

Texas Administrative Code

<u>TITLE 30</u>	ENVIRONMENTAL QUALITY
<u>PART 1</u>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<u>CHAPTER 330</u>	MUNICIPAL SOLID WASTE
<u>SUBCHAPTER A</u>	GENERAL INFORMATION
RULE §330.5	General Prohibitions

(a) In addition to the requirements of §330.4 of this title (relating to Permit Required), a person may not cause, suffer, allow, or permit the collection, storage, transportation, processing, or disposal of municipal solid waste, or the use or operation of a solid waste facility to store, process, or dispose of solid waste, or to extract materials under the Texas Solid Waste Disposal Act, §361.092, in violation of the Texas Solid Waste Disposal Act, or any regulations, rules, permit, license, order of the commission or in such a manner so as to cause:

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

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

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

(b) Municipal solid waste landfill facilities (MSWLFs) failing to satisfy 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 (RCRA) and are prohibited under RCRA, §4005(a).

(c) A person may not cause, suffer, allow, or permit the dumping of municipal solid waste 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, or emergency cleanup operations as authorized by the commission or executive director as appropriate, is prohibited at any municipal solid waste landfill. The operation of any type of air-curtain destructor (trench burner), other than for the exceptions noted in the previous sentence, is prohibited.

(e) The following waste are prohibited from disposal in any municipal solid waste facility.

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

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

(B) A person who violates the provisions of this paragraph is subject to the criminal and/or civil penalties found in the Texas Solid Waste Disposal Act, as amended.

(2) Do-it-yourself (DIY) used motor vehicle oil shall not be intentionally or knowingly offered by a generator or transporter for disposal at a municipal solid waste landfill or municipal incinerator, either by itself or mixed with other solid waste, and/or shall not be intentionally or knowingly be accepted for disposal at a municipal solid waste landfill or municipal 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 who violates the provisions of this paragraph is subject to the criminal and/or civil penalties found in the Texas Solid Waste Disposal Act, as amended.

(3) Used-oil filters from internal combustion engines shall not be intentionally or knowingly accepted for disposal at landfills permitted under this chapter except as provided in §330.136 of this title (relating to Disposal of Special Wastes).

(4) Whole used or scrap tires shall not be accepted for disposal or disposed of in any municipal solid

waste landfill.

(5) Refrigerators, freezers, air conditioners, and any other items containing chlorinated fluorocarbon (CFC) shall not be knowingly accepted for disposal or disposed of in any municipal solid waste landfill unless all the CFC contained in that item is captured and sent to an approved CFC disposal site or recycling facility. If the CFC is not removed from the item, then the whole item must be sent to an approved CFC disposal site. Such items that enter the facility with ruptured lines or holes in the CFC unit shall not be accepted unless the generator or transporter provides written certification that the CFC has been evacuated from the unit and that it was not knowingly allowed to escape into the atmosphere.

(6) Liquid waste as defined in §330.2 of this title (relating to Definitions) and as described below shall not be disposed of in any MSWLF unit.

(A) Bulk or noncontainerized liquid waste shall not be accepted for disposal or disposed of in a municipal solid waste landfill unless:

(i) the waste is household waste other than septic waste; or

(ii) the waste is leachate or gas condensate derived from a landfill and the landfill unit is designed and constructed with a composite liner and a leachate collection system. The owner or operator shall make the procedure for disposal of the leachate or gas condensate a part of the site operating plan.

(B) Containers holding liquid waste shall not be accepted for disposal or disposed of in a municipal solid waste 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 §330.2 of this title (relating to Definitions) shall not be accepted at a municipal solid waste 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 a municipal solid waste facility.

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

(g) Contact between solid waste and unconfined waters, which are subject to free exchange with groundwater or surface water, is prohibited.

(h) 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.

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RULE §330.300	Airport Safety

(a) Owners or operators of new municipal solid waste landfill (MSWLF) units, existing MSWLF units, and lateral expansions 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 only by piston-type aircraft shall demonstrate that the units are designed and operated so that the MSWLF unit does not pose a bird hazard to aircraft.

(b) Owners or operators proposing to site new MSWLF units and lateral expansions located within a five-mile radius of any airport runway end used by turbojet or piston-type aircraft shall notify the affected airport and the Federal Aviation Administration (FAA).

(c) The owner or operator shall submit the demonstration in subsection (a) of this section with a permit application, a permit amendment application, or a permit transfer request. The demonstration will be considered a part of the operating record once approved.

(d) Sites 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), 1/31/90. All landfill sites within five miles of an airport shall be critically evaluated to determine if an incompatibility exists.

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RULE §330.301	Floodplains

Owners or operators of new municipal solid waste landfill (MSWLF) units, existing MSWLF units, and lateral expansions located in 100-year floodplains shall demonstrate that the unit will 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. The owner or operator shall submit the demonstration with a permit application, a permit amendment application, or a permit transfer request. The demonstration shall become part of the operating record once approved.

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RULE §330.302	Wetlands

New municipal solid waste landfill (MSWLF) units and lateral expansions shall not be located in wetlands, unless the owner or operator makes each of the demonstrations identified in paragraphs (1)-(5) of this section to the executive director. The owner or operator shall submit the demonstrations with a permit application. The demonstration shall become part of the operating record once approved.

(1) Where applicable under the Clean Water Act, §404, or applicable state wetlands laws, the presumption that a practicable alternative to the proposed landfill is available that does not involve wetlands shall be clearly rebutted.

(2) The construction and operation of the MSWLF unit 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 of 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 MSWLF unit shall not cause or contribute to significant degradation of wetlands. The owner/operator shall demonstrate the integrity of the MSWLF 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 MSWLF unit;
 - (B) erosion, stability, and migration potential of dredged and fill materials used to support the MSWLF unit;
 - (C) the volume and chemical nature of the waste managed in the MSWLF 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 the 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 section, 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.

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RULE §330.303	Fault Areas

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- (a) New municipal solid waste landfill (MSWLF) 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 MSWLF unit and will be protective of human health and the environment. The owner or operator shall submit the demonstration with a permit application, a permit amendment application, or a permit transfer request.
- (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 applicant 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 trench 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.

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RULE §330.304	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 rock, 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, a permit amendment application, or a permit transfer. The demonstration must become part of the operating record once approved.

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RULE §330.305	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 (MSWLF) units, existing MSWLF units, and lateral expansions located in an unstable area shall demonstrate that engineering measures have been incorporated into the MSWLF unit's design to ensure that the integrity of the structural components of the MSWLF unit will not be disrupted. The owner or operator shall submit the demonstration with a permit application, a permit amendment application, or a permit transfer. 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).

Questions?

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