted for an animal crematory that meets the following criteria. For facilities that do not meet all the requirements of this subsection, the owner or operator shall submit a permit application under §§330.57, 330.59, 330.61, 330.63, and 330.65 of this title and obtain a permit. To qualify for a permit by rule under this subsection, the following requirements must be met.

(1) General prohibitions. An animal crematory facility shall comply with §330.15(a) of this title (relating to General Prohibitions).

(2) Incineration limits. Incineration of carcasses shall be limited to the conditions specified in §106.494 of this title (relating to Pathological Waste Incinerators (Previously SE 90)). The facility shall not accept animal carcasses that weigh more than the capacity of the largest incinerator at the facility and shall not dismember any carcasses during processing.

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

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

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

(6) Storage limits. Carcasses must be incinerated within two hours of receipt, unless stored at or below a temperature of 29 degrees Fahrenheit. Storage of carcasses shall be in a manner that minimizes the release of odors. Storage of carcasses shall be limited to the lesser of 3,200 pounds or the amount that can be incinerated at the maximum loading rate for the incinerators at the facility in a two-day period.

(7) Unauthorized waste. Only carcasses or animal parts, with any associated packaging, shall be processed. Carcasses shall not be accepted in packaging that includes any chlorinated plastics. Carcasses or animal parts that are either hazardous waste or medical waste are prohibited.

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

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

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

(11) Buffer zone. An animal crematory, including unloading and storage areas, constructed after March 2, 2003, must be at least 50 feet from the property boundary of the facility.

(12) Operating hours. A crematory shall operate within the time frames allowed by §111.129 of this title (relating to Operating Requirements).

(13) Documentation. The operator of an animal crematory shall document the carcasses' weight, date and time when carcasses are received, and when carcasses are loaded into the incinerator. A separate entry in the records for loading into the incinerator is not required if a carcass is loaded within two hours of receipt. This information will be maintained in records on site.

(14) Breakdown. The facility is subject to §330.241 of this title (relating to Overloading and Breakdown).

(15) Records management. The owner or operator must retain records as follows:

(A) maintain a copy of all requirements of this subsection that apply to the facility;

(B) maintain records for the previous consecutive 12-month period containing sufficient information to demonstrate compliance with all requirements of this subsection;

(C) keep all required records at the facility; and

(D) make the records available upon request to personnel from the commission or from local governments with jurisdiction over the facility.

(16) Fees. An animal crematory facility authorized under this section is exempt from the fee requirements of Subchapter P of this chapter (relating to Fees and Reporting).

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

(f) A permit by rule is granted for a dual chamber incinerator if the owner or operator complies with §106.491 of this title (relating to Dual-Chamber Incinerators).

(g) A permit by rule is granted for an air curtain incinerator if the owner or operator complies with §106.496 of this title (relating to Air Curtain Incinerators). An air curtain incinerator may not be located within 300 feet of an active or closed MSW landfill unit boundary.

(h) A standard air permit is granted for facilities that comply with Subchapter U of this chapter (relating to Standard Air Permits for Municipal Solid Waste Landfill Facilities and Transfer Stations).

(i) A permit by rule is granted for a period of up to five years to a county or municipality with a population of 12,000 people or less to dispose of demolition waste from properties with nuisance or abandoned buildings.

(1) Requirements. The following conditions must be met.

(A) Form submittal. The county or municipality submits a form provided by the commission to the executive director for review and approval before construction begins.

(B) Notice to regional office. The county or municipality notifies the applicable commission regional office of the intent to dispose of waste under this authorization at least 48 hours prior to accepting the first load of waste.

(C) Facility location. The location where disposal will occur:

(i) is owned or controlled by the county or municipality, and

(ii) receives less than or equal to 25 inches average annual precipitation as determined from precipitation data for the nearest official precipitation

recording station for at least the most recent 30-year reporting period or by another method approved by the executive director.

(D) Sources of waste. The properties on which nuisance and abandoned buildings are located have been acquired by the county or municipality by means of bankruptcy, tax delinquency, or condemnation, and the previous owners are not financially capable of paying the costs of the disposal of demolition waste at a permitted solid waste disposal facility, including transportation of the waste to the facility.

(E) Waste acceptance.

(i) Prior to demolition, structures are surveyed and abated, if required, for asbestos-containing materials in accordance with 25 TAC Chapter 295, Subchapter C (relating to Texas Asbestos Health Protection).

(ii) The facility may accept non-regulated asbestos-containing materials (non-RACM) for disposal. The wastes are placed on the active working face and covered at the end of the operating day with at least six inches of soil. Under no circumstances may any of the material containing non-RACM be placed on a surface that is subject to vehicular traffic or disposed of by any other means by which the material could be crumbled into a friable state.

(iii) The facility may accept regulated asbestos-containing materials (RACM) if the following conditions are met.

(I) The county or municipality notifies the executive director on a form provided by the commission in accordance with subparagraph (A) of this paragraph.

(II) All waste trenches are identified as receiving RACM, and deed records required under subparagraph (Q) of this paragraph include an indication that the waste trench(es) received RACM.

(III) RACM is transported and received at the facility in tightly closed and unruptured containers or bags or wrapped with at least six-mil polyethylene.

(IV) Bags or containers holding RACM are carefully unloaded and placed in the final disposal location. RACM is then covered immediately with at least six inches of soil. Care is taken during unloading and placement of RACM and during application of the cover so that the bags or containers are not ruptured.

(iv) Waste is limited to the abandoned or nuisance buildings and materials from the property on which the buildings are located. All waste disposed under this authorization must meet the limitations of §330.5(a)(2) of this title (relating to Classification of Municipal Solid Waste Facilities) and may not include waste prohibited under §330.15(e) of this title.

(F) Access control. Access to the disposal facility is controlled by means of fences, other artificial barriers, natural barriers, or a combination of these methods, and includes a locking gate.

(G) Buffers and easements. The county or municipality maintains a minimum distance of 50 feet as a buffer between the permit boundary and waste storage, processing and disposal areas. No disposal occurs within a utility or pipeline easement or within 25 feet of the center of a utility or pipeline easement.

(H) Below-grade placement. Waste is placed only below grade. The top of final cover is placed at pre-existing grade or up to three feet above pre-existing grade to ensure that natural drainage patterns are not altered and ponding of water over waste is prevented.

(I) Weekly cover. Waste is covered at least weekly with six inches of earthen material not previously mixed with waste, or by tarps. Use of tarps as cover is limited to a seven-day period after which the county or municipality must replace the tarp with either waste or a six-inch layer of earthen material not previously mixed with waste. Tarps may not be used in place of soil cover requirements relating to non-RACM and RACM in subparagraph (E)(ii) and (iii) of this paragraph. Any trench that has received waste but will be inactive for more than 180 days receives intermediate cover in accordance with subparagraph (J) of this paragraph, or final cover in accordance with subparagraph (P) of this paragraph.

(J) Intermediate cover. Waste is covered, including any soil weekly cover, with twelve inches of well compacted earthen material not previously mixed with waste.

(K) Maximum volume. The design waste disposal volume is less than 2.5 million cubic meters in accordance with §106.534(3) of this title (relating to Municipal Solid Waste Landfills and Transfer Stations).

(L) Facility signs. At all entrances through which waste is received, the facility conspicuously displays a sign with letters at least three inches in height providing a statement that the facility is "NOT FOR PUBLIC USE," an emergency 24-hour contact number that reaches an individual with the authority to obligate the facility

at all times that the facility is not in operation, and the local emergency fire department number.

(M) Stormwater and contaminated water. The county or municipality constructs berms to divert the 25-year/24-hour storm event from entering excavations containing waste. Water that has contacted waste is managed as contaminated water and disposed at an authorized treatment facility.

(N) Reporting. The county or municipality, while not required to provide quarterly reporting, provides annual reporting in accordance with the annual reporting provisions of §330.675(a) of this title (relating to Reports).

(O) Reauthorization. Before reaching the permit by rule term limit of five years, the county or municipality may request reauthorization under the permit by rule by submitting a form that is current at the time of reauthorization, provided by the commission in accordance with subparagraph (A) of this paragraph, to the executive director at least 14 days before the end of the permit term.

(P) Final cover. The following conditions are met.

(i) Within 60 days after a trench reaches its capacity or waste deposition activities are complete in a trench, the county or municipality installs final cover over waste in the trench. Final cover shall be composed of no less than two feet of soil. The first 18 inches or more of cover shall be of compacted clayey soil, classification sand clay (SC) or low plasticity clay (CL) as defined in the "Unified Soils Classification System" developed by the United States Army Corps of Engineers, and placed and compacted in layers of no more than six inches to minimize the potential for water infiltration. A high plasticity clayey (CH) soil may be used; however, this soil may experience excessive cracking and shall therefore be covered by a minimum of 12 inches of topsoil to retain moisture. Other types of soil may be used with prior written approval from the executive director. The final six inches of cover shall be of suitable topsoil that is capable of sustaining native plant growth and shall be seeded or sodded as soon as practicable following the application of the final cover in order to minimize erosion.

(ii) The trench final cover procedures listed in clause (i) of this subparagraph are completed before facility closure, as described in subparagraph (Q) of this paragraph. If these procedures cannot be performed before the permit by rule term limit is reached, the county or municipality submits a current application form for reauthorization of the permit by rule to the executive director at least 14 days before the end of the permit term.

(Q) Facility closure. The county or municipality notifies the executive director and the applicable regional office at least 60 days before the

anticipated closure date of the facility. Within ten days after closure, submit to the executive director by registered mail a certified copy of an "affidavit to the public" in accordance with the requirements of §330.19 of this title (relating to Deed Recordation). In addition, record a certified notation of the deed to the facility property, or on some other instrument that is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that the land has been used as a landfill facility and use of the land is restricted. Submit a certified deed to the executive director.

(2) Other provisions. The following provisions also apply to this authorization.

(A) Processing. This permit by rule also authorizes the processing of waste destined for the disposal unit. Authorized processing is limited to volume reduction, such as chipping or grinding, but not burning. Processing must occur within the permit boundary and may not occur within a buffer zone or right-of-way. Tires, RACM and non-RACM may not be processed. If required, the county or municipality must obtain authorization for air emissions resulting from this processing.

(B) Fees. Waste that is disposed under this authorization is not subject to the fee requirements of Subchapter P of this chapter.

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

Adopted July 2, 2014 Effective July 31, 2014

§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.

(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.

(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.

(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).

(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.

(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.

(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.

(l) 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).

(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.

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

Adopted March 1, 2006 Effective March 27, 2006

§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).

(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.

Adopted March 1, 2006 Effective March 27, 2006

§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.

(f) Except as required by §330.7(c)(2) and §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.

(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.

(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.

Adopted March 1, 2006 Effective March 27, 2006

§330.15. General Prohibitions. 

(a) A person may not cause, suffer, allow, or permit the collection, storage, transportation, processing, or disposal of municipal solid waste (MSW), or the use or operation of a solid waste facility to store, process, or dispose of solid waste, or to extract materials under Texas Health and Safety Code, §361.092, in violation of the Texas Health and Safety Code, or any regulations, rules, permit, license, order of the commission, or in such a manner that causes:

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

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

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

(b) MSW land disposal facilities (Types I, IAE, IV, IVAE, and VI) failing to satisfy the applicable requirements of this chapter, unless exempted by this chapter, are considered open dumps for purposes of state solid waste management planning under the Resource Conservation and Recovery Act and are prohibited under Resource Conservation and Recovery Act, §4005(a).

(c) Except as otherwise authorized by this chapter, a person may not cause, suffer, allow, or permit the dumping or disposal of MSW without the written authorization of the commission.

(d) The open burning of solid waste, except for the infrequent burning of waste generated by land-clearing operations, agricultural waste, silvicultural waste, diseased trees, emergency cleanup operations as authorized by the commission or executive

director as appropriate, is prohibited at any MSW landfill. The operation of an air curtain incinerator as allowed in §330.7(g) of this title (relating to Permit Required) other than for the exceptions noted in the previous sentence, is prohibited.

(e) The following wastes are prohibited from disposal in any MSW facility.

(1) A lead acid storage battery shall not be intentionally or knowingly offered by a generator or transporter for disposal at an MSW landfill or incinerator, and/or shall not be intentionally or knowingly accepted for disposal at an MSW landfill or incinerator permitted under this chapter.

(A) Each battery improperly disposed of constitutes a separate violation and offense.

(B) A person that violates the provisions of this paragraph is subject to the criminal and/or civil penalties found in the Texas Health and Safety Code, as amended.

(2) Do-it-yourself used motor vehicle oil shall not be intentionally or knowingly offered by a generator or transporter for disposal at an MSW landfill or MSW incinerator, either by itself or mixed with other solid waste, and/or shall not be intentionally or knowingly accepted for disposal at an MSW landfill or MSW incinerator permitted under this chapter.

(A) It is an exception to this subsection if the mixing or commingling of used oil with solid waste that is to be disposed of in a landfill is incidental to, and the unavoidable result of, the mechanical shredding of motor vehicles; appliances; or other items of scrap, used, or obsolete metals.

(B) A person that violates the provisions of this paragraph is subject to the criminal and/or civil penalties found in the Texas Health and Safety Code, as amended.

(3) Used oil filters from internal combustion engines shall not be offered for landfill disposal by any generator and shall not be intentionally or knowingly accepted for disposal at a landfill permitted under this chapter.

(4) Whole used or scrap tires shall not be accepted for disposal or disposed of in any MSW landfill, unless processed prior to disposal in a manner acceptable to the executive director.

(5) Refrigerators, freezers, air conditioners, and any other items containing chlorinated fluorocarbon (CFC) must be handled in accordance with 40 Code of Federal Regulations §82.156(f), as amended.

(6) Except as allowed in §330.177 of this title (relating to Leachate and Gas Condensate Recirculation), liquid waste as defined in §330.3 of this title (relating to Definitions) and as described in subparagraphs (A) and (B) of this paragraph below shall not be disposed of in any MSW landfill unit.

(A) Bulk or noncontainerized liquid waste shall not be accepted for disposal or disposed of in an MSW landfill unless the waste is household waste other than septic waste.

(B) Containers holding liquid waste shall not be accepted for disposal or disposed of in an MSW landfill unless:

(i) the container is a small container similar in size to that normally found in household waste;

(ii) the container is designated to hold liquids for use other than storage; or

(iii) the waste is household waste.

(7) Regulated hazardous waste as defined in §330.3 of this title shall not be accepted at an MSW facility.

(8) Polychlorinated biphenyls (PCB) wastes, as defined under 40 Code of Federal Regulations Part 761, shall not be accepted for disposal or disposed of in an MSW facility unless authorized by the United States Environmental Protection Agency and the MSW permit.

(9) Radioactive materials as defined in Chapter 336 of this title (relating to Radioactive Substance Rules), except as authorized in Chapter 336 of this title or that are subject to an exemption of the Department of State Health Services shall not be accepted at an MSW facility.

(f) MSW facilities receiving sewage sludge and failing to satisfy the criteria of this chapter violate Federal Clean Water Act, §309 and §405(e).

(g) The drilling of any test borings, for any reason, through previously deposited waste or cover material without prior written authorization from the executive director is prohibited.

(h) An MSW facility shall not cause:

(1) a discharge of solid wastes or pollutants adjacent to or into waters of the state, including wetlands, that is in violation of the requirements of Texas Water Code, §26.121;

(2) a discharge of pollutants into waters of the United States, including wetlands, that violates any requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System requirements, under §402, as amended, or Texas Pollutant Discharge Elimination System requirements;

(3) a discharge of dredged or fill material to waters of the United States, including wetlands, that is in violation of the requirements under Federal Clean Water Act, §404, as amended; and

(4) a discharge of a nonpoint source pollution into waters of the United States, including wetlands, that violates any requirement of an area-wide or state-wide water quality management plan that has been approved under Federal Clean Water Act, §208 or §319, as amended.

(i) Processing of liquid waste as defined in §330.3 of this title, other than that incidental to transfer and storage, at a transfer station without a specific Type V processing authorization is prohibited.

Adopted March 1, 2006 Effective March 27, 2006

§330.17. Technical Guidelines.

In order to promote the proper collection, handling, storage, processing, and disposal of municipal solid waste in a manner consistent with the purpose of the Texas Health and Safety Code and 40 Code of Federal Regulations Parts 257 and 258 as amended, the executive director will make available technical guidelines outlining acceptable methods designed to aid in compliance with this chapter. Guidelines should be considered as suggestions only.

Adopted March 1, 2006 Effective March 27, 2006

§330.19. Deed Recordation.

(a) Recording required. A person may not cause, suffer, allow, or permit the disposal of municipal solid waste prior to recording, in the county deed records of the

county or counties in which the disposal takes place, a metes and bounds description of the portion or portions of the tract of land on which disposal of solid waste will take place.

(b) Proof of recordation. A certified copy of the recorded document shall be provided to the executive director prior to instituting disposal operations.

(c) Final recording. Upon completion of the disposal operation, closure of all landfill units, or final closure of the facility or site, or upon discovery of a closed municipal solid waste landfill or dumping area, the owner or operator shall file an "Affidavit to the Public" in a form provided by the executive director that includes an updated metes and bounds description of the extent of the disposal areas and the restrictions to future use of the land in accordance with §330.457(g) of this title (relating to Closure Requirements for Municipal Solid Waste Landfill Units that Receive Waste on or after October 9, 1993) and §330.461(c)(1) of this title (relating to Certification of Final Facility Closure).

Adopted March 1, 2006 Effective March 27, 2006

§330.21. Closure.

(a) Except for those persons subject to §330.13 of this title (relating to Waste Management Activities Exempt from Permitting, Registration, or Notification), a person is obligated to perform closure or remediation for a facility or area that contains municipal solid waste. The person can fulfill this obligation by meeting the remedy standards of Chapter 350 of this title (relating to Texas Risk Reduction Program). The regulations in Chapter 350 of this title supplement, but do not replace, any requirements for closure or remediation specified in subsections (b) and (c) of this section.

(b) Any person that stores, processes, or disposes of municipal solid waste at a facility permitted under §330.7 of this title (relating to Permit Required), or registered under §330.9 of this title (relating to Registration Required) shall, unless specifically authorized by the commission, close the facility in accordance with the closure provisions of the permit or registration.

(c) Any person that stores, processes, or disposes of municipal solid waste is subject to the applicable provisions in Subchapter K of this chapter (relating to Closure and Post-Closure).

Adopted March 1, 2006 Effective March 27, 2006

§330.23. Relationships with Other Governmental Entities.

(a) Texas Department of Transportation (TxDOT). The executive director shall coordinate with TxDOT on the review of all permit applications for municipal solid waste (MSW) land disposal facilities existing or proposed within 1,000 feet of an interstate or primary highway to determine the need for screening or special operating requirements. When primary access to an MSW disposal facility is provided by state-maintained streets or highways, the executive director shall solicit recommendations from TxDOT regarding the adequacy and design capacity of such roadways to safely accommodate the additional volumes and weights of traffic generated or expected to be generated by the facility operation.

(b) United States Army Corps of Engineers. The executive director shall coordinate the review of all permit applications for MSW disposal facilities with the appropriate district engineer to determine the need for a permit from the Corps of Engineers.

(c) Federal Aviation Administration (FAA). The executive director shall coordinate the review of permit applications for all MSW land disposal facilities existing or proposed in the vicinity of airports with the appropriate airports' district office of the FAA (FAA Advisory Circular 150/5200.33A, "Hazardous Wildlife Attractants on or Near Airports," July 27, 2004).

(d) Special districts. The Texas Health and Safety Code (THSC) applies to political subdivisions of the state to which the legislature has given waste handling authority for two or more counties. The relationship between the agency and any such waste handling authority will be similar to that between the agency and a county.

(e) Regional planning agencies. The agency will provide educational, technical, and advisory assistance to the various councils of governments and regional planning commissions throughout the state.

(f) Municipal governments. Municipalities may enforce the provisions of this chapter as provided for in the THSC and the Texas Water Code. The commission is committed to assisting municipal governments in an educational and advisory capacity. The commission is a necessary and indispensable party to any suit filed by a local government under the THSC and the Texas Water Code.

(g) County governments. County governments may exercise the authority provided in THSC, Chapters 361, 363, and 364, regarding the management of solid waste including the enforcement of the requirements of the THSC and this chapter. The provisions of THSC, Chapters 361, 363, and 364, allow county governments to require and issue licenses authorizing and governing the operation and maintenance of facilities used for the storage, processing, or disposal of solid waste not in the territorial or

extraterritorial jurisdiction of a municipality. THSC, Chapters 361, 363, and 364, provide that no license for disposal of solid waste may be issued, renewed, or extended without the prior approval of the commission. Under Texas Water Code, Chapter 7, the commission is a necessary and indispensable party to any suit filed by a local government for the violation of any provision of the Solid Waste Disposal Act. If a permit is issued, renewed, or extended by the commission, the owner or operator of the facility does not need to obtain a separate license for the same facility from a county or from a political subdivision as defined in THSC, Chapters 361, 363, and 364.

(h) Texas Parks and Wildlife Department (TPWD). TPWD has jurisdiction over certain environmental issues that may be affected by MSW facilities including, but not limited to, endangered species and wetlands. The executive director will solicit comments from, and consider information provided by, TPWD.

Adopted March 1, 2006 Effective March 27, 2006

§330.25. Relationship with County Licensing System.

(a) General procedures. Under Texas Health and Safety Code, Chapters 361, 363, and 364, counties are empowered to require and issue licenses authorizing and governing the operation and maintenance of solid waste storage, processing, or disposal facilities not within the territorial limits or extraterritorial jurisdiction of incorporated cities and towns. The county shall mail a copy of the approved license to the appropriate Texas Commission on Environmental Quality regional office. No license for the use of a facility for the disposal of solid waste may be issued, renewed, or extended without prior approval of the commission. The territorial limits and the extraterritorial jurisdiction of incorporated cities and towns are excluded from county authority to make regulations for the governing and controlling of solid waste collection, handling, storage, and disposal.

(b) Licensing procedures. The following pertain only to those counties that may choose to exercise licensing authority in accordance with this section.

(1) Licensing authority.

(A) Before exercising licensing authority for a municipal solid waste (MSW) facility required to obtain a permit, a county government shall promulgate regulations that are consistent with those established by the commission and that have been approved by the commission. A county exercising authority shall use the same evaluation processes as prescribed for use by the commission to include providing appropriate agencies, in accordance with §330.23 of this title (relating to Relationships with Other Governmental Entities) and Subchapter B of this chapter (relating to Permit and Registration Application Procedures), an opportunity to review and comment on

those applications for which they may have a jurisdictional interest. In view of the technical evaluations and site investigations that must be made by some review agencies, ample time shall be allowed to receive and review agency comments prior to a public hearing. To ensure that review agencies are provided sufficient information on which to base a determination, counties will include in their permit application forms the data requirements as specified in permit applications used by the commission, supplemented by any other requirements deemed necessary by the individual counties.

(B) Before exercising licensing authority for an MSW facility that is not required to obtain a permit, a county government shall promulgate regulations that are compatible with those established by the commission. The county's regulations must be submitted to the commission for approval. At a minimum, county regulations shall be protective of human health and the environment.

(C) A county may not make regulations for MSW management within the extraterritorial or territorial jurisdiction of incorporated cities or towns.

(D) The commission will issue permits for MSW facilities located within the extraterritorial or territorial jurisdiction of incorporated cities or towns within the county.

(E) A county license for an MSW facility may not be issued, extended, or renewed without prior approval of the commission.

(F) Once a license is issued by a county and remains valid, a permit from the commission is not required.

(2) Public meeting. A county shall offer an opportunity for a public meeting and offer an opportunity for a public hearing, and issue appropriate notifications, in accordance with the procedures established in Chapter 39, Subchapter H of this title (relating to Applicability and General Provisions) and this chapter prior to issuance, amendment, extension, revocation, or renewal of a license.

(c) Contents of a license. A license for a solid waste facility issued by a county must include:

(1) the name and address of each person that owns the land on which the solid waste facility is located and the person that is or will be the operator or person in charge of the facility;

(2) a legal description of the land on which the facility is located;

(3) the terms and conditions on which the license is issued, including the duration of the license; and

(4) the volume of waste to be managed.

(d) Licensee's responsibilities. Solid waste facilities licensed by a county shall be operated in compliance with regulations of the commission and the county.

Adopted March 1, 2006 Effective March 27, 2006

SUBCHAPTER B: PERMIT AND REGISTRATION APPLICATION PROCEDURES
§§330.53, 330.55, 330.57, 330.59, 330.61, 330.63, 330.65, 330.67, 330.69, 330.71, 330.73
Effective May 29, 2008

§330.53. Pre-application Review.

(a) Applicability. This section applies to potential permit owners or operators who desire to enter into agreements with affected persons and/or identify issues of local concern prior to submission of an application. A pre-application review process may be useful in situations where opposition to an application is likely to exist.

(b) Purpose. A pre-application review should serve to identify issues of concern, facilitate communication between a potential owner or operator and persons that would be affected by an application, and resolve as many points of conflict as possible prior to the submission of an application. A local review committee shall:

(1) interact with the owner or operator in a structured manner during the pre-application review stage of the permitting process and, if necessary, during the technical review stage of the permitting process, raise and attempt to resolve both technical and nontechnical issues of concern; and

(2) produce a fact-finding report documenting resolved and unresolved issues and unanswered questions. The owner or operator shall submit this report to the executive director with the owner's or operator's permit application.

(c) Procedure.

(1) If an owner or operator decides to participate in a local review committee process, the owner or operator shall file three copies of a notice of intent to file an application with the executive director. The filing of this notice initiates the pre-application review process. The date of filing shall be the date the notice is stamped as received by the executive director. An owner or operator who wishes to have a pre-application meeting under the provisions of Texas Health and Safety Code, §361.0635, should include a draft Part I, as described in §330.59 of this title (relating to Contents of Part I of the Application) with their request.

(2) Upon receipt of the notice of intent to file, the executive director shall forward a copy of the notice and an explanation of the local review committee process by certified mail to:

(A) the appropriate mayor and county judge if the proposed facility is to be located within the corporate limits or extraterritorial jurisdiction of a city; or

(B) the appropriate county judge if the proposed facility is to be located within an unincorporated area of the county; and

(C) the appropriate regional solid waste planning agency and council of governments (COG).

(3) Local review committees shall be composed of representatives of both local and regional interests and shall consist optimally of 12 individuals. However, an owner or operator may request a larger committee to better represent all interest groups present in a community or a smaller committee for economic reasons; however, committees shall maintain a 2:1 ratio of regional appointments to local appointments. Appointments to the local review committee shall be made according to the following guidelines.

(A) If a proposed facility is to be located within a particular city's limits, the mayor of the city shall be asked to make all local appointments.

(B) If a proposed facility is to be located in an unincorporated area, but within five miles of a city or cities, the mayor of each affected city shall be asked to appoint one member. The appropriate county judge shall be asked to appoint at least one member who lives within five miles of the proposed facility, if available and qualified. The county judge shall also be asked to appoint any remaining individuals necessary to complete local appointments to the committee.

(C) If a proposed facility would not be within five miles of a city, the appropriate county judge shall appoint at least one member, if available and qualified, who lives within five miles of the proposed facility and as many other individuals from the county as are necessary to complete the local appointments.

(D) Regional appointments shall be made by the appropriate regional solid waste planning agency/COG or another regional entity such as a special district or river authority designated by the COG. An attempt shall be made to make regional appointments from as many of the following interest groups as possible:

(i) organized environmental groups;

(ii) citizen organizations active in environmental issues;

(iii) industry, preferably, but not necessarily, individuals with expertise in waste management;

(iv) academic community, preferably, but not necessarily, individuals trained in a technical discipline related to waste management and/or public involvement;

(v) community or land-use planning;

(vi) organized public-interest advocates; and

(vii) public health professionals.

(E) If any local official or regional entity has failed to make the necessary appointments within 15 days after the notice of intent to file has been submitted, the owner or operator may cease the local review process.

(F) Every effort should be made to appoint individuals who are willing to participate in good faith, able to devote adequate time to participation, and respected in the community or region. An elected official shall not be appointed to the committee if the official is elected by a constituency wholly or partly within the localities surrounding the facility, and appointees shall not be employees or agents of the owner or operator.

(G) An individual shall not serve on more than one local review committee at any one time.

(4) The local review committee shall meet within 21 days after the notice of intent is filed. The executive director will provide manuals to committee members that will orient them as to what the committee's activities should be, i.e., the production of a report detailing issues resolved, issues unresolved, and questions not able to be answered.

(5) The pre-application review process shall continue for a maximum of 90 days unless it is shortened or lengthened by mutual agreement between the owner or operator and the local review committee.

(6) Individuals who serve on local review committees shall serve without compensation. The potential owner or operator shall provide resource support that may include clerical and technical assistance, a facilitator, meeting space, and/or other items that may be necessary to aid the committee in its work.

(d) Committee report.

(1) Any report produced by a local review committee set up under this section shall be submitted to the executive director with the owner's or operator's permit application. The executive director may consider the report as an additional source of information concerning the application.

(2) The report shall not recommend approval or disapproval of the proposed facility. Rather, it shall describe the committee's work and summarize the committee's findings. The findings shall include issues resolved, issues unresolved, and questions not able to be answered.

Adopted March 1, 2006 Effective March 27, 2006

§330.55. Other Authorizations.

(a) Air pollution control. The construction and operation of waste management facilities shall comply with Subchapter U of this chapter (relating to Standard Air Permits for Municipal Solid Waste Landfill Facilities and Transfer Stations) or other approved air authorizations. Owners or operators of these types of facilities should consult with the Air Permits Division on or before the date that the municipal solid waste application is filed with the executive director.

(b) Water pollution control. All liquids resulting from the operation of solid waste facilities shall be disposed of in a manner that will not cause surface water or groundwater pollution. Facilities shall provide for the treatment of wastewaters resulting from waste management activities and from cleaning and washing. Owners or operators shall ensure that storm water and wastewater management is in compliance with the regulations of the commission.

Adopted March 1, 2006 Effective March 27, 2006

§330.57. Permit and Registration Applications for Municipal Solid Waste Facilities.

(a) Permit application. The application for a municipal solid waste facility is divided into Parts I - IV. Parts I - IV of the application shall be required before the application is declared administratively complete in accordance with Chapter 281 of this title (relating to Applications Processing). The owner or operator shall submit a complete application, containing Parts I - IV, before a hearing can be conducted on the technical design merits of the application. An owner or operator applying for a permit may request a land-use only determination. If the executive director determines that a land-use only determination is appropriate, the owner or operator shall submit a partial application consisting of Parts I and II of the application. The executive director may process a partial permit application to the extent necessary to determine land-use compatibility alone. If the facility is determined to be acceptable on the basis of land use, the executive director will consider technical matters related to the permit application at a later time. When this procedure is followed, an opportunity for a public hearing will be offered for each determination in accordance with §39.419 of this title (relating to Notice of Application and Preliminary Decision). A complete application, consisting of Parts I - IV of the application, shall be submitted based upon the results of the land-use only public hearing. Owners or operators of Type IAE and Type IVAE municipal solid waste landfill units are required to submit all parts of the application except for those items pertaining to Subchapters H and J of this chapter (relating to Liner System Design and Operation; and Groundwater Monitoring and Corrective Action). Owners or operators of Type IAE and Type IVAE municipal solid waste landfill units are exempt from the geology report requirements of §330.63(e) of this title (relating to Contents of Part III of the Application) except for the requirement to submit a soil boring plan in accordance with §330.63(e)(4) and (e)(4)(A) of this title, and the information requested in §330.63(e)(6) of this title.

(b) Registration application. A registration application for a municipal solid waste facility is also divided into Parts I - IV, but is not subject to a hearing request or to the administrative completeness determinations of Chapter 281 of this title.

(c) Parts of the application.

(1) Part I of the application consists of the information required in §281.5 of this title (relating to Application for Wastewater Discharge, Underground Injection, Municipal Solid Waste, Radioactive Material, Hazardous Waste, and Industrial Solid Waste Management Permits), §305.45 of this title (relating to Contents of Application for Permit) and §330.59 of this title (relating to Contents of Part I of the Application).

(2) Part II of the application describes the existing conditions and character of the facility and surrounding area. Part II of the application shall consist of the information contained in §330.61 of this title (relating to Contents of Part II of the Application). Parts I and II of a permit application must

provide information relating to land-use compatibility under the provisions of Texas Health and Safety Code, §361.069. Part II may be combined with Part I of the application or may be submitted as a separate document. An owner or operator must submit Parts I and II of the permit application before a land-use determination is made in accordance with subsection (a) of this section.

(3) Part III of the application contains design information, detailed investigative reports, schematic designs of the facility, and required plans. Part III shall consist of the documents required in §330.63 of this title.

(4) Part IV of the application contains the site operating plan that shall discuss how the owner or operator plans to conduct daily operations at the facility. Part IV shall consist of the documents required in §330.65 of this title (relating to Contents of Part IV of the Application).

(d) Required information. The information required by this subchapter defines the basic elements for an application. All aspects of the application and design requirements must be addressed by the owner or operator, even if only to show why they are not applicable for that particular site. It is the responsibility of the applicant to provide the executive director data of sufficient completeness, accuracy, and clarity to provide assurance that operation of the site will pose no reasonable probability of adverse effects on the health, welfare, environment, or physical property of nearby residents or property owners. Failure of the owner or operator to provide complete information as required by this chapter may be cause for the executive director to return the application without further action in accordance with §281.18 and §281.19 of this title (relating to Applications Returned and Technical Review). Submission of false information shall constitute grounds for denial of the permit or registration application.

(e) Number of copies.

(1) Applications shall be initially submitted in four copies. The owner or operator shall furnish up to 18 additional copies of the application for use by required reviewing agencies, upon request of the executive director.

(2) For permit applications initially submitted to the executive director, the owner or operator shall also furnish Parts I and II, and any subsequent revisions to Parts I and II, to the regional council of governments.

(f) Preparation. Preparation of the application must conform with Texas Occupations Code, Texas Engineering Practice Act, Chapter 1001 and Texas Geoscience Practice Act, Chapter 1002.

(1) The responsible engineer shall seal, sign, and date the title page of each bound engineering report or individual engineering plan in the application and each engineering drawing as required by Texas Engineering Practice Act, §15c, and in accordance with 22 TAC §137.33 (relating to Sealing Procedures).

(2) The responsible geoscientist shall seal, sign, and date applicable items as required by Texas Geoscience Practice Act, §6.13(b), and in accordance with 22 TAC §851.156 (relating to Geoscientist's Seals).

(3) Applications that have not been sealed shall be considered incomplete for the

intended purpose and shall be returned to the owner or operator.

(g) Application format.

(1) Applications shall be submitted in three-ring, "D"-ring, loose-leaf binders.

(2) The title page shall show the name of the project; the municipal solid waste permit application number, if known; the name of the owner and operator; the location by city and county; the date the part was prepared; and, if appropriate, the number and date of the revision. It shall be sealed as required by the Texas Engineering Practice Act.

(3) The table of contents shall list and give the page numbers for the main sections of the application. It shall be sealed as required by the Texas Engineering Practice Act.

(4) The narrative of the report shall be printed on 8-1/2 by 11 inches white paper. Drawings or other sheets shall be no larger than 11 by 17 inches so that they can be reproduced by standard office copy machines.

(5) All pages shall contain a page number and date.

(6) Revisions shall have the revision date and note that the sheet is revised in the header or footer of each revised sheet. The revised text shall be marked to highlight the revision.

(7) Dividers and tabs are encouraged.

(h) Application drawings.

(1) All information contained on a drawing shall be legible, even if it has been reduced. The drawings shall be 8-1/2 by 11 inches or 11 by 17 inches. Standard-sized drawings (24 by 36 inches) folded to 8-1/2 by 11 inches may be submitted or required if reduction would render them illegible or difficult to interpret.

(2) If color coding is used, it should be legible and the code distinct when reproduced on black and white photocopy machines.

(3) Drawings shall be submitted at a standard engineering scale.

(4) Each drawing shall have a:

(A) dated title block;

(B) bar scale at least one-inch long;

(C) revision block;

(D) responsible engineer's or geoscientist's seal, if required; and

(E) drawing number and a page number.

(5) Each map or plan drawing shall also have:

(A) a north arrow. Preferred orientation is to have the north arrow pointing toward the top of the page;

(B) a reference to the base map source and date, if the map is based upon another map. The latest published edition of the base map should be used; and

(C) a legend.

(6) Match lines and section lines shall reference the drawing where the match or section is shown. Section drawings should note from where the section was taken.

(i) Posting application information.

(1) Upon submittal of an application, the owner or operator shall provide a complete copy of any application that requires public notice, except for authorizations at Type IAE and Type IVAE landfill facilities, including all revisions and supplements to the application, on a publicly accessible internet Web site, and provide the commission with the Web address link for the application materials. This internet posting is for informational purposes only.

(2) The commission shall post on its Web site the identity of all owners and operators filing such applications and the Web address link required by this subsection.

(3) For applications for new permits or major amendments, an owner or operator shall post notice signs at the site within 30 days of the executive director's receipt of an application. This sign posting is for informational purposes only. Signs must:

(A) consist of dark lettering on a white background and must be no smaller than four feet by four feet with letters at least three inches in height and block printed capital lettering;

(B) identify as appropriate that the application is for a proposed permitted facility or an amendment to a permitted facility;

(C) include the words "For further information on how the public may participate in Texas Commission on Environmental Quality (TCEQ) permitting matters, contact TCEQ," the toll free telephone number for the Office of Public Assistance, and the agency's Web site address ;

(D) include the name and address of the owner or operator;

(E) include the telephone number of the owner or operator; and

(F) remain in place and legible until the close of the final comment period.

(4) Signs must be located within ten feet of every property line bordering a public

highway, street, or road. Signs must be visible from the street and spaced at not more than 1,500-foot intervals. A minimum of one sign, but no more than three signs, shall be required along any property line parallel to a public highway, street, or road. This paragraph's sign requirements do not apply to properties under the same ownership that are noncontiguous or separated by intervening public highway, street, or road, unless the property is part of the permitted facility.

(5) The owner or operator shall also post signs at the facility in an alternative language when the alternative language requirements in §39.405(h)(2) of this title (relating to General Notice Provisions) are met.

(6) The executive director may approve variances from the requirements of paragraphs (3), (4), and (5) of this subsection if the owner or operator has demonstrated that it is not practical to comply with the specific requirements of those paragraphs and alternative sign posting plans proposed by the owner or operator are at least as effective in providing notice to the public. Approval from the executive director under this paragraph must be received before posting alternative signs for purposes of satisfying the requirements of this subsection.

Adopted May 7, 2008 Effective May 29, 2008

§330.59. Contents of Part I of the Application.

(a) General.

(1) Part I of the application consists of information that is required regardless of the type of facility involved. All items required by this section, §281.5 of this title (relating to Application for Wastewater Discharge, Underground Injection, Municipal Solid Waste, Radioactive Material, Hazardous Waste, and Industrial Solid Waste Management Permits) and §305.45 of this title (relating to Contents of Application for Permit) must be submitted.

(2) Submittal of Part I by itself will not necessarily require publication of a notice of intent to obtain a municipal solid waste (MSW) permit under the provisions of Texas Health and Safety Code (THSC), §361.0665, or a notice concerning receipt of a permit application under the provisions of THSC, §361.079.

(3) For a permit application, submittal of Part I only will not allow a permit application to be declared administratively complete under the provisions of THSC, §361.068; §281.3 of this title (relating to Initial Review); and §281.18 of this title (relating to Applications Returned).

(b) Facility location. The owner or operator shall:

(1) provide a description of the location of the facility with respect to known or easily identifiable landmarks;

(2) detail the access routes from the nearest United States or state highway to the facility; and

(3) provide the longitudinal and latitudinal geographic coordinates of the facility.

(c) Maps.

(1) General. The maps submitted as a group shall show the elements contained in §305.45 of this title and the following:

(A) latitudes and longitudes; and

(B) the property boundary of the facility.

(2) General location maps. These maps shall be all or a portion of county maps prepared by Texas Department of Transportation (TxDOT). At least one general location map shall be at a scale of one-half inch equals one mile. If TxDOT publishes more detailed maps of the proposed facility area, the more detailed maps shall also be included in Part I. The latest revision of all maps shall be used.

(3) Land ownership map with accompanying landowners list.

(A) These maps shall comply with the requirements in §281.5 of this title by locating the property owned by adjacent and potentially affected landowners. The maps should show all property ownership within 1/4 mile of the facility, and all mineral interest ownership under the facility.

(B) The adjacent and potentially affected landowners' list shall be keyed to the land ownership maps and shall give each property owner's name and mailing address. The list shall comply with the requirements of §281.5 of this title, and shall include all property owners within 1/4 mile of the facility, and all mineral interest ownership under the facility. Property and mineral interest owners' names and mailing addresses derived from the real property appraisal records as listed on the date that the application is filed will comply with this paragraph. Notice of an application is not defective if property owners or mineral interest owners did not receive notice because they were not listed in the real property appraisal records. The list shall also be provided in electronic form.

(d) Property owner information. Property owner information shall include the following:

(1) the legal description of the facility;

(A) the legal description of the property and the county, book, and page number or other generally accepted identifying reference of the current ownership record;

(B) for property that is platted, the county, book, and page number or other generally accepted identifying reference of the final plat record that includes the acreage encompassed in the application and a copy of the final plat, in addition to a written legal description;

(C) a boundary metes and bounds description of the facility signed and sealed by a registered professional land surveyor; and

(D) drawings of the boundary metes and bounds description; and

(2) a property owner affidavit signed by the owner that includes the following:

(A) acknowledgment that the State of Texas may hold the property owner of record either jointly or severally responsible for the operation, maintenance, and closure and post-closure care of the facility;

(B) for facilities where waste will remain after closure, acknowledgment that the owner has a responsibility to file with the county deed records an affidavit to the public advising that the land will be used for a solid waste facility prior to the time that the facility actually begins operating as a municipal solid waste landfill facility, and to file a final recording upon completion of disposal operations and closure of the landfill units in accordance with §330.19 of this title (relating to Deed Recordation); and

(C) acknowledgment that the facility owner or operator and the State of Texas shall have access to the property during the active life and post-closure care period, if required, after closure for the purpose of inspection and maintenance.

(e) Legal authority. The owner and operator shall provide verification of their legal status as required by §281.5 of this title. Normally, this shall be a one-page certificate of incorporation issued by the secretary of state. The owner or operator shall list all persons having over a 20% ownership in the proposed facility.

(f) Evidence of competency. Requirements for demonstrating evidence of competency are as follows.

(1) The owner or operator shall submit a list of all Texas solid waste sites that the owner or operator has owned or operated within the last ten years. The site name, site type, permit or registration number, county, and dates of operation shall also be submitted.

(2) The owner or operator shall submit a list of all solid waste sites in all states, territories, or countries in which the owner or operator has a direct financial interest. The type of site shall be identified by location, operating dates, name, and address of the regulatory agency, and the name under which the site was operated.

(3) The executive director shall require that a licensed solid waste facility supervisor, as defined in Chapter 30 of this title (relating to Occupational Licenses and Registrations), be employed before commencing facility operation.

(4) The names of the principals and supervisors of the owner's or operator's organization shall be provided, together with previous affiliations with other organizations engaged in solid waste activities.

(5) For landfill permit applications only, evidence of competency to operate the facility shall also include landfilling and earthmoving experience if applicable, and other pertinent experience, or licenses as described in Chapter 30 of this title possessed by key personnel, and the number and size of each type of equipment to be dedicated to facility operation.

(6) For mobile liquid waste processing units, the owner or operator shall submit a list of

all solid waste, liquid waste, or mobile waste units that the owner or operator has owned or operated within the past five years. The owner or operator shall submit a list of any final enforcement orders, court judgments, consent decrees, and criminal convictions of this state and the federal government within the last five years relating to compliance with applicable legal requirements relating to the handling of solid or liquid waste under the jurisdiction of the commission or the United States Environmental Protection Agency. Applicable legal requirement means an environmental law, regulation, permit, order, consent decree, or other requirement.

(g) Appointments. The owner or operator shall provide documentation that the person signing the application meets the requirements of §305.44 of this title (relating to Signatories to Applications). If the authority has been delegated, provide a copy of the document issued by the governing body of the owner or operator authorizing the person that signed the application to act as agent for the owner or operator.

(h) Application fees.

(1) In accordance with §305.53 of this title (relating to Application Fee), the application fee for a permit, registration, amendment, modification, or temporary authorization is $150.

(2) For a development permit or registration over a closed municipal solid waste landfill, THSC, §361.532, requires the Texas Commission on Environmental Quality (TCEQ) to charge an application fee equal to the actual cost of reviewing the application prior to the issuance of a development permit. The owner or operator shall submit an initial application fee of $2,500 to be submitted in the form of a check or money order made payable to the TCEQ. Upon completion of the review process, including the public meeting, the executive director shall present the owner or operator with a refund for an overcharge, or an invoice for an undercharge.

Adopted May 7, 2008 Effective May 29, 2008

§330.61. Contents of Part II of the Application.

(a) Existing conditions summary. The owner or operator shall determine and report to the executive director any site-specific conditions that require special design considerations and possible mitigation of conditions identified in subsections (h) - (o) of this section. The owner or operator may discuss any additional land-use, environmental, or special issues in an existing conditions summary.

(b) Waste acceptance plan.

(1) The owner or operator shall identify the sources and characteristics of wastes (i.e., residential, commercial, grease trap, grit trap, soluble sludges, septage, special wastes, Class 2 or Class 3 industrial solid wastes, compost feedstocks, etc.) proposed to be received for storage, processing, or disposal. Municipal solid waste facilities may not receive regulated hazardous waste. If a waste constituent or characteristic could be a limiting parameter that may impact or influence the design and operation of the facility, the owner or operator shall specify parameter limitations of each type of waste to be managed by the facility, which may include constituent concentrations and characteristics such as pH, fats, oil and grease concentrations, total suspended solids, chemical oxygen demand, biochemical oxygen demand, organic and metal constituent concentrations, water content, or other constituents. The owner or operator shall include:

(A) a brief description of the general sources and generation areas contributing wastes to the facility. This description shall include an estimate of the population or population equivalent served by the facility. Additionally, if applicable, a descriptive narrative must be included that describes the percentage of incoming waste that must be recovered and its intended use;

(B) for transfer stations, the maximum amount of solid waste to be received daily and annually projected for five years, the maximum amount of solid waste to be stored, the maximum and average lengths of time that solid waste is to remain at the facility, and the intended destination of the solid waste received at this facility; and

(C) for landfills, an estimated maximum annual waste acceptance rate for the facility projected for five years.

(2) For registration applications, this information shall also establish why a facility qualifies for a registration in accordance with §330.9 of this title (relating to Registration Required).

(c) General location maps. The owner or operator shall provide maps in addition to those required by §330.59(c) of this title (relating to Contents of Part I of the Application) as necessary to accurately show proximity to surrounding features:

(1) the prevailing wind direction with a wind rose;

(2) all known water wells within 500 feet of the proposed permit boundary with the state well numbering system designation for Water Development Board "located wells";

(3) all structures and inhabitable buildings within 500 feet of the proposed facility;

(4) schools, licensed day-care facilities, churches, hospitals, cemeteries, ponds, lakes, and residential, commercial, and recreational areas within one mile of the facility;

(5) the location and surface type of all roads within one mile of the facility that will normally be used by the owner or operator for entering or leaving the facility;

(6) latitudes and longitudes;

(7) area streams;

(8) airports within six miles of the facility;

(9) the property boundary of the facility;

(10) drainage, pipeline, and utility easements within or adjacent to the facility;

(11) facility access control features; and

(12) archaeological sites, historical sites, and sites with exceptional aesthetic qualities adjacent to the facility.

(d) Facility layout maps. A map or set of maps showing:

(1) the outline of the units;

(2) general locations of main interior facility roadways, and for landfill units, the general locations of main interior facility roadways that can be used to provide access to fill areas ;

(3) locations of monitor wells;

(4) locations of buildings;

(5) any other graphic representations or marginal explanatory notes necessary to communicate the proposed construction sequence of the facility;

(6) fencing;

(7) provisions for the maintenance of any natural windbreaks, such as greenbelts, where they will improve the appearance and operation of the facility and, where appropriate, plans for screening the facility from public view;

(8) all site entrance roads from public access roads; and

(9) for landfill units:

(A) sectors with appropriate notations to communicate the types of wastes to be disposed of in individual sectors;

(B) the general sequence of filling operations;

(C) sequence of excavations and filling;

(D) dimensions of cells or trenches; and

(E) maximum waste elevations and final cover.

(e) General topographic maps. The owner or operator shall submit United States Geological Survey 7 1/2-minute quadrangle sheets or equivalent for the facility. At least one general topographic map shall be at a scale of one inch equals 2,000 feet.

(f) Aerial photograph.

(1) The owner or operator shall submit an aerial photograph approximately nine inches by nine inches with a scale within a range of one inch equals 1,667 feet to one inch equals 3,334 feet and showing the area within at least a one-mile radius of the site boundaries. The site boundaries and actual fill areas shall be marked.

(2) A series of aerial photographs can be used to show growth trends.

(3) If submitted, digital prints and photocopies of photographs must be legible.

(g) Land-use map. This is a constructed map of the facility showing the boundary of the facility and any existing zoning on or surrounding the property and actual uses (e.g., agricultural, industrial, residential, etc.) both within the facility and within one mile of the facility. The owner or operator shall make every effort to show the location of residences, commercial establishments, schools, licensed day-care facilities, churches, cemeteries, ponds or lakes, and recreational areas within one mile of the facility boundary. Drainage, pipeline, and utility easements within the facility shall be shown. Access roads serving the facility shall also be shown.

(h) Impact on surrounding area. A primary concern is that the use of any land for a municipal solid waste facility not adversely impact human health or the environment. The owner or operator shall provide information regarding the likely impacts of the facility on cities, communities, groups of property owners, or individuals by analyzing the compatibility of land use, zoning in the vicinity, community growth patterns, and other factors associated with the public interest. To assist the commission in evaluating the impact of the site on the surrounding area, the owner or operator shall provide the following:

(1) if available, a published zoning map for the facility and within two miles of the facility for the county or counties in which the facility is or will be located. If the site requires approval as a nonconforming use or a special permit from the local government having jurisdiction, a copy of such approval shall be submitted;

(2) information about the character of surrounding land uses within one mile of the proposed facility;

(3) information about growth trends within five miles of the facility with directions of major development;

(4) the proximity to residences and other uses (e.g., schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, sites having exceptional aesthetic quality, etc.) within one mile of the facility. The owner or operator shall provide the approximate number of residences and commercial establishments within one mile of the proposed facility including the distances and directions to the nearest residences and commercial establishments. Population density and proximity to residences and other uses described in this paragraph may be considered for assessment of compatibility;

(5) a description and discussion of all known wells within 500 feet of the proposed facility. Well density may be considered for assessment of compatibility; and

(6) any other information requested by the executive director.

(i) Transportation. The owner or operator shall:

(1) provide data on the availability and adequacy of roads that the owner or operator will use to access the site;

(2) provide data on the volume of vehicular traffic on access roads within one mile of the proposed facility, both existing and expected, during the expected life of the proposed facility;

(3) project the volume of traffic expected to be generated by the facility on the access roads within one mile of the proposed facility;

(4) submit documentation of coordination of all designs of proposed public roadway improvements such as turning lanes, storage lanes, etc., associated with site entrances with the agency exercising maintenance responsibility of the public roadway involved. In addition, the owner or operator shall submit documentation of coordination with the Texas Department of Transportation for traffic and location restrictions; and

(5) for landfill units and landfill mining operations, analyze the impact of the facility upon airports in accordance with §330.545 of this title (relating to Airport Safety). The owner or operator shall submit documentation of coordination with the Federal Aviation Administration for compliance with airport location restrictions.

(j) General geology and soils statement. The reports prepared under this subsection must meet the following requirements:

(1) discuss in general terms the geology and soils of the proposed site;

(2) for landfills, identify and provide data on fault areas located within the proposed site in accordance with §330.555 of this title (relating to Fault Areas);

(3) for landfills, identify and provide data on seismic impact zones in accordance with §330.557 of this title (relating to Seismic Impact Zones); and

(4) for landfills, identify and provide data on unstable areas in accordance with §330.559 of this title (relating to Unstable Areas).

(k) Groundwater and surface water. The owner or operator shall submit:

(1) data about the site-specific groundwater conditions at and near the site;

(2) data on surface water at and near the site; and

(3) information demonstrating how the municipal solid waste facility will comply with applicable Texas Pollutant Discharge Elimination System (TPDES) storm water permitting requirements and the Clean Water Act, §402, as amended. This information may include, but is not limited to:

(A) a certification statement indicating the owner/operator will obtain the appropriate TPDES permit coverage when required; or

(B) a copy of the permit number for coverage under an individual wastewater permit.

(l) Abandoned oil and water wells.

(1) The owner or operator shall identify the location of any and all existing or abandoned water wells situated within the facility. Water wells necessary for supply for operations at the landfill may remain in use as long as the wells are located outside of the groundwater monitoring well network, and are not subject to impact from landfill operations. Water wells that will be used for supply at the landfill that are located inside of the groundwater monitoring network, but outside the landfill unit boundary, may be used if identified and approved in the facility permit. For all other facility water wells, the owner or operator shall provide, within 30 days prior to construction, the executive director with written certification that all such wells have been capped, plugged, and closed in accordance with all applicable rules and regulations of the commission or other state agency.

(2) The owner or operator shall identify the location of any and all existing or abandoned on-site crude oil or natural gas wells, or other wells associated with mineral recovery that are under the jurisdiction of the Railroad Commission of Texas. The owner or operator shall provide the executive director with written certification that these wells have been properly capped, plugged, and closed in accordance with all applicable rules and regulations of the Railroad Commission of Texas at the time of application. Producing crude oil or natural gas wells that do not affect or hamper landfill operations may remain in their current state, if identified in the permit for the facility.

(m) Floodplains and wetlands statement. The floodplains and wetlands statement must:

(1) provide data on floodplains in accordance with Chapter 301, Subchapter C of this title (relating to Approval of Levees and Other Improvements);

(2) include a wetlands determination under applicable federal, state, and local laws and discuss wetlands in accordance with §330.553 of this title (relating to Wetlands). For the purpose of this subsection, demonstration can be made by providing evidence that the facility has a Corps of Engineers permit for the use of any wetlands area; and

(3) identify wetlands located within the facility boundary.

(n) Endangered or threatened species.

(1) The owner or operator shall consider the impact of a solid waste disposal facility upon endangered or threatened species. The facility and the operation of the facility shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species.

(2) For landfill applications, the owner or operator shall submit Endangered Species Act compliance demonstrations as required under state and federal laws and determine whether the facility is in the range of endangered or threatened species. If the facility is located in the range of endangered or threatened species, the owner or operator shall have a biological assessment prepared by a qualified biologist in accordance with standard procedures of the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department to determine the effect of the facility on the endangered or threatened species. Where a previous biological assessment has been made for another project in the general vicinity, a copy of that assessment may be submitted for evaluation. The United States Fish and Wildlife Service and the Texas Parks and Wildlife Department shall be contacted for locations and specific data relating to endangered and threatened species in Texas.

(o) Texas Historical Commission review. The owner or operator shall submit a review letter from the Texas Historical Commission documenting compliance with the Natural Resources Code, Chapter 191, Texas Antiquities Code.

(p) Council of governments and local government review request. The owner or operator shall submit documentation that Parts I and II of the application were submitted for review to the applicable council of governments for compliance with regional solid waste plans. The owner or operator shall also submit documentation that a review letter was requested from any local governments as appropriate for compliance with local solid waste plans. A review letter is not a prerequisite to a final determination on a permit or registration application.

Adopted March 1, 1006 Effective March 27, 2006

§330.63. Contents of Part III of the Application.

(a) Site development plan. This plan must include criteria that in the selection and design of a facility will provide for the safeguarding of the health, welfare, and physical property of the people and the environment through consideration of geology, soil conditions, drainage, land use, zoning, adequacy of access roads and highways, and other considerations as the specific facility dictates. The site development plan must include the items listed in this section.

(b) General facility design.

(1) Facility access. The owner or operator shall describe how access will be controlled for the facility such as the type and location of fences or other suitable means of access control to prevent the entry of livestock, to protect the public from exposure to potential health and safety hazards, and to discourage unauthorized entry or uncontrolled disposal of solid waste or hazardous materials.

(2) Waste movement. The owner or operator shall submit a generalized process design and working plan of the overall facility that includes, at a minimum:

(A) flow diagrams indicating the storage, processing, and disposal sequences for the various types of wastes and feedstocks received;

(B) schematic view drawings showing the various phases of collection, separation, processing, and disposal as applicable for the types of wastes and feedstocks received at the facility;

(C) proposed ventilation and odor control measures for each storage, separation, processing, and disposal unit;

(D) generalized construction details of all storage and processing units and ancillary equipment (i.e., tanks, foundations, sumps, etc.) with regard to approximate dimensions and capacities, construction materials, vents, covers, enclosures, protective coatings of surfaces, etc. Performance data on all units shall be provided;

(E) generalized construction details of slab and subsurface supports of all storage and processing components;

(F) locations and engineering design details of all containment dikes or walls (with indicated freeboard) proposed to enclose all storage and processing components and all loading and unloading areas;

(G) plans for the storage of grease, oil, and sludge on site including determinations of maximum periods of time all separated materials will remain on site and the ultimate disposition of such materials off site;

(H) proposed disposition of effluent resulting from all processing operations; and

(I) for transfer stations, provide designs for noise pollution control.

(3) Sanitation. The owner or operator shall describe how solid waste processing facilities will be designed to facilitate proper cleaning. This may be accomplished by:

(A) controlling surface drainage in the vicinity of the facility to prevent surface water runoff onto, into, and off the treatment area;

(B) constructing walls and floors in operating areas of masonry, concrete, or other hard-surfaced materials that can be hosed down and scrubbed;

(C) providing necessary connections and equipment to permit thorough cleaning with water or steam; and

(D) providing adequate floor or sump drains to remove wash water.

(4) Water pollution control. The owner or operator shall describe how all liquids resulting from the operation of solid waste processing facilities will be disposed of in a manner that will not cause surface water or groundwater pollution. The owner or operator shall provide for the treatment of wastewaters resulting from the process or from cleaning and washing and specify how the procedure for wastewater disposal is in compliance with the rules of the commission.

(5) Endangered species protection. If necessary, the owner or operator shall describe how the facility will be designed to protect endangered species.

(c) Facility surface water drainage report. The owner or operator of a municipal solid waste (MSW) facility shall include a statement that the facility design complies with the requirements of §330.303 of this title (relating to Surface Water Drainage for Municipal Solid Waste Facilities). Additionally, applications for landfill and compost units shall include a surface water drainage report to satisfy the requirements of Subchapter G of this chapter (relating to Surface Water Drainage) and shall include the following.

(1) Drainage analyses. The owner or operator shall submit the following information and analyses:

(A) drawing(s) showing the drainage areas and drainage calculations;

(B) designs of all drainage facilities within the facility area, including such features as typical cross-sectional areas, ditch grades, flow rates, water surface elevation, velocities, and flowline elevations along the entire length of the ditch;

(C) sample calculations provided to verify that existing drainage patterns will not be adversely altered;

(D) a description of the hydrologic method and calculations used to estimate peak flow rates and runoff volumes including justification of necessary assumptions:

(i) the 25-year rainfall intensity used for facility design including the source of the data; all other data and necessary input parameters used in conjunction with the selected hydrologic method and their sources should be documented and described;

(ii) hydraulic calculations and designs for sizing the necessary collection, drainage, and/or detention facilities;

(iii) discussion and analyses to demonstrate that existing drainage patterns will not be adversely altered as a result of the proposed landfill development; and

(iv) structural designs of the collection, drainage, and/or storage facilities.

(2) Flood control and analyses. The owner or operator shall:

(A) identify whether the site is located within a 100-year floodplain. If applicable, indicate 100-year floodplain on the drawing in paragraph (1)(A) of this subsection;

(B) provide the source of all data for such determination and include a copy of the relevant Federal Emergency Management Agency (FEMA) flood map or the calculations and maps used where a FEMA map is not used. FEMA maps are prima facie evidence of floodplain locations. Information shall also be provided identifying the 100-year flood level and any other special flooding factors (e. g., wave action) that must be considered in designing, constructing, operating, or maintaining the proposed facility to withstand washout from a 100-year flood. The boundaries of the proposed landfill facility should be shown on the floodplain map;

(C) if the site is located within the 100-year floodplain, provide information detailing the specific flooding levels and other events (e.g., design hurricane projected by Corps of Engineers) that impact the flood protection of the facility. Data should be that required by §§301.33 - 301.36 of this title (relating to Preliminary Plans: Data To Be Submitted, Criteria For Approval of Preliminary Plans; Additional Information; Plans To Bear Seal of Engineer). The owner or operator shall include cross-sections or elevations of landfill levees shown tied into contours;

(D) for construction in a floodplain, submit, where applicable:

(i) approval from the governmental entity with jurisdiction under Texas Water Code, §16.236, as implemented by Chapter 301 of this title (relating to Levee Improvement Districts, District Plans of Reclamation, and Levees and Other Improvements);

(ii) a floodplain development permit from the city, county, or other agency with jurisdiction over the proposed improvements;

(iii) a Conditional Letter of Map Amendment from FEMA; and

(iv) a Corps of Engineers Section 404 Specification of Disposal Sites for Dredged or Fill Material permit for construction of all necessary improvements.

(d) Waste management unit design.

(1) Storage and transfer units. The owner or operator shall:

(A) describe how the solid waste management facility will be designed for the rapid processing and minimum detention of solid waste at the facility. The owner or operator shall specify that all solid waste capable of creating public health hazards or nuisances be stored indoors only and processed or transferred promptly and shall not be allowed to result in nuisances or public health hazards. If the facility is in continuous operation, such as for resource or energy recovery, the owner or operator shall provide design features for wastes storage units that will prevent the creation of nuisances or public health hazards due to odors, fly breeding, or harborage of other vectors;

(B) design the units to control and contain spills and contaminated water from leaving the facility. The design shall be sufficient to control and contain a worst-case spill or release from the unit. Unenclosed containment areas shall also account for precipitation from a 25-year, 24-hour rainfall event; and

(C) specify the maximum allowable period of time that unprocessed and processed wastes are to remain on site.

(2) Incineration units. The owner or operator shall provide waste feed rates, an estimate of the amount and planned method for testing and final disposal of incinerator ash, an estimate of the volume of quench or process water, and the planned method of treatment and disposal of such water.

(3) Surface impoundments. The owner or operator shall provide:

(A) design specifications for surface impoundments, including a plan view and cross-section of the impoundment;

(B) the minimum freeboard to be maintained and the basis of the design to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on (if allowed); malfunctions of level controllers, alarms, and other equipment; and human error. The owner or operator shall show that adequate freeboard will be available to prevent overtopping from a 25-year, 24-hour rainfall event; and/or

(C) in accordance with §330.339 of this title (relating to Liner Quality Control Plan), a liner quality control plan prepared in accordance with Subchapter H of this chapter (relating to Liner System Design and Operation).

(4) Landfill units. The owner or operator shall specify:

(A) provisions for all-weather operation, e.g., all-weather road, wet-weather pit, alternative disposal facility, etc., and provisions for all-weather access from publicly owned routes to the disposal facility and from the entrance of the facility to unloading areas used during wet weather. Interior access road locations and the type of surfacing shall be indicated on a facility plan. The roads within the facility shall be designed so as to minimize the tracking of mud onto the public access road;

(B) the landfill method proposed, e.g., moving-face cell or trench, area fill, or combination;

(C) elevation of deepest excavation, maximum elevation of waste, maximum elevation of final cover;

(D) a calculation of the estimated rate of solid waste deposition and operating life of the landfill unit. As a general rule, 10,000 people with a per capita collection rate of five pounds per day, dispose of 10 - 15 acre-feet of solid waste in one year;

(E) landfill unit cross-sections consisting of plan profiles across the facility clearly showing the top of the levee, top of the proposed fill (top of the final cover), maximum elevation of proposed fill, top of the wastes, existing ground, bottom of the excavations, side slopes of trenches and fill areas, gas vents or wells, and groundwater monitoring wells, plus the initial and static levels of any water encountered. The owner or operator shall provide a sufficient number of cross-sections, both latitudinally and longitudinally, so as to accurately depict the existing and proposed depths of all fill areas within the site. The plan portion shall be shown on an inset key map. The fill cross-sections shall go through or very near the soil borings in order that the boring logs obtained from the soils report can also be shown on the profile;

(F) construction and design details of compacted perimeter or toe berms that are proposed in conjunction with aboveground (aerial-fill) waste disposal areas shall be included in the fill cross-sections; and

(G) a liner quality control plan prepared in accordance with Subchapter H of this chapter.

(5) Arid exemption landfill application information. Owners or operators of new, existing, and lateral expansions of small MSW landfill facilities that meet the criteria in §330.5(b) of this title (relating to Classification of Municipal Solid Waste Facilities) shall submit a certification of eligibility to the executive director and place a copy of the certification in the operating record. The certification shall be signed by a principal executive officer, a ranking elected official, or an independent professional engineer licensed to practice in the State of Texas. The certification must contain the following information:

(A) a statement certifying that the small MSW landfill facility meets all requirements contained in §330.5(b) of this title for exemptions from Subchapter H of this chapter (relating to Liner System Design and Operation) and Subchapter J of this chapter (relating to Groundwater Monitoring and Corrective Action);

(B) documentation that the small MSW landfill facility receives for disposal an annual average of less than 20 tons per day of authorized types of waste in a Type IAE landfill unit and/or less than 20 tons per day of authorized types of waste in a Type IVAE landfill unit for a total waste acceptance rate less than 40 tons per day for the facility, based upon the most recent four reporting quarters or a certification that programs have been put in place, or will be implemented, to reduce the annual average to less than 20 tons per day based on an annual average for each landfill unit type within one year;

(C) documentation that there are no practicable waste management alternatives available. The documentation shall demonstrate one of the following:

(i) additional costs of available alternatives are estimated to exceed 1.0% of the owner's or operating community's budget for all public services;

(ii) haul distances to alternative sites are unreasonably long; or

(iii) all other alternatives are not feasible to implement, given the community location and economic condition; and

(D) documentation that the small MSW landfill unit receives less than or equal to 25 inches of average annual precipitation as determined from precipitation data for the nearest official precipitation recording station for the most recent 30-year reporting period.

(6) Type V mobile liquid waste processing units. The owner or operator shall provide the following:

(A) documentation of affirmative local government approval or acceptance of the mobile unit operation, including conformity with local ordinances, local rules, or requirements set forth by the treatment facility for the discharge, including local limits, zoning restrictions, permits, licenses, authorizations, etc. These regulations do not grant authorization for operation of mobile liquid waste processing units in noncompliance with local government ordinances and regulations or without the express approval of the local wastewater authority. Discharge from a mobile liquid waste processing unit is allowed only at selected disposal points selected by the local treatment facility permitted under Texas Water Code, Chapter 26, so that they can be monitored by the local treatment facility; and

(B) written approval from the receiving treatment facility permitted under Texas Water Code, Chapter 26.

(7) Type IX energy, material, gas recovery for beneficial use, or landfill mining waste processing units. The owner or operator shall provide:

(A) For wastes to be excavated, a test pit evaluation report prepared by an engineer. Prior approval of a test pit plan must be obtained from the executive director before excavation of test pits including location and depth of all test pits, including a discussion and information on the following:

(i) a description of the characteristics of waste observed in test pits excavated on the site to include the percent of paper, plastics, ferrous metal, other metal, glass, other constituents, and soil fraction by weight;

(ii) a design for the test pits to extend four feet beneath the waste or to a depth authorized by the executive director and information submitted to include a Toxicity Characteristic Leaching Procedure (TCLP) of the soil to characterize the soil beneath the site. Liners if present shall not be disrupted;

(iii) a TCLP analysis of each representative type of waste excavated. Additionally, waste excavated from each test pit must be analyzed for asbestos and polychlorinated biphenyls (PCBs). Consideration should be given to the analysis of waste material from each test pit for hazardous waste constituents;

(iv) a determination as to a sufficient number of test pits to establish the properties of the waste. A site of five acres or less must have a minimum of three test pits. Sites larger than five acres must have three test pits plus one for every additional five acres or fraction of an acre. The number of test pits shall be approved by the executive director prior to making the pits. The test pits should be sufficiently large enough to provide representative information;

(v) a description of how all test pits will be backfilled with clean high plasticity or low plasticity clay. The excavation shall be backfilled to exceed the existing grade and provide positive drainage;

(vi) a cross-section drawing using the information from the test pits to depict the top and bottom elevations of the landfill;

(vii) a plan view map depicting the location and extent (vertical and lateral) of the waste unit and proposed extent of mining/recovery operations. In areas with liners, mining operations should not extend below the top of the protective cover of the liner. In areas where no liner exists, excavation operations may extend below the waste;

(viii) an evaluation of historical records of landfill operations, where available, to determine such things as hazardous waste potential, receipt of special waste, types of waste received, special waste disposal areas, construction or demolition waste disposal areas, methane and leachate records, age, volume, disposal methods, existence of liners, gas collection systems, and leachate collection systems; and

(ix) a description of how all waste removed in test pit evaluation will be disposed of in a permitted landfill;

(B) a process description to include:

(i) a list of the typical materials intended for processing along with the anticipated volume to be processed. This description shall also contain an estimate of the daily quantity of material to be processed at the facility along with a description of the proposed process of screening for hazardous materials;

(ii) the methods of excavating the buried waste materials. The owner or operator shall indicate how the material will be handled, how long it will remain in the area, what equipment will be used, how the material will be moved from the excavation area, how the excavation area will be held to a minimum, the maximum side slopes in buried waste, and the maximum excavation area at any one time. The owner or operator shall provide the sequence of excavation;

(iii) the processes used to recover reusable or recyclable material or energy. The narrative shall include any water addition, processing rates, equipment, and mass balance or energy balance calculations;

(iv) how any process water will be handled and disposed of if a wet mining process is to be used;

(v) a complete narrative on product distribution to include items such as disposition of material or energy recovered and probable use of soils on site and off site; and

(vi) a process diagram that depicts the general process;

(C) a description of liner system used for excavated waste storage, processing, and screening areas to control seepage and runoff. The liner shall be covered with a material designed to withstand normal traffic from the processing operations; and

(D) a description of how waste excavation activities will comply with the minimum design and operation requirements of:

(i) §330.149 (relating to Odor Management Plan);

(ii) §330.151 (relating to Disease Vector Control);

(iii) §330.165 (relating to Landfill Cover); and

(iv) §330.167 (relating to Ponded Water).

(8) Compost units. The owner or operator shall provide:

(A) for mechanical composting systems, a detailed engineering description of the system and the manufacturer's performance data;

(B) facility layout, including calculations for area requirements;

(C) a description of the movement of the material as it leaves the tipping area indicating how the material is incorporated into the composting process and what handling techniques are used all the way through to the post-processing area. The narrative must include:

(i) processing rates;

(ii) equipment;

(iii) mass balance calculations;

(iv) use of bulking agents, moisture control, or feed amendments;

(v) process monitoring methods;

(vi) temperature range and resident time;

(vii) storage of compost for curing after the primary composting operation; and

(viii) provision for additional drying and screening;

(D) a narrative on the post-processing process, including post-processing times, identification and segregation of product, storage of product, and quality assurance and quality control; and

(E) a narrative on product distribution including items such as end-product quantities, anticipated final grades, packaging, labeling, loading, marketing, distribution, tracking, and delivery of composted material.

(9) Type VI waste processing demonstration facilities.

(A) The facility size shall be limited to a liquid waste processing rate no greater than 10,000 gallons per day.

(B) The facility design and operation shall be coordinated with a consultant connected with an accredited college or university or with a consultant that has demonstrated the ability to carry out scientific experiments for demonstrating new and unproven waste handling methods and submitted to the executive director. The owner or operator shall submit to the executive director an annual and final status report to document the viability of the method being demonstrated. The report, at a minimum, must document the effluent standards and solid waste standards achieved.

(C) The owner or operator may request a variance.

(i) In specific cases, the executive director may approve a variance from the requirements of this chapter if the variance is not contrary to safeguarding the health, welfare, and physical property of the people and to protecting the environment. A variance may not be approved concerning the procedural requirements of this chapter.

(ii) A request for a variance must be submitted in writing to the executive director. The request may be made in an application for a registration. Any approval of a variance must be in writing from the executive director.

(e) Geology report. This portion of the application applies to owners or operators of MSW landfills, compost units, and if otherwise requested by the executive director. The geology report shall be prepared and signed by a qualified groundwater scientist. Previously prepared documents may be submitted but must be supplemented as necessary to provide the requested information. Sources and references for information must be provided. The geology report must contain the following information:

(1) a description of the regional geology of the area that includes:

(A) a geologic map of the region with text describing the stratigraphy and lithology of the map units. An appropriate section of a published map series such as the Geologic Atlas of Texas prepared by the Bureau of Economic Geology is acceptable; and

(B) a description of the generalized stratigraphic column in the facility area from the base of the lowermost aquifer capable of providing usable groundwater, or from a depth of 1,000 feet, whichever is less, to the land surface. The geologic age, lithology, variations in lithology, thickness, depth, geometry, hydraulic conductivity, and depositional history of each geologic unit should be described based upon available geologic information. Regional stratigraphic cross-sections should be provided;

(2) a description of the geologic processes active in the vicinity of the facility that includes an identification of any faults and subsidence in the area of the facility. The information about faulting and subsidence shall include at least that required in §330.555(b) and §330.559 of this title (relating to Fault Areas and Unstable Areas);

(3) a description of the regional aquifers in the vicinity of the facility based upon published and open-file sources that provides:

(A) aquifer names and their association with geologic units described in paragraph (2) of this subsection;

(B) the composition of the aquifer(s);

(C) the hydraulic properties of the aquifer(s);

(D) information on whether the aquifers are under water table or artesian conditions;

(E) information on whether the aquifers are hydraulically connected;

(F) a regional water-table contour map or potentiometric surface map for each aquifer, if available;

(G) an estimate of the rate of groundwater flow;

(H) typical values or a range of values for total dissolved solids content of groundwater from the aquifers;

(I) identification of areas of recharge to the aquifers within five miles of the site; and

(J) the present use of groundwater withdrawn from aquifers in the vicinity of the facility. The identification, location, and aquifer of all water wells within one mile of the property boundaries of the facility shall be provided;

(4) the results of investigations of subsurface conditions at a particular waste management unit. This report must describe all borings drilled on site to test soils and characterize groundwater and must include a site map drawn to scale showing the surveyed locations and elevations of the borings. Boring logs must include a detailed description of materials encountered including any discontinuities such as fractures, fissures, slickensides, lenses, or seams. Geophysical logs of the boreholes may be useful in evaluating the stratigraphy. Each boring must be presented in the form of a log that contains, at a minimum, the boring number; surface elevation and location coordinates; and a columnar section with text showing the elevation of all contacts between soil and rock layers, description of each layer using the unified soil classification, color, degree of compaction, and moisture content. A key explaining the symbols used on the boring logs and the classification terminology for soil type, consistency, and structure must be provided. The boring plan, including locations and depths of all proposed borings, shall be approved by the executive director prior to initiation of the work.

(A) A sufficient number of borings shall be performed to establish subsurface stratigraphy and to determine geotechnical properties of the soils and rocks beneath the facility. Other types of samples may also be taken to provide geologic and geotechnical data. The number of borings necessary can only be determined after the general characteristics of a site are analyzed and will vary depending on the heterogeneity of subsurface materials. Locations with stratigraphic complexities such as non-uniform beds that pinch out, vary significantly in thickness, coalesce, or grade into other units, will require a significantly greater degree of subsurface investigation than areas with simple geologic frameworks.

(B) Borings shall be sufficiently deep enough to allow identification of the uppermost aquifer and underlying hydraulically interconnected aquifers. Borings shall penetrate the uppermost aquifer and all deeper hydraulically interconnected aquifers and be deep enough to identify the aquiclude at the lower boundary. All the borings shall be at least five feet deeper than the elevation of the deepest excavation. In addition, at least the number of borings shown on the Table of Borings shall be drilled to a depth at least 30 feet below the deepest excavation planned at the waste management unit, unless the executive director approves a different depth. If no aquifers exist within 50 feet of the elevation of the deepest excavation, at least one test hole shall be drilled to the top of the first perennial aquifer beneath the site, if sufficient data does not exist to accurately locate it. The executive director may accept data equivalent to a deep boring on the site to determine information for aquifers more than 50 feet below the site. Aquifers more than 300 feet below the lowest excavation and where the estimated travel times for constituents to the aquifer are in excess of 30 years plus the estimated life of the site need not be identified through borings.

TABLE OF BORINGS

Size of Area in Acres	Number of Borings	Min. No. of Borings 30 Feet below the Elev. of Deepest Excavation
5 or less	2-4	2
5-10	4-6	3
10-20	6-10	5
20-50	10-15	7
50-100	15-20	7-12

Size of Area in Acres	Number of Borings	Min. No. of Borings 30 Feet below the Elev. of Deepest Excavation
100-150	20-23	12-13
150-200	23-26	13-15
200-250	26-29	15-16
250-300	29-32	16-17
300-350	32-35	17-18
350-400	35-38	18-20
400-450	38-42	20-21
450-500	42-44	21-22
500-550	44-47	22-24
550-600	47-50	24-26
More than 600	Determined in consultation with the executive director	

* The executive director may approve different boring depths if site-specific conditions justify variances.

(C) All borings shall be conducted in accordance with established field exploration methods. The hollow-stem auger boring method is recommended for softer materials; coring may be required for harder rocks. Other methods shall be used as necessary to obtain adequate samples for soil testing required in this paragraph. Investigation procedures shall be discussed in the report.

(D) Installation, abandonment, and plugging of the borings in accordance with the rules of the commission.

(E) Both the number and depth of borings may be modified because of site conditions with approval of the executive director.

(F) Geophysical methods, such as electrical resistivity, may be used with authorization of the executive director to reduce the number of borings that may be necessary or to provide additional information between borings.

(G) Cross-sections must be prepared from the borings depicting the generalized strata at the facility. For small waste management units, two perpendicular cross-sections will normally suffice.

(H) A narrative that describes the investigator's interpretations of the subsurface stratigraphy based upon the field investigation shall be provided;

(5) geotechnical data that describes the geotechnical properties of the subsurface soil materials and a discussion with conclusions about the suitability of the soils and strata for the uses for which they are intended. All geotechnical tests shall be performed in accordance with industry practice and recognized procedures such as described below. A brief discussion of geotechnical test procedures including:

(A) a laboratory report of soil characteristics determined from at least one sample from each soil layer or stratum that will form the bottom and side of the proposed excavation and from those that are less than 30 feet below the lowest elevation of the proposed excavation. Additional tests shall be performed, as necessary, to provide a typical profile of soil stratification within the site. No laboratory work need be performed on highly permeable soil layers such as sand or gravel. The samples shall be tested by a competent independent third-party soils laboratory;

(B) permeability tests performed according to one of the following standards on undisturbed soil samples. Permeability tests shall be performed using tap water or .05 Normal solution of calcium sulfate ($CaSO_4$), and not distilled water, as the permeant. Those undisturbed samples that represent the sidewall of any proposed cell, pit, or excavation shall be tested for the coefficient of permeability on the sample's in-situ horizontal axis; all others shall be tested on the in-situ vertical axis. All test results shall indicate the type of tests used and the orientation of each tested sample. All calculations for the final coefficient of permeability tests result for each sample tested shall be included in the report:

(i) constant head with back pressure per Appendix VII of Corps of Engineers Manual EM1110-2-1906, "Laboratory Soils Testing;" American Society for Testing and Materials (ASTM) D5084 "Saturated Porous Materials Using a Flexible Wall Permeameter";

(ii) falling head per Appendix VII of Corps of Engineers Manual EM1110-2-1906, "Laboratory Soils Testing";

(iii) sieve analysis for the 200, and less than 200 fraction per ASTM D1140;

(iv) Atterberg limits per ASTM D4318; and

(v) moisture content per ASTM D2216;

(C) the depth at which groundwater was encountered and records of after-equilibrium measurements in all borings. The cross-sections prepared in response to paragraph (4)(G) of this subsection must be annotated to note the level at which groundwater was first encountered and the level of groundwater after equilibrium is reached or just prior to plugging, whichever is later. This water-level information must also be presented on all borings required by paragraph (4) of this subsection and presented in a table format in the report;

(D) records of water-level measurements in monitoring wells. Historic water-level measurements made during any previous groundwater monitoring shall be presented in a table for each well;

(E) a tabulation of all relevant groundwater monitoring data from wells on site or on adjacent MSW landfill unit(s); and

(F) identification of the uppermost aquifer and any lower aquifers that are hydraulically connected to it beneath the facility, including groundwater flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

(6) for owners and operators seeking an arid exemption for their landfill unit designs, a groundwater certification process must be used for meeting the provisions for groundwater certification of the arid exemption, as described in §330.5(b) of this title:

(A) locate and plot the facility accurately on a topographic map (7.5-minute or 15-minute United States Geological Survey quadrangle). Draw a line to enclose all of the area within one mile of the facility boundary;

(B) visit the facility and locate by physical inspection water wells and springs in the facility area. Determine the locations and plot them on the topographic map:

(i) if no wells or springs exist within the facility area, refer to subparagraph (I) of this paragraph. Otherwise, refer to clause (ii) of this subparagraph; and

(ii) determine from appropriate records (for example, water-well drillers, pump installers, city records, underground water conservation district, Texas Water Development Board, Texas Commission on Environmental Quality, United States Geological Survey, etc.) which of the wells are completed in the shallowest aquifer. If no wells are completed in the shallowest aquifer or if the shallowest aquifer is more than 150 feet below the land surface at the facility, refer to subparagraph (I) of this paragraph. Otherwise, refer to subparagraph (C) of this paragraph;

(C) determine the groundwater gradient of the shallowest aquifer in the vicinity of the facility. This can be done by measuring stabilized water levels in wells completed in the shallowest aquifer in the facility area (from subparagraph (B)(ii) of this paragraph) or from previous hydrogeologic studies using contemporaneous stabilized water-level measurements. Care should be taken to measure water levels when nearby high-volume wells, such as irrigation wells, have not been pumped for a long enough period to allow the water level to stabilize. Where no data exist or cannot be determined, the regional gradient can be used;

(D) from springs and from the wells completed in the shallowest aquifer, select the two wells/springs downgradient of and nearest to the facility based on the findings from subparagraph (C) of this paragraph. Select a well/spring upgradient or lateral to the facility, where groundwater quality is not likely to have been affected by landfill activities and preferably not by other human activities such as oil and gas operations, feedlots, sewage treatment plants, septic systems, etc;

(E) sample the three selected wells/springs determined by subparagraphs (C) and (D) of this paragraph in accordance with accepted practices, such as described in technical guidance from the executive director. The owner or operator shall have the samples analyzed by a qualified laboratory for the following parameters:

(i) chloride;

(ii) nitrate (as N);

(iii) sulfate;

(iv) total dissolved solids;

(v) specific conductance;

(vi) pH;

(vii) chromium;

(viii) non-purgeable organic carbon; and

(ix) volatile organic compounds listed in §330.419 of this title (relating to Constituents for Detection Monitoring);

(F) if permission cannot be obtained to sample one or more of the three selected wells/springs, select one or more alternate wells/springs, within the plotted area. If fewer than three wells/springs are available, sample those that are available;

(G) if permission cannot be obtained to sample any appropriately located wells/springs, submit written documentation of the facts to the executive director. If the executive director confirms that permission cannot be obtained for sampling, the well(s) may be eliminated from consideration;

(H) compile the data from subparagraphs (A) - (F) of this paragraph in a report that includes:

(i) a map showing all known wells, springs, facility boundaries, sampling points, etc.;

(ii) a map showing the groundwater gradient and data points;

(iii) chemical analyses, showing analytical methods used;

(iv) logs and construction information for the sampled wells and description and flow rate for sampled springs;

(v) text describing methods of investigation, such as sampling and water-level measurements; and

(vi) conclusions with respect to presence or lack of evidence of groundwater contamination by the facility;

(I) where no wells or springs are present in the facility area or the shallowest water level is more than 150 feet below land surface at the facility, submit a brief report describing the facility (with a map of the area) and the method(s) of determining the lack of appropriate sampling points or depth to the shallowest aquifer. Confirmed absence of sampling points will be deemed to be "no evidence of groundwater contamination";

(J) the report shall be signed and sealed by the qualified groundwater scientist who reviewed the data and reached the conclusions;

(K) if there is no evidence of groundwater contamination by the landfill, the qualified groundwater scientist who reviewed the data and reached the conclusions shall sign and seal a statement in the following format: "I (we) have reviewed the groundwater data described in a report submitted with this certification and have found no evidence that the _____ municipal solid waste landfill located at _____ has contaminated groundwater in the uppermost aquifer"; and

(L) the executive director may accept information and data, other than described in this paragraph, as showing that there is no evidence of groundwater contamination by the landfill, if the information and data are deemed to be adequate for such a determination.

(f) Groundwater sampling and analysis plan. The groundwater sampling and analysis plan for landfills and if otherwise requested by the executive director for other MSW units must be prepared in accordance with Subchapter J of this chapter (relating to Groundwater Monitoring and Corrective Action). The groundwater sampling and analysis plan for composting operations that require a permit must be prepared in accordance with the groundwater monitoring requirements of §332.47(6)(C)(ii) of this title (relating to Permit Application Preparation). As part of this plan for Type I landfills, submit the following:

(1) on a topographic map, a delineation of the waste management area, the property boundary, the proposed point of compliance as defined under §330.3 of this title (relating to Definitions), the proposed location of groundwater monitoring wells as required under §330.403 of this title (relating to Groundwater Monitoring Systems);

(2) a description of any plume of contamination that has entered the groundwater from an MSW management unit at the time that the application was submitted. In addition:

(A) delineate the extent of the plume on the topographic map required in paragraph (1) of this subsection; and

(B) identify the concentration of each assessment constituent as defined in §330.409 of this title (relating to Assessment Monitoring Program) throughout the plume or identify the maximum concentration of each assessment constituent in the plume;

(3) an analysis of the most likely pathway(s) for pollutant migration in the event that the primary barrier liner system is penetrated. This must include any groundwater modeling data and results as described in §330.403(e)(2) of this title and consider changes in groundwater flow that are expected to result from construction of the facility;

(4) detailed plans and an engineering report describing the proposed groundwater monitoring program to be implemented to meet the requirements of §330.403 of this title;

(5) if the hazardous constituents listed in the table located in 40 Code of Federal Regulations Part 258, Appendix I, and §330.419 of this title have not been detected in the groundwater at the time of permit application, the owner or operator shall submit sufficient information, supporting data, and analyses to establish a detection monitoring program that meets the requirements of §330.407 of this title (relating to Detection Monitoring Program for Type I Landfills). This submission must address the following items as specified in §330.407 of this title:

(A) a proposed groundwater monitoring system;

(B) background values for each monitoring parameter or constituent listed in §330.419 of this title, or procedures to calculate such values; and

(C) a description of proposed sampling, analysis, and statistical comparison procedures to be utilized in evaluating groundwater monitoring data;

(6) if the presence of hazardous constituents listed in §330.419 of this title has been detected in the groundwater at the time of the permit application, the owner or operator shall submit sufficient information, supporting data, and analyses to establish an assessment monitoring program that meets the requirements of §330.409 of this title. To demonstrate compliance with §330.409 of this title, the owner or operator shall address the following items:

(A) a description of any special wastes previously handled at the MSW facility;

(B) a characterization of the contaminated groundwater, including concentration of assessment constituents as defined in §330.409 of this title;

(C) a list of assessment constituents as defined in §330.409 of this title for which assessment monitoring will be undertaken in accordance with §330.405 of this title (relating to Groundwater Sampling and Analysis Requirements) and §330.409 of this title;

(D) detailed plans and an engineering report describing the proposed groundwater monitoring system, in accordance with the requirements of §330.405 of this title; and

(E) a description of proposed sampling, analysis, and statistical comparison procedures to be utilized in evaluating groundwater monitoring data; and

(7) if hazardous constituents have been measured in the groundwater that exceed the concentration limits established in §330.409 of this title, the owner or operator shall submit sufficient information, supporting data, and analyses to establish a corrective action program that meets the requirements of §330.411 and §330.413 of this title (relating to Assessment of Corrective Measures and Selection of Remedy). To demonstrate compliance with §330.411 of this title, the owner or operator shall address, at a minimum, the following:

(A) a characterization of the contaminated groundwater, including concentrations of assessment constituents as defined in §330.409 of this title;

(B) the concentration limit for each constituent found in the groundwater;

(C) detailed plans and an engineering report describing the corrective action to be taken;

(D) a description of how the groundwater monitoring program will demonstrate the adequacy of the corrective action; and

(E) a schedule for submittal of the information required in subparagraphs (C) and (D) of this paragraph provided the owner or operator obtains written authorization from the executive director prior to submittal of the complete permit application.

(g) Landfill gas management plan. A facility gas management plan shall be prepared to address all of the requirements in Subchapter I of this chapter (relating to Landfill Gas Management).

(h) Closure plan. The facility closure plan shall be prepared in accordance with Subchapter K of this chapter (relating to Closure and Post-Closure). For a landfill unit, the closure plan will include a contour map showing the final constructed contour of the entire landfill to include internal drainage and side slopes plus accommodation of surface drainage entering and departing the completed fill area plus areas subject to flooding due to a 100-year frequency flood. Cross-sections shall be provided.

(i) Post-closure plan. The facility post-closure care plan shall be prepared in accordance with Subchapter K of this chapter.

(j) Cost estimate for closure and post-closure care. The owner or operator shall submit a cost estimate for closure and post-closure care in accordance with Subchapter L of this chapter (relating to Closure, Post-Closure, and Corrective Action Cost Estimates). For an existing facility, the owner or operator shall also submit a copy of the documentation required to demonstrate financial assurance as specified in Chapter 37, Subchapter R of this title (relating to Financial Assurance for Municipal Solid Waste Facilities). For a new facility, a copy of the required documentation shall be submitted 60 days prior to the initial receipt of waste.

Adopted March 1, 2006 Effective March 27, 2006

§330.65. Contents of Part IV of the Application.

(a) The owner or operator shall submit a site operating plan. This plan will provide general operating procedures for facility management for day-to-day operations at the facility. The site operating plan must be retained during the active life of the facility. At a minimum, the site operating plan must include a description for how the items in Subchapters D and E of this chapter (relating to Operational Standards for Municipal Solid Waste Landfill Facilities; and Operational Standards for Municipal Solid Waste Storage and Processing Units) will be implemented.

(b) A facility that has an environmental management system that meets both the minimum standards described in §90.32 of this title (relating to Minimum Standards for Environmental Management Systems) and the United States Environmental Protection Agency's National Environmental Performance Track (NEPT) Program standards and is approved to operate under an environmental management system in accordance with §90.36 of this title (relating to Evaluation of an Environmental Management System by the Executive Director), is not subject to site operating plan requirements while the authorization to operate under the environmental management system remains in place. In the event the executive director terminates authorization to operate under an environmental management system, the facility will comply with the site operating plan requirements within 90 days.

(c) The owner or operator shall specify procedures for recirculating leachate or gas condensate into a landfill unit as part of the site operating plan.

(d) The owner or operator of a grease trap waste, grit trap waste, or septage processing facility shall submit information identifying any permit requirements under the Texas Pollutant Discharge Elimination System and any permit requirements imposed by other agencies (e.g., local government pretreatment or discharge authorization requirements).

Adopted March 1, 2006 Effective March 27, 2006

§330.67. Property Rights.

(a) It is the responsibility of an owner or operator to possess or acquire a sufficient interest in or right to the use of the surface estate of the property for which a permit is issued, including the access route. The granting of a permit does neither convey any property rights or interest in either real or personal property; nor does it authorize any injury to private property, invasion of personal rights, or impairment of previous contract rights; nor any infringement of federal, state, or local laws or regulations outside the scope of the authority under which a permit is issued.

(b) The owner or operator shall retain the right of entry to the facility until the end of the post-closure care period for inspection and maintenance of the facility.

(c) Executive director approval or a permit will be required if any on-site operations subsequent to closure of a landfill facility involve disturbing the cover or liner of the landfill.

(d) It is also the responsibility of an owner or operator to obtain any permits or approvals that may be required by local agencies such as for building construction, discharge of uncontaminated waters into ditches under control of a drainage district, discharge of effluent into a local sanitary sewer system, etc.

Adopted March 1, 2006 Effective March 27, 2006

§330.69. Public Notice for Registrations.

(a) Notice to local governments. For mobile liquid waste processing unit registration applications only, upon filing a registration application, the owner or operator shall mail notice to the city, county, and local health department of any local government in which operations will be conducted notifying local governments that an application has been filed. Proof of mailing shall be provided to the executive director in the form of return receipts for registered mail. Mobile liquid waste processing unit registration applications are not subject to public meeting or sign-posting requirements under subsection (b) of this section.

(b) Opportunity for public meeting and posting notice signs. The owner or operator shall provide notice of the opportunity to request a public meeting and post notice signs for all registration applications not later than 45 days of the executive director's receipt of the application in accordance with the procedures contained in §39.501(c) of this title (relating to Application for Municipal Solid Waste Permit) and by posting signs at the proposed site. The owner or operator and the commission shall hold a public meeting in the local area, prior to facility authorization, if a public meeting is required based on the criteria contained in §55.154(c) of this title (relating to Public Meetings) or by Texas Health and Safety Code, §361.111(c). Notice of a public meeting shall be provided as specified in §39.501(e)(3) and (4) of this title. This section does not require the commission to respond to comments, and it does not create an opportunity for a contested case hearing. Applications for registrations filed before the comprehensive rule revisions in this chapter as adopted in 2006 (2006 Revisions) become effective are subject to the former rule requirements to conduct a public meeting. Applications for registrations filed after the 2006 Revisions become effective are subject to the 2006 Revisions requirements to provide notice of the opportunity to request a public meeting. The owner, operator, or a representative authorized to make decisions and act on behalf of the owner or operator shall attend the public meeting. A public meeting conducted under this section is not a contested case hearing under the Texas Government Code, Chapter 2001, Administrative Procedure Act. At the owner's or operator's expense, a sign or signs must be posted at the site of the proposed facility declaring that the application has been filed and stating the manner in which the commission and owner or operator may be contacted for further information. Such signs must be provided by the owner or operator and must substantially meet the following requirements.

(1) Signs must:

(A) consist of dark lettering on a white background and must be no smaller than four feet by four feet with letters at least three inches in height and block printed capital lettering;

(B) be headed by the words "PROPOSED MUNICIPAL SOLID WASTE FACILITY";

(C) include the words "REGISTRATION NO.," the number of the registration, and the type of registration;

(D) include the words "for further information contact";

(E) include the words "Texas Commission on Environmental Quality" and the address and telephone number of the appropriate commission permitting office;

(F) include the name of the owner or operator, and the address of the appropriate responsible official;

(G) include the telephone number of the owner or operator;

(H) remain in place and legible until the period for filing a motion to overturn has expired. The owner or operator shall provide a verification to the executive director that the sign posting was conducted according to the requirements of this section; and

(I) describe how persons affected may request that the executive director and applicant conduct a public meeting.

(2) Signs must be located within ten feet of every property line bordering a public highway, street, or road. Signs must be visible from the street and spaced at not more than 1,500-foot intervals. A minimum of one sign, but no more than three signs, shall be required along any property line paralleling a public highway, street, or road. This paragraph's sign requirements do not apply to properties under the same ownership that are noncontiguous or separated by intervening public highway, street, or road, unless the property is part of the registered facility.

(3) The owner or operator shall also post signs at the facility in an alternative language when the alternative language requirements in §39.405(h)(2) of this title (relating to General Notice Provisions) are met.

(4) The executive director may approve variances from the requirements of paragraphs (1) and (2) of this subsection if the owner or operator has demonstrated that it is not practical to comply with the specific requirements of those subparagraphs and alternative sign posting plans proposed by the owner or operator are at least as effective in providing notice to the public. Approval from the executive director under this subparagraph must be received before posting alternative signs for purposes of satisfying the requirements of this paragraph.

(c) Notice of final determination. The executive director shall, after review of an application for registration, determine if the application will be approved or denied in whole or in part. In accordance with §50.133(b) of this title (relating to Executive Director Action on Application or WQMP Update), if the executive director acts on an application, the chief clerk shall mail or otherwise transmit notice of the action and an explanation of the opportunity to file a motion under §50.139 of this title (relating to Motion to Overturn Executive Director's Decision). The chief clerk shall mail this notice to the owner and operator, the public interest counsel, to adjacent landowners as shown on the land ownership map and landowners list required by §330.59 of this title (relating to Contents of Part I of the Application), and to other persons who timely filed public comment in response to public notice.

(d) Motion to overturn. The owner or operator, or a person affected may file with the chief clerk a motion to overturn the executive director's action on a registration application, under §50.139 of this title. The criteria regarding motions to overturn shall be explained in public notices given under Chapter 39 of this title (relating to Public Notice) and §50.133 of this title.

Adopted March 1, 2006 Effective March 27, 2006

§330.71. Duration and Limits of Registrations and Permits.

(a) The executive director shall, after review of any application for registration, approve or deny an application in whole or in part. This action shall be based on whether the application meets the requirements of this chapter.

(b) Except as provided in subsection (f) of this section for demonstration facilities, a registration or permit is normally issued for the life of the facility but may be revoked, amended, or modified at any time if the operating conditions do not meet the minimum standards set forth in this chapter or for any other good cause.

(c) When deemed appropriate a registration or permit may be issued for a specific period of time. When an owner or operator has made timely and sufficient application for the renewal of a registration or permit, the existing registration or permit does not expire until the application has been finally determined by the commission.

(d) A registration or permit is issued to a specific person (see definition of person contained in §3.2 of this title (relating to Definitions)) and may not be transferred from one person to another without complying with the transfer approval requirements of the commission.

(e) Except for transporters and mobile treatment units, a registration or permit is attached to the realty to which it pertains and may not be transferred from one facility to another.

(f) Demonstration projects for liquid waste processing facilities shall be limited to a two-year period. Re-registration of a demonstration facility may be considered only if the new method being demonstrated is not widely used in Texas.

(g) If a registered facility does not commence physical construction within two years of issuance of a registration or within two years of the conclusion of the appeals process, whichever is longer, the registration shall automatically terminate and will no longer be effective.

(h) If a registered mobile liquid waste processing unit does not begin operation within two years of obtaining its registration, the registration shall terminate and no longer be effective.

(i) A registration shall be considered to be a permit for purposes of revocation and denial under Chapter 305 of this title (relating to Consolidated Permits).

(j) The owner or operator may file with the chief clerk a motion to overturn the executive director's denial of a registration under §50.139 of this title (relating to Motion to Overturn Executive Director's Decision).

Adopted March 1, 2006 Effective March 27, 2006

§330.73. Additional Standard Permit and Registration Conditions for Municipal Solid Waste Facilities.

(a) If at any time during the life of the facility the owner or operator becomes aware of any condition in the permit or registration that necessitates a change to accommodate new technology or improved methods or that makes it impractical to keep the facility in compliance, the owner or operator shall submit to the executive director requested changes to the permit or registration in accordance with §305.62 of this title (relating to Amendment) or §305.70 of this title (relating to Municipal Solid Waste Permit and Registration Modifications) and must be approved prior to their implementation.

(b) All drawings or other sheets prepared for requested revisions must be submitted following the format in §330.57(g) of this title (relating to Permit and Registration Applications for Municipal Solid Waste Facilities). All revised engineering and geoscientific plans, drawings, and reports shall be signed and sealed by a licensed professional engineer or geoscientist as specified in §330.57(f) of this title.

(c) A preconstruction conference shall be held prior to commencement of physical construction for a municipal solid waste (MSW) landfill facility, a vertical landfill expansion, or a lateral landfill expansion. The preconstruction conference shall not be held more than 90 days prior to the date that construction is scheduled to begin. All aspects of the permit, construction activities, and inspections shall be discussed. Additional preconstruction conferences may be held prior to the opening of a new MSW landfill unit. The executive director and owner's representatives, including the engineer, the geotechnical consultant, the contractor, and the facility manager, shall attend the preconstruction conference.

(d) The owner or operator shall obtain and submit certification by a Texas-licensed professional engineer that the facility has been constructed as designed in accordance with the issued registration or permit and in general compliance with the regulations prior to initial operation. The owner or operator shall maintain that certification on site for inspection.

(e) After all initial construction activity has been completed and prior to accepting any solid waste, the owner or operator shall contact the executive director and region office in writing and request a pre-opening inspection. A pre-opening inspection shall be conducted by the executive director within 14 days of notification by the owner or operator that all construction activities have been completed, accompanied by representatives of the owner or operator and the engineer.

(f) The MSW facility shall not accept solid waste until the executive director has confirmed in writing that all applicable submissions required by the permit or registration and this chapter have been received and found to be acceptable, and that construction is in compliance with the permit or registration and the approved site development plan. If the executive director has not provided a written or verbal response within 14 days of completion of the pre-opening inspection, the facility shall be considered approved for acceptance of waste.

SUBCHAPTER C: MUNICIPAL SOLID WASTE COLLECTION AND TRANSPORTATION
§§330.101, 330.103, 330.105, 330.107
Effective March 27, 2006

§330.101. Applicability.

This subchapter applies to all public and private collection and transportation systems.

Adopted March 1, 2006 Effective March 27, 2006

§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, 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).

Adopted March 1, 2006 Effective March 27, 2006

§330.105. Collection Vehicles and Equipment.

(a) Sanitation standards. All vehicles and equipment used for the collection and transportation of municipal solid waste shall be constructed, operated, and maintained to prevent loss of liquid or solid waste material and to minimize health and safety hazards to solid waste management personnel, the public, and the environment. Collection vehicles and equipment shall be maintained in a sanitary condition to preclude odors and fly breeding.

(b) Operating condition of vehicles. Collection vehicles should be maintained and serviced periodically and should receive periodic safety checks. Safety defects in a vehicle should be repaired before the vehicle is used.

Adopted March 1, 2006 Effective March 27, 2006

§330.107. Collection Spillage.

(a) Cleanup at collection point. The person operating the collection system shall provide for prompt cleanup of all spillages caused by the collection operation.

(b) Cleanup along route. Persons transporting solid waste shall not discharge or allow the discharge of solid waste from the vehicle on the way to the municipal solid waste facility. If a discharge of waste occurs during transportation, the transporter shall take immediate action to contain the waste and to clean up and remove the discharged waste to an approved solid waste management facility.

Adopted March 1, 2006 Effective March 27, 2006

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

§§330.201, 330.203, 330.205, 330.207, 330.209, 330.211, 330.213, 330.215, 330.217, 330.219, 330.221, 330.225, 330.227, 330.229, 330.231, 330.233, 330.235, 330.237, 330.239, 330.241, 330.243, 330.245, 330.247, 330.249
Effective March 27, 2006

§330.201. Applicability.

(a) This subchapter applies to the operation of municipal solid waste storage and processing units. If separate authorizations are required to conduct storage and processing activities at a permitted landfill facility, those activities are subject to this subchapter and the commission may reconcile any conflicting site operating plan provisions between this subchapter and Subchapter D of this chapter (relating to Operational Standards for Municipal Solid Waste Landfill Facilities).

(b) Permits and registrations for units that existed before the comprehensive rule revisions in this chapter as adopted in 2006 (2006 Revisions) became effective remain valid, except as provided by this subchapter. The permittee or registrant is under an obligation to apply for a modification within 180 days, unless approved otherwise by the executive director, in accordance with §305.70(k) of this title (relating to Municipal Solid Waste Permit and Registration Modifications), as applicable, to incorporate the 2006 Revisions. The application will be processed as a modification requiring public notice and any subsequent applications will be processed in accordance with Chapter 305, Subchapter D of this title (relating to Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits). Timely submission of a request for a modification qualifies the owners or operators of existing units to operate under requirements contained in the existing authorization.

Adopted March 1, 2006 Effective March 27, 2006

§330.203. Waste Acceptance and Analysis.

(a) The owner or operator shall identify the sources and characteristics of wastes (e.g., residential, commercial, grease trap, grit trap, sludges, septage, special wastes, Class 1, Class 2, or Class 3 industrial solid wastes, compost feedstocks) proposed to be received for storage or processing. Municipal solid waste facilities may not receive regulated hazardous waste, unless authorized in accordance with Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste). If a waste constituent or characteristic could be a limiting parameter that may impact or influence the design and operation of the facility, the owner or operator shall specify parameter limitations of each type of waste to be managed by the facility that may include constituent concentrations and characteristics such as pH, fats, oil and grease concentrations, total suspended solids, chemical oxygen demand, biochemical oxygen demand, organic and metal constituent concentrations, water content, or other constituents.

(b) The owner or operator shall determine types and an estimate of the amount of each waste to be received daily; the maximum amount of waste to be stored at any one point in time; the maximum

and average lengths of time that waste is to remain at the facility; the maximum and average waste processing times; and the intended destination of the solids and liquids generated by a facility. ~~If applicable, a narrative must be included that describes how 10% of the incoming waste will be recovered and its intended use.~~

~~(c) For solid waste processing and experimental facilities, the following requirements apply.~~

(1) The owner or operator shall establish the method of sampling and analysis for the effluent discharged to a trap, interceptor, or treatment facility permitted under Texas Water Code, Chapter 26. At a minimum, the method of sampling, the frequency of sampling, and the tests to be made shall be part of the sampling and analysis plan. All sampling and analysis shall be done according to approved United States Environmental Protection Agency (EPA) methods. Records shall be maintained for a three-year period.

~~(2) At a minimum, analyses for wastes received shall be made for benzene, lead, and total petroleum hydrocarbons (TPH). Grit trap wastes must be analyzed annually for biochemical oxygen demand, total suspended solids, benzene, TPH, and lead. Sludges that are disposed of at a municipal solid waste landfill must be analyzed annually for benzene, lead, and TPH. At a minimum, effluent from the facility must be analyzed annually for TPH, fats, oil and grease, and pH. Records of each analysis shall be maintained at the facility for a minimum of three years. All sampling and analysis shall be done according to EPA-approved methods.~~

Adopted March 1, 2006 Effective March 27, 2006

§330.205. Facility-Generated Wastes.

(a) The operator of a storage or processing facility shall specify the characteristics and constituent concentrations of wastes generated by the facility. The owner or operator must be able to provide documentation that all wastes leaving the facility can be adequately managed by other facilities, licensed or permitted by the appropriate agencies to receive such wastes, at the volumes and concentrations estimated in the facility design.

(b) Wastes generated by a facility must be processed or disposed at an authorized solid waste management facility.

(c) Wastewaters generated by a facility shall be managed in accordance with §330.207 of this title (relating to Contaminated Water Management).

~~(d)~~ The facility shall be designed and operated in a manner that sludges produced pass the Paint Filter Liquids Test, (United States Environmental Protection Agency (EPA) Method 9095) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication Number SW-846, September 1986). The facility shall be designed and operated to produce a sludge that is acceptable at municipal solid waste landfills and does not exceed the following standards. Sludges exceeding these limits shall not be disposed in municipal solid waste landfills and must be sent to an authorized facility for further processing or disposal as a hazardous waste, as appropriate or disposed in

a municipal solid waste landfill with dedicated Class 1 industrial solid waste cells if the sludge is nonhazardous.

Contaminant	Total Limit	TCLP Limit
Benzene	10 milligrams per kilogram (mg/kg)	0.5 milligrams per liter (mg/L)
Lead	30 mg/kg	1.5 mg/L
Total petroleum hydrocarbons (TPH)	1,500 mg/kg	not applicable

Adopted March 1, 2006 Effective March 27, 2006

§330.207. Contaminated Water Management.

(a) All liquids resulting from the operation of solid waste facilities shall be disposed of in a manner that will not cause surface water or groundwater pollution. The owner or operator may send wastewater off site to an authorized facility or shall provide for the treatment of wastewaters resulting from managing the waste or from cleaning and washing. The owner or operator shall not discharge contaminated water without specific written authorization. Except as provided in subsection (b) of this section, the owner or operator shall provide a connection into a public sewer system, a septic system, or a small wastewater treatment plant. On-site wastewater treatment systems shall comply with Chapter 285 of this title (relating to On-site Sewage Facilities). The owner or operator shall obtain any permit or other approval required by state or local code for the system installed.

~~(b) Contaminated water and leachate shall be collected and contained until properly managed. Collection units other than storage tanks shall have a clay or synthetic liner and the liner shall be constructed in accordance with §330.331(b) of this title (relating to Design Criteria). One foot of freeboard for the 25-year, 24-hour rainfall event shall be provided.~~

~~(c) The use of leachate and gas condensate in any mining process is prohibited.~~

~~(d) Facilities that process grease trap waste, grit trap waste, or septage; mobile liquid waste processing units; and demonstration projects for liquid waste processing facilities shall not discharge to a septic system~~.

(e) Off-site discharge of contaminated waters shall be made only after approval under the Texas Pollutant Discharge Elimination System authority.

(f) Wastewaters discharged to a treatment facility permitted under Texas Water Code, Chapter 26 must not:

~~(1) interfere with or pass through the treatment facility processes or operations;~~

~~(2) interfere with or pass through its sludge processes, use, or disposal; or~~

~~(3) otherwise be inconsistent with the prohibited discharge standards, including 40 Code of Federal Regulations Part 403, General Pretreatment Regulations for Existing and New Source Pollution.~~

~~(g) The daily effluent design standard for oil and grease concentration leaving the facility and entering a public sewer system shall not exceed 200 milligrams per liter, the concentration established in the wastewater discharge permit pretreatment limit or the concentration established by the treatment facility permitted under Texas Water Code, Chapter 26, the National Pollutant Discharge Elimination System, or the following liquid effluent limits, if the discharge points do not require compliance with locally set limits.~~

Effluent Characteristics	**Effluent limitations**	
	Maximum for any one day:	Average of daily values for 30 consecutive days shall not exceed:
	Metric units (kilograms (kg)/1,000 kg of raw material)	
Oil and grease	0.10	0.05
Total petroleum hydrocarbons (TPH)	0.01	0.01
pH	5.5 - 10.5	5.5 - 10.5
	English units (pounds (lbs)/1,000 lb of raw material)	
Oil and grease	0.10	0.05
TPH	0.01	0.01
pH	5.5 - 10.5	5.5 - 10.5

~~(h) Lagoons, open-top storage tanks, open vessels, and underground storage units are prohibited at liquid waste transfer facilities.~~

Adopted March 1, 2006 Effective March 27, 2006

§330.209. Storage Requirements.

(a) All solid waste shall be stored in such a manner that it does not constitute a fire, safety, or health hazard or provide food or harborage for animals and vectors, and shall be contained or bundled so as not to result in litter. It shall be the responsibility of the occupant of a residence or the owner or manager of an establishment to utilize storage containers of an adequate size and strength, and in sufficient numbers, to contain all solid waste that the residence or establishment generates in the period of time between collections.

~~(b) An on-site storage area for source-separated or recyclable materials should be provided that is separate from a transfer station or process area. Control of odors, vectors, and windblown waste from the storage area shall be maintained~~.

~~(c) For the process area of transfer stations that recover material from solid waste that contains putrescibles and for liquid waste processing units, processed and unprocessed waste and recycled materials shall be stored in an enclosed building, vessel, or container.~~

Adopted March 1, 2006 Effective March 27, 2006

§330.211. Approved Containers.

All solid waste containing food wastes shall be stored in covered or closed containers that are leakproof, durable, and designed for safe handling and easy cleaning.

(1) Nonreusable containers. Nonreusable containers shall be of suitable strength to minimize animal scavenging or rupturing during collection operations.

(2) Reusable containers. Reusable containers must be maintained in a clean condition so that they do not constitute a nuisance and to retard the harborage, feeding, and propagation of vectors.

(A) All containers to be emptied manually must be capable of being serviced without the collector coming into physical contact with the solid waste.

(B) Containers to be mechanically handled must be designed to prevent spillage or leakage during storage, handling, or transport.

Adopted March 1, 2006 Effective March 27, 2006

~~§330.213. Citizen's Collection Stations.~~

(a) Citizen's collection stations shall be provided with the type and quantity of containers compatible with the areas to be served. Rules shall be posted governing the use of the facility to include who may use it, what may or may not be deposited, etc. The responsible person that owns or operates the collection center shall provide for the collection of deposited waste on a scheduled basis and supervise the facility in order to maintain it in a sanitary condition.

(b) A citizen's collection station may accept sharps from single-family or multi-family dwellings, hotels, motels, or other establishments that provide lodging and related services for the public. The sharps will not be considered medical waste, as defined in §330.3 of this title (relating to Definitions).

Adopted March 1, 2006 Effective March 27, 2006

~~§330.215. Requirements for Stationary Compactors.~~

Operational standards for permitted stationary compactors are as follows.

(1) Stationary compactors shall be operated and maintained in such a way as not to create a public nuisance through material loss or spillage, odor, vector breeding or harborage, or other condition.

(2) The certificate within the application and the provisions of the permit must be adhered to at all times.

Adopted March 1, 2006 Effective March 27, 2006

~~§330.217. Pre-Operation Notice.~~

(a) Type V mobile liquid waste processing unit demonstration of viability.

(1) The owner or operator shall not initiate operation of each unit until a pre-operation inspection of each mobile unit has been conducted and the executive director gives written authorization to accept waste. The owner or operator shall demonstrate under field conditions that the process works. The demonstration shall be conducted under the supervision of experienced executive director staff and when appropriate, with local government staff. The viability demonstration shall be made by processing three traps in a single day representative of the traps normally serviced. The traps must have been in operation and not have been serviced for at least 30 days prior to the demonstration. The volume of material to be processed before unloading must be consistent with manufacturer's performance specifications and the operating plan, particularly as to the expected ratios between gross volumes processed and amounts discharged following processing. Multiple grab samples of effluent taken from the discharge outlet of the mobile processing unit must be tested for fats, oils, greases, and pH and be designed and operated to meet the effluent limits imposed by its treatment facility permitted under Texas Water Code, Chapter 26, Texas Pollutant Discharge Elimination System, or the liquid

effluent limits specified in §330.207(g) of this title (relating to Contaminated Water Management) if the discharge points do not require compliance with locally set limits.

(2) Waste solids (sludges) produced by the mobile processing unit must be disposed of in a solid waste disposal facility regulated by the State of Texas or other location approved by the executive director. Solids should be dewatered to the point that they pass the United States Environmental Protection Agency (EPA) paint filter test, EPA Test Method 9095, or they should be taken to an authorized facility to be dewatered prior to landfilling.

(3) The owner or operator shall remain responsible for making corrections or changes that are necessary to meet requirements prior to operating the mobile unit.

(b) Type VI demonstration projects for liquid waste processing facilities. The operation of the facility shall not begin until a pre-opening inspection has been conducted and written authorization to accept waste has been given by the executive director.

Adopted March 1, 2006 Effective March 27, 2006

§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 - 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).

Adopted March 1, 2006 Effective March 27, 2006

§330.221. Fire Protection.

(a) An adequate supply of water under pressure must be available for firefighting purposes.

(b) Firefighting equipment must be readily available.

(c) A fire protection plan shall be established, and all employees shall be trained in its contents and use. This fire protection plan shall describe the source of fire protection (a local fire department, fire hydrants, fire extinguishers, water tanks, water well, etc.), procedures for using the fire protection source, and employee training and safety procedures. The fire protection plan shall comply with local fire codes.

Adopted March 1, 2006 Effective March 27, 2006

§330.223. Access Control.

(a) Public access to all municipal solid waste facilities shall be controlled by means of artificial barriers, natural barriers, or a combination of both, appropriate to protect human health and safety and the environment. Uncontrolled access to other operations located at a municipal solid waste facility shall be prevented.

~~(b) The facility access road from a publicly owned roadway must be at least a two lane gravel or paved road, designed for the expected traffic flow. Safe on site access for commercial collection vehicles and for residents must be provided. The access road design must include adequate turning radii according to the vehicles that will utilize the facility and avoid disruption of normal traffic patterns~~. Vehicle parking must be provided for equipment, employees, and visitors. ~~Safety bumpers at hoppers must be provided for vehicles. A positive means to control dust and mud must be provided.~~

(c) Access to the facility must be controlled by a perimeter fence, consisting of a four-foot barbed wire fence or a six-foot chain-link fence or equivalent, and have lockable gates. An attendant shall be on-site during operating hours. The operating area and transport unit storage area shall be enclosed by walls or fencing.

Adopted March 1, 2006 Effective March 27, 2006

§330.225. Unloading of Waste.

(a) The unloading of solid waste shall be confined to as small an area as practical. An attendant shall be provided at all facilities to monitor all incoming loads of waste. Appropriate signs shall also be used to indicate where vehicles are to unload. ~~The use of forced access lanes, identified by ditches, dikes, fences, or other means, shall be used in conjunction with signs for the prevention of indiscriminate dumping.~~ The owner or operator is not required to accept any solid waste that he/she determines will cause or may cause problems in maintaining full and continuous compliance with these sections.

~~(b) The unloading of waste in unauthorized areas is prohibited~~. ~~The owner or operator shall ensure that any waste deposited in an unauthorized area will be removed immediately and disposed of properly.~~

(c) The unloading of prohibited wastes at the municipal solid waste facility shall not be allowed. The owner or operator shall ensure that any prohibited waste will be returned immediately to the transporter or generator of the waste.

Adopted March 1, 2006 Effective March 27, 2006

§330.227. Spill Prevention and Control.

Storage and processing areas shall be designed to control and contain spills and contaminated water from leaving the facility. The design shall be sufficient to control and contain a worst case spill or release. Unenclosed containment areas shall also account for precipitation from a 25-year, 24-hour storm.

Adopted March 1, 2006 Effective March 27, 2006

§330.229. Operating Hours.

~~(a) A site operating plan must specify the operating hours. The waste acceptance hours may be any time between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, unless otherwise approved by the executive director or commission for a permit. The operating hours for operating heavy equipment and transporting materials on- or off-site may be any time between the hours of 5:00 a.m. and 9:00 p.m., Monday through Friday, unless otherwise approved in the authorization. Other activities do not require specific approval. For facilities that do not require a permit or registration, the owner or operator will notify adjacent landowners by first class mail concurrently with filing the request for expanded waste acceptance or operating hours with the commission's regional office 30 days prior to the proposed implementation of the expanded hours. The notice will contain instructions for adjacent landowners to contact the commission's regional office in writing of any concerns regarding the requested expanded waste acceptance or operating hours. The owner or operator may not begin operating during the expanded hours unless written approval is received by the regional office.~~

~~(b) In addition to the requirements of subsection (a) of this section, the authorization may include alternative operating hours of up to five days in a calendar year period to accommodate special occasions, special purpose events, holidays, or other special occurrences.~~

~~(c) The commission's regional offices may allow additional temporary operating hours to address disaster or other emergency situations, or other unforeseen circumstances that could result in the disruption of waste management services in the area.~~

(d) The facility must record, in the site operating record, the dates, times, and duration when any alternative operating hours are utilized.

Adopted March 1, 2006 Effective March 27, 2006

§330.231. Facility Sign.

Each facility shall conspicuously display at all entrances to the facility through which wastes are received, a sign measuring at least four feet by four feet with letters at least three inches in height stating the facility name; type of facility; the hours and days of operation; the permit number or facility number, if applicable; and facility rules. The posting of erroneous or misleading information shall constitute a violation of this section.

Adopted March 1, 2006 Effective March 27, 2006

§330.233. Control of Windblown Material and Litter.

~~(a) Windblown material and litter shall be collected as necessary, at least once per day on days that the facility is in operation, to minimize unhealthy, unsafe, or unsightly conditions.~~

~~(1) A portable fence may be employed to confine windblown material resulting from unloading. If a portable fence is not practical, other suitable practices shall be employed to control windblown material.~~

~~(2) Litter scattered throughout the facility, along fences and access roads, and at the gate must be picked up once a day on the days the facility is in operation and properly managed.~~

~~(b) If a facility is not completely enclosed, the owner or operator shall provide a wire or other type fencing or screening when necessary to minimize windblown materials.~~

Adopted March 1, 2006 Effective March 27, 2006

§330.235. Materials Along the Route to the Facility.

~~The facility owner or operator shall take steps to encourage that vehicles hauling waste to the facility are enclosed or provided with a tarpaulin, net, or other means to effectively secure the load in order to prevent the escape of any part of the load by blowing or spilling. The owner or operator shall take actions such as posting signs, reporting offenders to proper law enforcement officers, adding surcharges, or similar measures. On days when the facility is in operation, the owner or operator shall be responsible for at least once per day cleanup of waste materials spilled along and within the right-of-way of public access roads serving the facility for a distance of two miles in either direction from any entrances used for the delivery of waste to the facility. The facility operator shall consult with the Texas Department of Transportation, county, and/or local governments with maintenance authority over the roads concerning cleanup of public access roads and rights-of-way. An alternative clean up frequency and distance may be approved by the executive director.~~

Adopted March 1, 2006 Effective March 27, 2006

§330.237. Facility Access Roads.

~~(a) All weather roads shall be provided within the facility to the unloading area(s) designated for wet weather operation. The tracking of mud and debris onto public roadways from the facility shall be minimized.~~

~~(b) Dust from on-site and other access roadways shall not become a nuisance to surrounding areas. A water source and necessary equipment or other means of dust control shall be provided.~~

~~(c) All on-site and other access roadways shall be maintained on a regular basis. Access roadways shall be regraded as necessary to minimize depressions, ruts, and potholes.~~

Adopted March 1, 2006 Effective March 27, 2006

§330.239. Noise Pollution and Visual Screening.

The owner or operator of a transfer station shall provide screening or other measures to minimize noise pollution and adverse visual impacts.

Adopted March 1, 2006 Effective March 27, 2006

§330.241. Overloading and Breakdown.

(a) The design capacity of a solid waste processing or experimental facility shall not be exceeded during operation. The facility shall not accumulate solid waste in quantities that cannot be processed within such time as will preclude the creation of odors, insect breeding, or harborage of other vectors. If such accumulations occur, additional solid waste shall not be received until the adverse conditions are abated.

~~(1) For facilities that process grease trap waste, grit trap waste, or septage, and demonstration projects for liquid waste processing facilities, the maximum time allowed for storage of unprocessed waste is 72 hours.~~

~~(2) For mobile liquid waste processing facilities, the maximum time allowed for storage of unprocessed waste is four days.~~

(b) If a significant work stoppage should occur at a solid waste processing or experimental facility due to a mechanical breakdown or other causes, the facility shall accordingly restrict the receiving of solid waste. Under such circumstances, incoming solid waste shall be diverted to an approved backup processing or disposal facility. If the work stoppage is anticipated to last long enough to create objectionable odors, insect breeding, or harborage of vectors, steps shall be taken to remove the accumulated solid waste from the facility to an approved backup processing or disposal facility.

(c) The owner or operator shall have alternative processing or disposal procedures for the solid waste in the event that the facility becomes inoperable for periods longer than 24 hours.

Adopted March 1, 2006 Effective March 27, 2006

§330.243. Sanitation.

(a) At processing facilities, all working surfaces that come in contact with wastes shall be washed down on a weekly basis at the completion of processing. Processing facilities that operate on a continuous basis shall be swept daily and washed down at least two times per week.

(b) Wash waters shall not be allowed to accumulate on site without proper treatment to prevent the creation of odors or an attraction to vectors.

(c) All wash waters shall be collected and disposed of in an authorized manner.

Adopted March 1, 2006 Effective March 27, 2006

§330.245. Ventilation and Air Pollution Control.

~~(a) Air emissions from municipal solid waste facilities must not cause or contribute to a condition of air pollution as defined in the Texas Clean Air Act.~~

~~(b) All facilities and constructed air pollution abatement devices must obtain authorization, under Chapter 116 of this title (relating to Control of Air Pollution By Permits for New Construction or Modifications) or Subchapter U of this chapter (relating to Standard Air Permits for Municipal Solid Waste Landfill Facilities and Transfer Stations), as applicable, from the Air Permits Division prior to the start of construction, except as authorized in Texas Health and Safety Code, §382.004, Construction While Permit Application Pending.~~

~~(c) All liquid waste and solid waste shall be stored in odor-retaining containers and vessels.~~

~~(d) The facility shall be designed and operated to provide adequate ventilation for odor control and employee safety. The owner or operator shall prevent nuisance odors from leaving the boundary of the facility. If nuisance odors are found to be passing the facility boundary, the facility owner or operator may be required to suspend operations until the nuisance is abated.~~

~~(e) All air pollution emission capture and abatement equipment or equivalent technology shall be properly maintained and operated during the facility operation. Cleaning and maintenance of the abatement equipment shall be performed as recommended by the manufacturer and as necessary so that the equipment efficiency can be adequately maintained.~~

~~(f) The owner or operator shall employ one or more of the following measures:~~

~~(1) air scrubber units for odor control;~~

~~(2) on-site buffer zones for odor control. Consideration should be given to additional buffer zones within the facility property boundary for odor control;~~

~~(3) additional waste handling procedures, storage procedures, and clean up procedures for odor control when accepting putrescible waste; or~~

~~(4) alternative ventilation and odor control measures.~~

~~(g) Process areas that recover material from solid waste that contains putrescibles shall be maintained totally within an enclosed building. Openings to the process area shall be controlled to prevent releases of nuisance odors from leaving the property boundary of the facility.~~

~~(h) The facility shall be designed to allow a minimal time of exposure of liquid waste to the air. Openings to processing buildings shall be controlled to prevent release of nuisance odors to the atmosphere. The facility design must minimize waste contact with air during unloading of liquid waste into the facility.~~

~~(i) Cleaning and maintenance of mobile waste processing unit equipment shall be performed each day of operation to reduce odors.~~

~~(j) Reporting of emissions events shall be made in accordance with §101.201 of this title (relating to Emissions Event Reporting and Recordkeeping Requirements) and reporting of scheduled maintenance shall be made in accordance with §101.211 of this title (relating to Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements).~~

~~(k) Any ponded water at the facility shall be controlled to avoid its becoming a nuisance. In the event that objectionable odors do occur, appropriate measures shall be taken to alleviate the condition.~~

Adopted March 1, 2006 Effective March 27, 2006

§330.247. Health and Safety.

Facility personnel will be trained in the appropriate sections of the facility's health and safety plan.

Adopted March 1, 2006 Effective March 27, 2006

§330.249. Employee Sanitation Facilities.

The owner or operator shall provide potable water and sanitary facilities for all employees and visitors.

Adopted March 1, 2006 Effective March 27, 2006

SUBCHAPTER M: LOCATION RESTRICTIONS
§§330.541, 330.543, 330.545, 330.547, 330.549, 330.551,
330.553, 330.555, 330.557, 330.559, 330.561, 330.563
Effective March 27, 2006

§330.541. Applicability.

This subchapter applies in accordance with the conditions specified in §330.1 and §330.451 of this title (relating to Purpose and Applicability; and Applicability).

Adopted March 1, 2006 Effective March 27, 2006

§330.543. Easements and Buffer Zones.

(a) Easement protection. No solid waste unloading, storage, disposal, or processing operations shall occur within any easement, buffer zone, or right-of-way that crosses the facility. No solid waste disposal shall occur within 25 feet of the center line of any utility line or pipeline easement but no closer than the easement, unless otherwise authorized by the executive director. All pipeline and utility easements shall be clearly marked with posts that extend at least six feet above ground level, spaced at intervals no greater than 300 feet.

(b) Buffer zones. 

(1) Except for facilities that are authorized by a notification, the owner or operator shall maintain a minimum separating distance of 50 feet between feedstock or final product storage areas; solid waste storage, processing, Type IAE landfill units, Type IV landfill units, and Type IVAE landfill units within and adjacent to the facility boundary on property owned or controlled by the owner or operator. The buffer zone shall not be narrower than that necessary to provide for safe passage for fire fighting and other emergency vehicles. The executive director may consider alternatives to buffer zone requirements for permitted and registered storage and processing municipal solid waste facilities.

(2) For landfill permits that existed before the comprehensive rule revisions of this chapter as adopted in 2006 became effective, the owner or operator is subject to the former rules and shall establish and maintain a buffer zone in compliance with the permit. For new Type I landfills, vertical or lateral expansions of existing Type I landfills, and existing Type IAE landfills that subsequently no longer satisfy the conditions specified in §330.5(b)(1) of this title (relating to Classification of Municipal Solid Waste Facilities), the owner or operator shall establish and maintain the buffer zone prescribed by this paragraph. All buffer zones must be within and adjacent to the facility boundary on property owned or controlled by the owner or operator.

(A) For any new Type I landfill, the owner or operator shall establish and maintain a 125-foot buffer zone.

(B) For any vertical expansion, the owner or operator shall establish and maintain a 125-foot buffer zone. A vertical expansion is any height increase that exceeds the maximum permitted final contour for any cell or unit for which an increase is requested. For a vertical expansion, the buffer distance must be measured from the outermost edge of the newly permitted solid waste disposal airspace.

(C) For any lateral expansion to areas not previously permitted, the owner or operator shall establish and maintain a 125-foot buffer zone. For a lateral expansion, the buffer distance must be measured from the edge of the horizontally expanded portion of the landfill.

(D) For vertical or lateral expansions of existing landfills, the new buffer zone requirements shall apply only to newly permitted airspace and shall not apply to any previously permitted airspace, regardless of whether or not the previously permitted airspace has been constructed or filled with solid waste. The new buffer zone may include any previously permitted airspace.

(3) The executive director may consider alternatives to buffer zone requirements in paragraph (2) of this subsection. Alternatives may be approved where the owner or operator demonstrates that:

(A) the prescribed buffer zone standard is not feasible; and

(B) there is a specific engineered design alternative that:

(i) is consistent with the performance goal of providing a visual screening of solid waste processing and disposal activities;

(ii) affords ready access for emergency response, maintenance, and monitoring;

(iii) affords equivalent control of odors and windblown waste as the prescribed buffer zone; and

(iv) provides sufficient distance to meet the drainage and sediment control requirements applicable to the facility.

Adopted March 1, 2006 Effective March 27, 2006

~~§330.545. Airport Safety.~~

(a) Owners or operators of new municipal solid waste landfill units, existing municipal solid waste landfill units, vertical or lateral expansions, and landfill mining operations that are located within 10,000 feet of any airport runway end used by turbojet aircraft or within 5,000 feet of any airport runway end used by only piston-type aircraft shall demonstrate that the units are designed and operated so that the municipal solid waste landfill unit does not pose a bird hazard to aircraft.

(b) Owners or operators proposing to site new municipal solid waste landfill units and lateral expansions located within a six-mile radius of any small general service airport runway end used by turbojet or piston-type aircraft shall notify the affected airport and the Federal Aviation Administration. Owners or operators proposing to site new municipal solid waste landfill units and lateral expansions located within a five-mile radius of any large general public commercial airport runway end used by turbojet or piston-type aircraft shall notify the affected airport and the Federal Aviation Administration.

(c) The owner or operator shall submit the demonstration in subsection (a) of this section with a permit application or a permit amendment application. The demonstration will be considered a part of the operating record once approved.

(d) Landfills disposing of putrescible waste shall not be located in areas where the attraction of birds can cause a significant bird hazard to low-flying aircraft. Guidelines regarding location of landfills near airports can be found in Federal Aviation Administration Order 5200.5(A), January 31, 1990. All landfill facilities within a six-mile radius of any small general service airport runway or within a five-mile radius of any large general public commercial airport runway shall be critically evaluated to determine if an incompatibility exists.

Adopted March 1, 2006 Effective March 27, 2006

§330.547. Floodplains.

(a) No solid waste disposal operations shall be permitted in areas that are located in a 100-year floodway as defined by the Federal Emergency Management Administration.

(b) New municipal solid waste management units, existing municipal solid waste units, and lateral expansions located in 100-year floodplains shall not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste so as to pose a hazard to human health and the environment.

(c) Municipal solid waste storage and processing facilities shall be located outside of the 100-year floodplain unless the owner or operator can demonstrate that the facility is designed and will operate to prevent washout during a 100-year storm event, or obtains a conditional letter of map amendment from the Federal Emergency Management Administration administrator.

Adopted March 1, 2006 Effective March 27, 2006

~~**§330.549. Groundwater.**~~

(a) If located over the recharge zone of the Edwards Aquifer, a municipal solid waste facility is subject to Chapter 213 of this title (relating to Edwards Aquifer). The Edwards Aquifer Recharge Zone is specifically that area delineated on maps maintained by the executive director. In accordance with §213.8(a)(5) of this title (relating to Prohibited Activities), a Type I or Type IAE landfill is prohibited on the recharge zone of the Edwards Aquifer.

(b) Unless the executive director approves an engineered design that the applicant has demonstrated will provide equal or greater protection to human health and the environment, a new landfill cell or an areal expansion of an existing landfill cell managing Class 1 industrial solid waste may not be located in areas described in §335.584(b)(1) and (2) of this title (relating to Location Restrictions).

Adopted March 1, 2006 Effective March 27, 2006

~~§330.551. Endangered or Threatened Species.~~

(a) A facility and the operation of a facility shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species.

(b) The following words and terms have the following meanings, unless the context clearly indicates otherwise.

(1) **Harassing**--An intentional or negligent act or omission that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns that include, but are not limited to, breeding, feeding, or sheltering.

(2) **Harming**--An act of omission that actually injures or kills wildlife, including acts that annoy it to such an extent as to significantly disrupt essential behavioral patterns, that include, but are not limited to, breeding, feeding, or sheltering; significant environmental modification or degradation that has such effects is included within the meaning of harming.

(3) **Taking**--Harassing, harming, pursuing, hunting, wounding, trapping, capturing, or collecting an endangered or threatened species or attempting to engage in such conduct.

Adopted March 1, 2006 Effective March 27, 2006

§330.553. Wetlands.

(a) Municipal solid waste storage or processing facilities shall not be located in wetlands unless the owner or operator makes each of the demonstrations identified in subsection (b)(1) - (5) of this section.

(b) New municipal solid waste landfill units, lateral expansions, and material recovery operations from a landfill shall not be located in wetlands, unless the owner or operator makes each of the demonstrations identified in paragraphs (1) - (5) of this subsection to the executive director. The owner or operator shall submit the demonstrations with a permit application, a permit major amendment application, or a registration application, as appropriate. The demonstration shall become part of the operating record once approved.

(1) Where applicable under Clean Water Act, §404 or applicable state wetlands laws, the presumption that a practicable alternative to the proposed landfill or recovery operation is available that does not involve wetlands shall be clearly rebutted.

(2) The construction and operation of the municipal solid waste landfill unit or recovery operation shall not:

(A) cause or contribute to violations of any applicable state water quality standard;

(B) violate any applicable toxic effluent standard or prohibition under the Clean Water Act, §307;

(C) jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973; and

(D) violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary.

(3) The municipal solid waste landfill unit or recovery operation shall not cause or contribute to significant degradation of wetlands. The owner/operator shall demonstrate the integrity of the landfill unit and its ability to protect ecological resources by addressing the following factors:

(A) erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the landfill unit;

(B) erosion, stability, and migration potential of dredged and fill materials used to support the landfill unit;

(C) the volume and chemical nature of the waste managed in the landfill unit;

(D) impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

(E) the potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

(F) any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected.

(4) To the extent required under Clean Water Act, §404 or applicable state wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by paragraph (1) of this subsection, then minimizing unavoidable impacts to the maximum extent

practicable, and finally offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands).

(5) Sufficient information shall be made available to the executive director to make a reasonable determination with respect to these demonstrations.

Adopted March 1, 2006 Effective March 27, 2006

~~§330.555. Fault Areas.~~

(a) New municipal solid waste landfill units and lateral expansions shall not be located within 200 feet of a fault that has had displacement in Holocene time unless the owner or operator demonstrates to the executive director that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the landfill unit and will be protective of human health and the environment. The owner or operator shall submit the demonstration with a permit application or a permit amendment application.

(b) Applications submitted for the operation of sites located within areas that may be subject to differential subsidence or active geological faulting must include detailed fault studies. When an active fault is known to exist within 1/2 mile of the site, the site must be investigated for unknown faults. Areas experiencing withdrawal of crude oil, natural gas, sulfur, etc., or significant amounts of groundwater must be investigated in detail for the possibility of differential subsidence or faulting that could adversely affect the integrity of landfill liners. Studies of differential subsidence or faulting shall be conducted under the direct supervision of a licensed professional engineer experienced in geotechnical engineering or a licensed professional geoscientist qualified to evaluate conditions of differential subsidence or faulting. The studies must establish the limits (both upthrown and downthrown) of the zones of influence of all active faulted areas within the site vicinity. Unless the owner or operator can provide substantial evidence that the zone of influence will not affect the site, no solid waste disposal shall be accomplished within a zone of influence of active geological faulting or differential subsidence because active faulting results in slippage along failure planes, thus creating preferred seepage paths for liquids. The studies must include information or data on the items in paragraphs (1) - (12) of this subsection, as applicable:

(1) structural damage to constructed facilities (roadways, railways, and buildings);

(2) scarps in natural ground;

(3) presence of surface depressions (sag ponds and ponded water);

(4) lineations noted on aerial maps and topographic sheets;

(5) structural control of natural streams;

(6) vegetation changes;

(7) crude oil and natural gas accumulations;

(8) electrical spontaneous potential and resistivity logs (correlation of subsurface strata to check for stratigraphic offsets);

(9) earth electrical resistivity surveys (indications of anomalies that may represent fault planes);

(10) open cell excavations (visual examinations to detect changes in subsoil texturing and/or weathering indicating stratigraphic offsets);

(11) changes in elevations of established benchmarks; and

(12) references to published geological literature pertaining to area conditions.

Adopted March 1, 2006 Effective March 27, 2006

~~§330.557. Seismic Impact Zones.~~

For the purposes of this section, a seismic impact zone is defined as an area with a 10% or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in 250 years. Maximum horizontal acceleration is defined as the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90% or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment. Lithified earth material is defined as all rocks, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface. New municipal solid waste landfill units and lateral expansions shall not be located in seismic impact zones, unless the owner or operator demonstrates to the executive director that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site. The owner or operator shall submit the demonstration with a permit application or a permit amendment application. The demonstration must become part of the operating record once approved.

Adopted March 1, 2006 Effective March 27, 2006

~~§330.559. Unstable Areas.~~

For the purposes of this section, an unstable area is defined to be a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of a landfill's structural components responsible for preventing releases from the landfill; unstable areas can include poor foundation conditions, areas susceptible to mass movement, and karst terrains. Owners or operators of new municipal solid waste landfill units, existing landfill units, and lateral expansions

located in an unstable area shall demonstrate that engineering measures have been incorporated into the landfill unit's design to ensure that the integrity of the structural components of the landfill unit will not be disrupted. The owner or operator shall submit the demonstration with a permit application or a permit amendment application. The demonstration must become part of the operating record once approved. The owner or operator shall consider the following factors, at a minimum, when determining whether an area is unstable:

(1) on-site or local soil conditions that may result in significant differential settling;

(2) on-site or local geologic or geomorphologic features; and

(3) on-site or local human-made features or events (both surface and subsurface).

Adopted March 1, 2006 Effective March 27, 2006

~~§330.561. Coastal Areas.~~

A new landfill cell or an areal expansion of an existing landfill cell managing Class 1 industrial solid waste may not be located in areas described in §335.584(b)(3) and (4) of this title (relating to Location Restrictions).

Adopted March 1, 2006 Effective March 27, 2006

~~§330.563. Type I and Type IV Landfill Permit Issuance Prohibited.~~

(a) The commission may not issue a permit for a Type IV landfill that is subject to the conditions specified in Texas Health and Safety Code, §361.122, Denial of Certain Landfill Permits.

(b) The commission may not issue a permit for a Type I or Type IV landfill that is subject to the conditions specified in Texas Health and Safety Code, §361.123, Limitation on Location of Municipal Solid Waste Landfills.

Adopted March 1, 2006 Effective March 27, 2006

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
Effective March 27, 2006

§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.

Adopted March 1, 2006 Effective March 27, 2006

§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).

Adopted March 1, 2006 Effective March 27, 2006

§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.

Adopted March 1, 2006 Effective March 27, 2006

§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 "CAUCIÓN, 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.

Adopted March 1, 2006 Effective March 27, 2006

§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.

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§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 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.

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§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.

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§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.

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§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.

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§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).

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§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.

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