

US EPA ARCHIVE DOCUMENT

OFFICIAL
Texas
Administrative
Code

Title 31
Natural Resources and
Conservation



Published by
West Publishing Co.
St. Paul, Minn.
under authority of the Texas Secretary of State

CONSOLIDATED PERMITS

CHAPTER 305. CONSOLIDATED PERMITS

SUBCHAPTER A. GENERAL PROVISIONS

Section

- 305.1. Scope and Applicability.
- 305.2. Definitions.

SUBCHAPTER B. EMERGENCY ORDERS, TEMPORARY ORDERS AND EXECUTIVE DIRECTOR AUTHORIZATIONS

- 305.21. Emergency Orders and Temporary Orders Authorized.
- 305.22. Application for Orders or Authorizations to Discharge.
- 305.23. Emergency Orders.
- 305.24. Notice.
- 305.25. Executive Director Authorizations to Discharge.
- 305.26. Hearings for Temporary Orders, Executive Director Authorizations, and Emergency Orders.
- 305.27. Application Fees.
- 305.28. Renewals of Emergency Orders and Temporary Orders.
- 305.29. Emergency Orders for Solid Waste Activities.
- 305.30. Emergency Actions Concerning Hazardous Waste.

SUBCHAPTER C. APPLICATION FOR PERMIT

- 305.41. Applicability.
- 305.42. Application Required.
- 305.43. Who Applies.
- 305.44. Signatories to Applications.
- 305.45. Contents of Application for Permit.
- 305.46. Designation of Material as Confidential.
- 305.47. Retention of Application Data.
- 305.48. Additional Contents of Applications for Wastewater Discharge Permits.
- 305.49. Additional Contents of Application for an Injection Well Permit.
- 305.50. Additional Requirements for an Application for a Solid Waste Permit.
- 305.51. Revision of Applications for Hazardous Waste Permits.
- 305.52. Waste Containing Radioactive Materials.
- 305.53. Application Fees.

SUBCHAPTER D. AMENDMENTS, RENEWALS, TRANSFERS, CORRECTIONS, REVOCATIONS, AND SUSPENSION OF PERMITS

- 305.61. Applicability.
- 305.62. Amendment.
- 305.63. Renewal.
- 305.64. Transfer of Permits.
- 305.65. Corrections of Permits.
- 305.66. Revocation and Suspension.
- 305.67. Revocation and Suspension upon Request or Consent.
- 305.68. Action and Notice on Petition for Revocation or Suspension.

Section

SUBCHAPTER E. ACTIONS, NOTICE AND HEARING

- 305.91. Applicability.
- 305.92. Action on Applications.
- 305.93. Action on Application for Permit.
- 305.94. Action on Application for Production Area Authorization.
- 305.95. Action on Application for Renewal.
- 305.96. Action on Application for Amendment.
- 305.97. Action on Application for Transfer.
- 305.98. Scope of Proceedings.
- 305.99. Commission Action.
- 305.100. Notice of Application.
- 305.101. Notice of Hearing.
- 305.102. Notice by Publication.
- 305.103. Notice by Mail.
- 305.104. Radio Broadcasts.
- 305.105. Request for Public Hearing.
- 305.106. Response to Comments.

SUBCHAPTER F. PERMIT CHARACTERISTICS AND CONDITIONS

- 305.121. Applicability.
- 305.122. Characteristics of Permits.
- 305.123. Reservation in Granting Permit.
- 305.124. Acceptance of Permit, Effect.
- 305.125. Standard Permit Conditions.
- 305.126. Additional Standard Permit Conditions for Waste Discharge Permits.
- 305.127. Conditions to be Determined for Individual Permits.
- 305.128. Signatories to Reports.

SUBCHAPTER G. ADDITIONAL CONDITIONS FOR SOLID WASTE STORAGE, PROCESSING OR DISPOSAL PERMITS

- 305.141. Applicability.
- 305.142. Duty to Comply.
- 305.143. Recordkeeping.
- 305.144. Certification and Inspection.
- 305.145. Release or Discharges of Solid Waste.
- 305.146. Reporting.

SUBCHAPTER H. ADDITIONAL CONDITIONS FOR INJECTION WELL PERMITS

- 305.151. Applicability.
- 305.152. Corrective Action.
- 305.153. Financial Responsibility.
- 305.154. Standards.
- 305.155. Production Area Authorization.
- 305.156. Hazardous Waste.
- 305.157. Record Retention.
- 305.158. Additional Conditions.
- 305.159. Additional Class I Conditions.

SUBCHAPTER I. HAZARDOUS WASTE INCINERATOR PERMITS

- 305.171. Determining Operational Readiness.

TEXAS WATER COMMISSION

Section

- 305.172. Determining Feasibility of Compliance and Adequate Operating Conditions.
- 305.173. Operation Prior to Final Amendment of the Permit.
- 305.174. Existing Incinerators.

SUBCHAPTER J. PERMITS FOR LAND TREATMENT DEMONSTRATIONS USING FIELD TESTS OR LABORATORY ANALYSES

- 305.181. Treatment Demonstration Permit.
- 305.182. Two-Phase Facility Permit.
- 305.183. Certification.
- 305.184. Permit Amendment.

SUBCHAPTER K. RESEARCH, DEVELOPMENT AND DEMONSTRATION PERMITS

- 305.191. Applicability and Scope.
- 305.192. Waiver of Requirements.
- 305.193. Termination.
- 305.194. Renewal.

SUBCHAPTER L. GROUNDWATER COMPLIANCE PLAN

- 305.401. Compliance Plan.

SUBCHAPTER M. WASTE TREATMENT INSPECTION FEE PROGRAM

- 305.501. Purpose.
- 305.502. Definitions and Abbreviations.
- 305.503. Fee Assessment.
- 305.504. Fee Payment.
- 305.505. Fund.
- 305.506. Cancellation, Revocation, and Transfer.

SUBCHAPTER A. GENERAL PROVISIONS

Authority: The provisions of this subchapter issued under Texas Water Code §§5.103 and §5.105.

§ 305.1. Scope and Applicability

The provisions of this chapter set the standards and requirements for applications, permits, and actions by the commission to carry out the responsibilities for management of waste disposal activities under the Texas Water Code, Chapters 26, 27, and 28, and the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7.

Source: The provisions of this §305.1 adopted to be effective June 19, 1986, 11 TexReg 2591.

§ 305.2. Definitions

The definitions contained in the Texas Water Code, §§26.001, 27.002, and 28.001, and Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §2, shall apply to this chapter. The following words and terms, when used in this

chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Application—A formal written request for commission action relative to a permit, either on commission forms or other approved writing, together with all materials and documents submitted to complete the application.

Disposal—The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid, liquid, or hazardous waste into or on any land, or into or adjacent to any water in the state so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into or adjacent to any waters, including groundwaters.

Facility—All contiguous land and fixtures, structures, or appurtenances used for storing, processing, treating, or disposing of waste, or for injection activities. A facility may consist of several storage, processing, treatment, disposal, or injection operational units.

Injection well permit—A permit issued pursuant to Texas Water Code, Chapter 27.

Land disposal facility—Includes landfills, waste piles, surface impoundments, land farms, and injection wells.

Operator—The person responsible for the overall operation of a facility.

Outfall—The point or location where waterborne waste is discharged from a sewer system, treatment facility, or disposal system into or adjacent to the water in this state.

Owner—The person who owns a facility or part of a facility.

Permit—A written document issued by the commission which, by its conditions, may authorize the permittee to construct, install, modify, or operate, in accordance with stated limitations, a specified facility for waste discharge, for solid waste storage, processing, or disposal, or for underground injection, and includes a wastewater discharge permit, a solid waste permit, and an injection well permit.

Person—An individual, corporation, organization, government, governmental subdivision or agency, business trust, estate, partnership, or any other legal entity or association.

Processing—The extraction of materials, transfer or volume reduction, conversion to energy, or other separation and preparation of waste for

reuse
neutr
such
amen
tion.
not in
solid
mean

Rac
tified
Statu
adop
there

Site
or ac
cludi
facili

Sol
to Te

Sto
perio
recyc

Wa
purs
Sou
June 1

SUB
TEL

Autl
Texas

§ 30

Th
temp
wast
in th
ed by
enab
is ot
Chap
of th
Sou
June

§ 3

(a)
emei

reuse or disposal, and includes the treatment or neutralization of hazardous waste so as to render such waste nonhazardous, safer for transport, or amenable to recovery, storage, or volume reduction. The meaning of transfer as used here, does not include the conveyance or transport off-site of solid waste by truck, ship, pipeline, or other means.

Radioactive material—A material which is identified as a radioactive material under Texas Civil Statutes, Article 4590f, as amended, and the rules adopted by the Texas Board of Health pursuant thereto.

Site—The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Solid waste permit—A permit issued pursuant to Texas Civil Statutes, Article 4477-7, as amended.

Storage—The holding of waste for a temporary period, at the end of which the waste is processed, recycled, disposed of, or stored elsewhere.

Wastewater discharge permit—A permit issued pursuant to the Texas Water Code, Chapter 26.

Source: The provisions of this §305.2 adopted to be effective June 19, 1986, 11 TexReg 2591.

SUBCHAPTER B. EMERGENCY ORDERS, TEMPORARY ORDERS AND EXECUTIVE DIRECTOR AUTHORIZATIONS

Authority: The provisions of this subchapter issued under Texas Water Code §5.103 and §5.105.

§ 305.21. Emergency Orders and Temporary Orders Authorized

The commission may issue emergency orders or temporary orders relating to the discharge of waste or pollutants into or adjacent to any water in the state, whether or not the discharge is covered by a waste discharge permit, when necessary to enable action to be taken more expeditiously than is otherwise provided by the Texas Water Code, Chapter 26, to effectuate the policy and purposes of that chapter.

Source: The provisions of this §305.21 adopted to be effective June 19, 1986, 11 TexReg 2591.

§ 305.22. Application for Orders or Authorizations to Discharge

(a) A person desiring to obtain a temporary or emergency order to discharge waste or pollutants,

including untreated or partially treated wastewater, into or adjacent to water in the state shall submit a sworn application to the commission containing the following information and any other information the commission may reasonably require:

(1) a statement that the discharge is unavoidable to prevent loss of life, serious injury, severe property damage, or severe economic loss, or to make necessary and unforeseen repairs to a facility, that there are no feasible alternatives to the proposed discharge, and that the discharge will not cause significant hazard to human life and health, unreasonable damage to property of persons other than the applicant, or unreasonable economic loss to persons other than the applicant;

(2) a statement that the proposed discharge will not present a significant hazard to the uses that may be made of the receiving water after the discharge;

(3) an estimate of the dates on which the proposed discharge will begin and end;

(4) a statement of the volume and quality of the proposed discharge;

(5) an explanation of measures proposed to minimize the volume and duration of the discharge;

(6) an explanation of measures proposed to maximize the waste treatment efficiency of units not taken out of service or facilities provided for interim use;

(7) for temporary orders, a list of potentially affected persons in accordance with §305.48(1) of this title (relating to Additional Contents of Applications for Wastewater Discharge Permits); and

(8) payment of appropriate application fees in accordance with §305.27 of this title (relating to Application Fees).

(b) If the applicant is other than an individual, the application must be sworn to by someone authorized to do so for the applicant, as provided for in §305.44 of this title (relating to Signatories To Applications).

(c) If the executive director issues an authorization to discharge as provided in §305.25 of this title (relating to Executive Director Authorizations To Discharge), the applicant must submit the sworn application as required in subsection (a) of this section before the date of the commission's public hearing to consider the authorization.

31 TAC § 305.22

TEXAS WATER COMMISSION

Source: The provisions of this §305.22 adopted to be effective June 19, 1986, 11 TexReg 2591.

§ 305.23. Emergency Orders

(a) The commission may issue emergency orders relating to the discharge of waste or pollutants into or adjacent to any water in the state, whether or not the discharge is covered by a waste discharge permit, without notice and hearing, or with such notice and hearing as the commission considers practicable under the circumstances, only if the commission finds the following to be true:

(1) that the discharge is unavoidable to prevent loss of life, serious bodily injury, severe property damage, or severe economic loss, or to make necessary and unforeseen repairs to a facility, that there are no feasible alternatives to the proposed discharge, and that the discharge will not cause significant hazard to human life and health, unreasonable damage to property other than the applicant, or unreasonable economic loss to persons other than the applicant;

(2) that the proposed discharge will not present a significant hazard to the uses that may be made of the receiving water after the discharge;

(3) that the estimate of the dates on which the proposed discharge will begin and end and the estimate of the volume and quality of the proposed discharge submitted by the applicant are reasonable and are attainable; and

(4) that the measures proposed by the applicant to minimize the volume and duration of the discharge, and to maximize the waste treatment efficiency of treatment units not taken out of service or treatment facilities to be provided for interim use are reasonable.

(b) If the commission issues an emergency order under the authority of subsection (a) of this section without a hearing, the order shall fix a time and place for a hearing to be held before the commission which shall be held as soon after the emergency order is issued as is practicable and after such notice as is required under §305.24(a) of this title (relating to Notice).

(c) This section does not apply to discharges of hazardous waste.

Source: The provisions of this §305.23 adopted to be effective June 19, 1986, 11 TexReg 2591; amended to be effective July 14, 1987, 12 TexReg 1202.

§ 305.24. Notice

(a) Emergency orders relating to the discharge of waste or pollutants may be issued by the commission without prior notice and hearing, or with such notice and hearing as the commission deems practicable under the circumstances.

(b) Temporary orders require a hearing before issuance of the order. The commission shall give notice of not less than 20 days before the date set for the hearing on the temporary order to all affected persons, and to all persons as may be required by law.

(c) The requirements of the Texas Water Code, §26.022, relating to the time for notice, newspaper notice, and method of giving a person notice do not apply to a hearing held for an emergency order, but such general notice of the hearing shall be given as the commission considers practicable under the circumstances.

(d) This section does not apply to discharges of hazardous waste.

Source: The provisions of this §305.24 adopted to be effective June 19, 1986, 11 TexReg 2591; amended to be effective July 14, 1987, 12 TexReg 2102.

§ 305.25. Executive Director Authorizations to Discharge

If emergency conditions exist which make it necessary to take action more expeditiously than is otherwise provided by this subchapter, the executive director may authorize the discharge of untreated or partially treated wastewater from a permitted facility into or adjacent to water in the state if he determines that the discharge is unavoidable to prevent loss of life, serious injury, severe property damage, or severe economic loss, or to make necessary and unforeseen repairs to the facility, that there are no feasible alternatives to the discharge, and that the discharge will not cause significant hazard to human life and health, unreasonable damage to property of persons other than the applicant, or unreasonable economic loss to persons other than the applicant. If the executive director issues an authorization to discharge under this authority, the commission shall hold a hearing as provided for in §305.23(b) of this title (relating to Emergency Orders) as soon as practicable, but in no event later than 10 days after issuance of the authorization, to affirm, modify, or set aside the authorization. This section does not enable the executive director to authorize the discharge of hazardous waste.

Source: T
June 19, 19
1987, 12 Te

§ 305.26

(a) At
thorizati
commiss
authoriz
ing on a
thorizati
procedu

(1) I
sion.
seekin
inter:
the ap
comm
comm

(2)
der oa
the co
other

(3)
an op
testim

(4)
provin
gency
close
fact t
such
ing to
charg
dence

(5)
limit
for di
witne
evide

(b) B
mission
tive dir
mit a s
zation,
(relatin
tions to

Source
June 19,
31 Tex.

CONSOLIDATED PERMITS

31 TAC § 305.29

Source: The provisions of this §305.25 adopted to be effective June 19, 1986, 11 TexReg 2591; amended to be effective July 14, 1987, 12 TexReg 2102.

§ 305.26. Hearings for Temporary Orders, Executive Director Authorizations, and Emergency Orders

(a) At the hearing for an executive director authorization or commission emergency order, the commission shall affirm, modify, or set aside the authorization or emergency order. For any hearing on a temporary order, executive director authorization, or emergency order, the following procedures will apply.

(1) Parties will be designated by the commission. To be designated as a party, the person seeking party status must show a justiciable interest. For each hearing under this section, the applicant, the public interest advocate of the commission, and the executive director of the commission are designated as parties by rule.

(2) The testimony of all witnesses will be under oath, with an opportunity for questioning by the commission and cross-examination by the other parties.

(3) Other parties to the hearing will be given an opportunity to present rebuttal evidence and testimony.

(4) The applicant will have the burden of proving its need for an authorization or emergency order, and will have the right to open and close the evidentiary parts of the hearing; the fact that the executive director has authorized such discharge under §305.25 of this title (relating to Executive Director Authorizations to Discharge), standing alone, will not constitute evidence of the need for such authorization.

(5) The commission will have the right to limit the number of witnesses; to limit the time for direct questioning or cross-examination of a witness; to refuse illustrative and documentary evidence; and to limit argument.

(b) Before the date set for hearing by the commission to affirm, modify, or set aside an executive director authorization, the applicant shall submit a sworn application supporting such authorization, as specified under §305.22(a) of this title (relating to Application for Orders on Authorizations to Discharge).

Source: The provisions of this §305.26 adopted to be effective June 19, 1986, 11 TexReg 2591.

31 Tex.Admin.Code—20

§ 305.27. Application Fees

(a) The application fee for an emergency order to discharge under §305.23 of this title (relating to Emergency Orders) or for a solid waste activity under §305.29 of this title (relating to Emergency Orders for Solid Waste Activities) or §305.30 of this title (relating to Emergency Actions Concerning Hazardous Waste), or a temporary order under §305.22 of this title (relating to Application for Orders or Authorizations to Discharge) is \$100 plus \$50 to cover the cost of required notice. The fee is payable at the time the application is filed.

(b) The application fee for an executive director authorization is \$100 plus \$50 to cover the cost of required notice. The fee is payable, along with the sworn application required by §305.22 of this title (relating to Application for Orders or Authorizations to Discharge), before the date of the commission's public hearing to consider the authorization.

Source: The provisions of this §305.27 adopted to be effective June 19, 1986, 11 TexReg 2591.

§ 305.28. Renewals of Emergency Orders and Temporary Orders

The duration of any discharge emergency order or temporary order issued pursuant to this chapter shall not exceed 180 days, but the orders may be renewed one time upon proper application. Applications for renewal may be filed with the commission, along with payment of the application fee. Renewal applications will be treated as new applications and the temporary order application procedures of this chapter will be followed.

Source: The provisions of this §305.28 adopted to be effective June 19, 1986, 11 TexReg 2591.

§ 305.29. Emergency Orders for Solid Waste Activities

(a) The commission may issue an emergency order, either mandatory or prohibitory in nature, regarding any activity of solid waste management within its jurisdiction, whether such activity is covered by a permit or not, if the commission determines that an emergency exists requiring immediate action to protect the public health and safety or the environment. The order may be issued without notice and hearing, or with such notice and hearing as the commission deems practicable under the circumstances.

(b) If an emergency order is issued without a hearing, the commission shall fix a time and place

31 TAC § 305.29

TEXAS WATER COMMISSION

for a hearing to be held by the commission in accordance with commission rules, so as to affirm, modify, or set aside the emergency order.

(c) The requirements of the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(e)(4), relating to public notice, do not apply to a hearing to affirm, modify, or set aside an emergency order issued under this section, but such general notice of the hearing shall be given in accordance with commission rules.

(d) Any emergency order issued under this section shall not exceed 90 days in duration, but may be renewed.

Source: The provisions of this §305.29 adopted to be effective June 19, 1986, 11 TexReg 2591.

§ 305.30. Emergency Actions Concerning Hazardous Waste

(a) Whenever there is good reason to believe that the storage, processing, or disposal of hazardous waste should be authorized in order to alleviate an imminent and substantial endangerment to human health or safety or the environment and if there are no alternative, permitted facilities that are reasonably available for the proper management of the waste, the commission, on its own motion or the request of the executive director or any other party, may issue an emergency order authorizing the processing, storage, or disposal of the hazardous waste at a nonpermitted facility or at a permitted facility with no authorization under its permit to receive the hazardous waste in need of immediate management.

(b) A party, other than the executive director, requesting an emergency order approving the storage, processing, or disposal of hazardous waste, shall file a written request with the executive director setting forth the reason for the request, including a description of the imminent and substantial endangerment to human health or safety or the environment, and alternatives investigated.

(c) The executive director shall review the request and may require the applicant for an emergency order to supply additional information as may be reasonably required to assist the commission in making the necessary findings set out in subsection (a) of this section.

(d) The executive director shall forward the request for an emergency order and the executive director's recommendation, including any pro-

posed emergency order and findings to the commission.

(e) Any emergency order issued by commission under this section:

(1) shall not exceed 90 days in duration;

(2) shall clearly specify the hazardous wastes to be received, and the manner and location of their processing, storage, or disposal;

(3) may be terminated by the commission at any time without notice and hearing if it determines that termination is appropriate to protect human health or the environment; and

(4) shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter and Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste).

(f) Public notice shall accompany the emergency order. The notice shall allow at least 45 days for public comment and shall be given at least 30 days before the hearing on the emergency order. Public notice of the emergency order may be given at the same time as public notice and opportunity for comment on the emergency order, and the two notices may be combined. If an emergency order is issued without a hearing, the commission shall fix a time and place for a hearing to be held by the commission in accordance with the commission rules, so as to affirm, modify, or set aside the emergency order. The notice shall include:

(1) the name and address of the applicant;

(2) the name and location of the hazardous waste management facility;

(3) a brief description of the wastes involved;

(4) a brief description of the action authorized or to be authorized, and the reasons for authorization;

(5) the duration of the emergency order; and

(6) the name and address of the commission (the office granting the emergency order).

Source: The provisions of this §305.30 adopted to be effective June 19, 1986, 11 TexReg 2591; amended to be effective July 14, 1987, 12 TexReg 2102.

SUBCHAPTER C. APPLICATION FOR PERMIT

Authority: The provisions of this subchapter issued under the Texas Water Code, §5.103 and §5.105.

§ 30

The
appli
sion
Code
Wast
4477-
Sou
June 1

§ 30

(a)
perm
al of
appli
the p

(b)
perso
ous
comp
Perm
Act,
shall
exec
allow
requ
Own
man
part
How
ous
B p
dates
§270
facili
tory
Wast
4477
ery
Code
to th
perm
acco
Fede
a fa
grou
bility

Sou
June
1987,
13 Te

§ 305.41. Applicability

The sections of this subchapter apply to permit applications required to be filed with the commission for authorization under the Texas Water Code, Chapters 26, 27, and 28, the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7.

Source: The provisions of this §305.41 adopted to be effective June 19, 1986, 11 TexReg 2593.

§ 305.42. Application Required

(a) Any person who is required to obtain a permit, or who requests an amendment or renewal of a permit, shall complete, sign, and submit an application to the executive director, according to the provisions of this chapter.

(b) For applications involving hazardous waste, persons currently authorized to continue hazardous waste management under interim status in compliance with §335.2(c) of this title (relating to Permit Required) and the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(f)(2), shall apply for permits when required by the executive director. Owners or operators shall be allowed at least six months from the date of request to submit a part B permit application. Owners or operators of existing hazardous waste management facilities may voluntarily submit part B of the permit application at any time. However, owners or operators of existing hazardous waste management facilities must submit part B permit applications in accordance with the dates specified in 40 Code of Federal Regulations, §270.73. Owners or operators of land disposal facilities in existence on the effective date of statutory or regulatory amendments under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7 or the Resource Conservation and Recovery Act of 1976, as amended, 42 United States Code, §6901 et seq., that render the facility subject to the requirement to have a hazardous waste permit must submit a part B permit application in accordance with the dates specified in 40 Code of Federal Regulations, §270.73, and certify that such a facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

Source: The provisions of this §305.42 adopted to be effective June 19, 1986, 11 TexReg 2593; amended to be effective July 14, 1987, 12 TexReg 2102; amended to be effective August 30, 1988, 13 TexReg 4071.

§ 305.43. Who Applies

(a) It is the duty of the owner of a facility to submit an application for a permit.

(b) For solid waste and hazardous waste permit applications, it is the duty of the owner of a facility to submit an application for a permit, unless a facility is owned by one person and operated by another, in which case it is the duty of the operator to submit an application for a permit.

Source: The provisions of this §305.43 adopted to be effective June 19, 1986, 11 TexReg 2593; amended to be effective July 14, 1987, 12 TexReg 2102.

§ 305.44. Signatories to Applications

(a) Except as provided in §305.50(9), all applications shall be signed as follows:

(1) for a corporation: by a principal executive officer of at least the level of vice-president or a duly authorized representative if such representative is responsible for the overall operation of the facility. A representative shall submit in writing proof of the authorization;

(2) for a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(3) for a municipality, state, federal, or other public agency: by either a principal executive officer or a ranking official.

(b) Except as provided in §305.50(10) of this title (relating to Additional Requirements for an Application for a Solid Waste Permit), a person signing an application shall make the following certification: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of civil penalty and criminal fine."

(c) For hazardous solid waste permit applications, the owner and operator of a facility must sign the application.

Source: The provisions of this §305.44 adopted to be effective June 19, 1986, 11 TexReg 2591; amended to be effective July 14, 1987, 12 TexReg 2102.

31 TAC § 305.45

TEXAS WATER COMMISSION

§ 305.45. Contents of Application for Permit

(a) Forms for permit applications will be made available by the executive director. Each application for permit shall include the following:

(1) the name, mailing address, and location of the facility for which the application is submitted;

(2) the ownership status as federal, state, private, public, or other entity;

(3) the applicant's name, mailing address, and telephone number;

(4) a brief description of the nature of the business;

(5) the activities conducted by the applicant which require a permit;

(6) a topographic map, ownership map, county highway map, or a map prepared by a registered professional engineer or a registered surveyor which shows the facility and each of its intake and discharge structures and any other structure or location regarding the regulated facility and associated activities. Maps must be of material suitable for a permanent record, and shall be on sheets 8-½ inches by 14 inches or folded to that size, and shall be on a scale of not less than one inch equals one mile. The map shall depict the approximate boundaries of the tract of land owned or to be used by the applicant and shall extend at least one mile beyond the tract boundaries sufficient to show the following:

(A) each well, spring, and surface water body or other water in the state within the map area;

(B) the general character of the areas adjacent to the facility, including public roads, towns and the nature of development of adjacent lands such as residential, commercial, agricultural, recreational, undeveloped, and so forth;

(C) the location of any waste disposal activities conducted on the tract not included in the application;

(D) the ownership of tracts of land adjacent to the facility and within a reasonable distance from the proposed point or points of discharge, deposit, injection, or other place of disposal or activity;

(E) such other information that reasonably may be requested by the executive director;

(7) a listing of all permits or construction approvals received or applied for under any of the following programs:

(A) Hazardous Waste Management Program under the Texas Solid Waste Disposal Act;

(B) Underground Injection Control (UIC) Program under the Texas Injection Well Act;

(C) National Pollutant Discharge Elimination System (NPDES) Program under the Federal Clean Water Act (CWA) and Waste Discharge Program under the Texas Water Code, Chapter 26;

(D) Prevention of Significant Deterioration (PSD) Program under the Federal Clean Air Act;

(E) Nonattainment Program under the Federal Clean Air Act;

(F) national emission standards for hazardous pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

(G) ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

(H) dredge or fill permits under of the Federal Clean Water Act;

(I) other environmental permits;

(8) supplementary technical report. A supplementary technical report shall be submitted in connection with an application. The report shall be prepared either by a Texas registered professional engineer, or by a qualified person who is competent and experienced in the field to which the application relates and thoroughly familiar with the operation or project for which the application is made. The report shall include the following:

(A) a general description of the facilities and systems used for or in connection with the collection, transportation, treatment, and disposal of waste, or used in connection with an injection activity;

(B) for each outfall, injection well, place of deposit, or place of disposal:

(i) the volume and rate of disposal of the defined waste or of fluid injection, including appropriate averages, the maximum rates of disposal or injection over representative periods of time, and detailed information regarding patterns of disposal or injection; and

(ii) the physical and chemical properties of the defined waste or the injection fluids;

the
tio:
org
pro
des
tio:
cor
(C)
may
an a
oper:
the c
make
of t
\$331
Well:
tiona
Solid
(rela
tions

(b) On
each geo
will be
though tl
of depos
the appli

Source: 1
June 19, 19

§ 305.

(a) Ce:
sion ma
withheld
identify
requeste

(b) Ea
upon sul
tion, or
for publi

(c) Re
tection o
give a pe
of comm
retain a
the infor
der 5 U
States C
Code of

(d) Th
claim o
proved,

the characteristics of the waste or the injection fluid; the chemical, physical, thermal, organic, bacteriological, or radioactive properties or characteristics, as applicable, described in enough detail to allow evaluation of the water and environmental quality considerations involved;

(C) such other information as reasonably may be required by the executive director for an adequate understanding of the project or operation, and which is necessary to provide the commission an adequate opportunity to make the considerations required by §331.121 of this title (relating to Class I Wells), §331.122 of this title (relating to Class III Wells), §305.50 of this title (relating to Additional Requirements for an Application for a Solid Waste Permit), and §305.48 of this title (relating to Additional Contents of Applications for Waste Discharge Permits).

(b) Only one application needs to be filed for each geographical location in which waste is or will be disposed of or discharged from, even though there may be more than one outfall, place of deposit, or other place of disposal covered in the application.

Source: The provisions of this §305.45 adopted to be effective June 19, 1986, 11 TexReg 2593.

§ 305.46. Designation of Material as Confidential

(a) Certain material submitted to the commission may be determined to be confidential and withheld from public review. The applicant shall identify any material for which confidentiality is requested.

(b) Each claim of confidentiality must be made upon submission of the material with the application, or the material will be considered available for public review.

(c) Reasons of confidentiality include the protection of trade secrets and similar interests which give a person the right to preserve confidentiality of commercial information in order to obtain or retain advantages from any proprietary right in the information. This includes authorizations under 5 United States Code §552(b)(4), 18 United States Code §1905, and special rules cited in 40 Code of Federal Regulations §§2.301-2.309.

(d) The executive director will review each claim of confidentiality. If a claim is not approved, the applicant will be notified and in-

formed whether the material is essential to the application. The applicant may elect to withdraw any material submitted with an application. If the applicant elects to withdraw certain material which the executive director has determined is not confidential, such material will be withheld from public review until withdrawn. Any information withdrawn by or returned to the applicant under this provision shall not be considered by the commission in its decision to grant or deny the application, or by the executive director in preparing a draft permit.

(e) The name and address of an applicant or permittee will not be considered confidential.

(f) For injection well applications, information which deals with the existence, absence, or levels of contaminants in drinking water will not be considered confidential.

(g) This section shall not be construed so as to make confidential any effluent data, including effluent data in permits, draft permits, and permit applications; nor shall this section be construed so as to preclude necessary discovery of relevant information by any party to a contested hearing before the commission.

Source: The provisions of this §305.46 adopted to be effective June 19, 1986, 11 TexReg 2593; amended to be effective July 14, 1987, 12 TexReg 2102.

§ 305.47. Retention of Application Data

A permittee shall keep records, throughout the term of the permit, of data used to complete the final application and any supplemental information.

Source: The provisions of this §305.47 adopted to be effective June 19, 1986, 11 TexReg 2593.

§ 305.48. Additional Contents of Applications for Wastewater Discharge Permits

The following shall be included in an application for a wastewater discharge permit.

(1) The original and one copy of the permit application shall be submitted on forms provided by or approved by the executive director, and shall be accompanied by a like number of copies of all technical supplements and attachments.

(2) If the application is for the disposal of any waste into or adjacent to a watercourse, the application shall show the ownership of the tracts of land adjacent to the treatment facility

31 TAC § 305.48

TEXAS WATER COMMISSION

and for a reasonable distance along the watercourse from the proposed point of discharge. The applicant shall list on a map, or in a separate sheet attached to a map, the names and addresses of the owners of such tracts of land as can be determined from the current county tax rolls or other reliable sources. The application shall state the source of the information.

(3) The applicant shall submit any other information reasonably required by the executive director to ascertain whether the facility will be constructed and operated in compliance with all pertinent state and federal statutes.

Source: The provisions of this §305.48 adopted to be effective June 19, 1986, 11 TexReg 2593.

§ 305.49. Additional Contents of Application for an Injection Well Permit

(a) The following shall be included in an application for an injection well permit:

(1) for Class I wells, as defined in Chapter 331 of this title (relating to Underground Injection Control), the information listed in §331.121 of this title (relating to Class I Wells);

(2) for Class III wells, as defined in Chapter 331 of this title (relating to Underground Injection Control), the information listed in §331.122 of this title (relating to Class III Wells);

(3) the manner in which compliance with the financial responsibility requirement of §305.153 of this title (relating to Financial Responsibility) will be attained;

(4) a plugging and abandonment plan;

(5) a letter from the Railroad Commission of Texas stating that the drilling of a disposal well and the injection of the waste into the subsurface stratum selected for disposal will not endanger or injure any oil or gas formation;

(6) for Class III wells, a description of all liquid and solid nonradioactive wastes resulting from mining activities;

(7) a complete delineation of any aquifer or portion of an aquifer for which exempt status is sought; and

(8) any other information reasonably required by the executive director to evaluate the proposed injection well or project, including, but not limited to, the information set forth in the Texas Water Code, § 27.051(a).

(b) An application for production area authorization shall be submitted with and contain the following for each production area:

- (1) mine plan;
- (2) a restoration table;
- (3) a baseline water quality table;
- (4) control parameter upper limits;
- (5) monitor well locations; and
- (6) other information reasonably required by the executive director to evaluate the application.

Source: The provisions of this §305.49 adopted to be effective June 19, 1986, 11 TexReg 2593; amended to be effective January 5, 1988, 12 TexReg 4860.

§ 305.50. Additional Requirements for an Application for a Solid Waste Permit

Unless otherwise stated, an application for a permit to store, process, or dispose of solid waste shall meet the following requirements.

(1) Six copies of the permit application shall be submitted on forms provided by or approved by the executive director and shall be accompanied by a like number of copies of all required exhibits.

(2) Plans and specifications for the construction and operation of the facility and the staffing pattern for the facility shall be submitted, including the qualifications of all key operating personnel. Also to be submitted is the closing plan for the solid waste storage, processing, or disposal facility. The information provided shall be sufficiently detailed and complete to allow the executive director to ascertain whether the facility will be constructed and operated in compliance with all pertinent state and local air, water, public health, and solid waste statutes.

(3) Any other information as the executive director may deem necessary to determine whether the facility and the operation thereof will comply with the requirements of the Texas Solid Waste Disposal Act and Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste), shall be included, including, but not limited to, the information set forth in the Texas Solid Waste Disposal Act, §4 (e) (13).

(4) In the case of an application for a permit to store, process, or dispose of hazardous waste, the application shall also contain any additional information required by 40 Code of Federal Regulations §§270.13-270.21, except that closure cost estimates shall be prepared in accordance

with
\$264.1
\$335.1
for Cl
of the
Subch
Stand
ous V
cilitie
owne
waste
tion
tion s
§§270
allow
date
An a
mana
180 c
facilit
(5)
landfi
must
uates
const
at the
the al
adver
ed wi
(6)
landfi
poun
which
zone
geolo
fects,
of a r
(7)
mitte
prepa
engin
by th
(8)
applic
of a f
hazar
landf
reaso
tor, o
to ha
throu
8, 198
surfa

CONSOLIDATED PERMITS

31 TAC § 305.50

with 40 Code of Federal Regulations §264.142(a)(1), (3), and (4); (b) and (c) and §335.178 of this title (relating to Cost Estimate for Closure). At any time after the effective date of the requirements contained in Chapter 335, Subchapter F of this title (relating to Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities), the executive director may require the owner or operator of an existing hazardous waste management facility to submit that portion of his application containing the information specified in 40 Code of Federal Regulations §§270.14-270.21. Any owner or operator shall be allowed a reasonable period of time from the date of the request to submit the information. An application for a new hazardous waste management facility must be submitted at least 180 days before physical construction of the facility is expected to commence.

(5) An application for a new hazardous waste landfill which is filed after January 1, 1986, must include an engineering report which evaluates the benefits, if any, associated with the construction of the landfill above existing grade at the proposed site, the costs associated with the above-grade construction, and the potential adverse effects, if any, which would be associated with the above-grade construction.

(6) An application for a new hazardous waste landfill, land treatment facility, or surface impoundment which is filed after January 1, 1986, which is to be located in the apparent recharge zone of a regional aquifer must include a hydrogeologic report documenting the potential effects, if any, on the regional aquifer in the event of a release from the waste containment system.

(7) Engineering plans and specifications submitted as part of the permit application shall be prepared and sealed by a registered professional engineer who is currently registered as required by the Texas Engineering Practice Act.

(8) After August 8, 1985, any Part B permit application submitted by an owner or operator of a facility that stores, processes, or disposes of hazardous waste in a surface impoundment or a landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. By August 8, 1985, owners and operators of a landfill or a surface impoundment who have already sub-

mitted a Part B application must submit the exposure information required by this paragraph. At a minimum, such information must address:

(A) reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

(B) the potential pathways of human exposure to hazardous wastes or constituents resulting from documented releases; and

(C) the potential magnitude and nature of the human exposure resulting from such releases.

(9) All applications for hazardous waste permits shall be signed as follows:

(A) For a corporation, the application shall be signed by a responsible corporate officer. For purposes of this paragraph, a responsible corporate officer means a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decisionmaking functions for the corporation; or the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions rather than to specific individuals.

(B) For a partnership or sole proprietorship, the application shall be signed by a general partner or the proprietor, respectively.

(C) For a municipality, state, federal, or other public agency, the application shall be signed by either a principal executive officer or a ranking elected official. For purposes of this paragraph, a principal executive officer of a federal agency includes the chief executive officer of the agency, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g. regional administrator of the United States Environmental Protection Agency).

(10) For hazardous waste permit applications, the person signing an application shall make the

31 TAC § 305.50

TEXAS WATER COMMISSION

following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Source: The provisions of this §305.50 adopted to be effective June 19, 1986, 11 TexReg 2593; amended to be effective July 14, 1987, 12 TexReg 2102; amended to be effective January 5, 1988, 12 TexReg 4861.

§ 305.51. Revision of Applications for Hazardous Waste Permits

(a) Owners or operators of hazardous waste management facilities, who filed a Part A permit application pursuant to 40 Code of Federal Regulations §270.10, and have not yet filed a Part B application, shall file a revised Part A application with the executive director if:

(1) new hazardous wastes not identified in the original application are stored, processed, or disposed of at the facility;

(2) increases in the design capacity of processes used at the facility occur;

(3) changes in the process for management of the waste occur or additional processes are added; or

(4) changes in the ownership or operational control of a facility are made.

(b) The purpose of this section is to delineate requirements for filing a revised application, not to authorize any changes in facility operation. Changes in facility operations will be reviewed and approved by the executive director. In deciding whether to approve the proposed change, the executive director may consider the requirements set forth in 40 Code of Federal Regulations §270.72. For changes in the ownership or operational control of a facility, the new owner or operator shall submit a revised Part A permit application no later than 90 days prior to the scheduled change and shall also comply with the requirements set forth in 40 Code of Federal Regulations §270.72(d). A permit will be required for

the operation of an above-grade landfill not described in a Part A application filed pursuant to §335.43 of this title (relating to Permit Required) prior to the effective date of this section.

Source: The provisions of this §305.51 adopted to be effective June 19, 1986, 11 TexReg 2593; amended to be effective July 14, 1987, 12 TexReg 2102.

§ 305.52. Waste Containing Radioactive Materials

An application which involves the disposal of a waste containing radioactive materials shall be accompanied by a letter or other instrument in writing from the Texas Department of Health, stating either that the applicant, or the person delivering the waste containing radioactive materials for disposal by the applicant, has a license from the Texas Department of Health governing the disposal of radioactive materials; or that the applicant or the person served by the applicant does not need such a license.

Source: The provisions of this §305.52 adopted to be effective June 19, 1986, 11 TexReg 2593.

§ 305.53. Application Fees

(a) Except as specifically provided hereunder, an applicant shall include with each application a fee of \$100.

(1) The permit application fee for each disposal well which will not be authorized to receive hazardous waste is \$25. The fee for each disposal well which will be authorized to receive hazardous waste is \$2,000.

(2) The permit application fee for each solid waste management facility to be used for the storage, processing, or disposal of hazardous waste, the Part B application for which was filed after September 1, 1985, shall be not less than \$2,000 and not more than \$50,000 as calculated in accordance with the following:

(A) site evaluation - \$100 per acre of solid waste facility up to 300 acres; no additional fee thereafter;

(B) process analysis - \$1,000;

(C) facility unit(s) analysis - \$500 per unit;

(D) management/facility analysis - \$500.

(3) For purposes of paragraph (2)(C) of this subsection, each landfill, surface impoundment, incinerator, waste pile, tank, and container storage area shall be considered a facility unit subject to the \$500 per unit fee; except that multiple storage tanks or container storage areas identi-

cal
\$500

(4

due

acco

Initi

perr

1, 1

grap

grap

that

cler

pose

Unk

dire

com

fin

ant

(b)

applic

\$50 to

requir

applic

Source

June 19

SUBC

N

T

S

Autho
Texas W

§ 30.

The

standa

action:

fers, c

permit

Source

June 19,

§ 30:

(a) (

in §30

Permit

sion o

permit

amend

an am

in acco

ing to

cal in type and use will be subject to a single \$500 unit fee.

(4) The fees established by this section are due at the time that the application is filed in accordance with §281.3 of this title (relating to Initial Review), except that for hazardous waste permit applications filed on or after September 1, 1985, but prior to the effective date of paragraph (2) of this subsection, fees under paragraph (2) of this subsection are due at the time that the application is forwarded to the chief clerk of the Texas Water Commission for purposes of issuance of the notice of application. Unless the recommendation of the executive director is that the application be denied, the commission will not consider an application for final decision until such time as the fees pursuant to paragraph (2) of this subsection are paid.

(b) An applicant shall also include with each application for a new or amended permit a fee of \$50 to be applied toward the cost of providing required notice. A fee of \$15 is required with each application for renewal.

Source: The provisions of this §305.53 adopted to be effective June 19, 1986, 11 TexReg 2593.

SUBCHAPTER D. AMENDMENTS, RENEWALS, TRANSFERS, CORRECTIONS, REVOCATIONS, AND SUSPENSION OF PERMITS

Authority: The provisions of this subchapter issued under the Texas Water Code §5.103 and §5.105.

§ 305.61. Applicability

The provisions of this subchapter set forth the standards and requirements for applications and actions concerning amendments, renewals, transfers, corrections, revocations, and suspensions of permits.

Source: The provisions of this §305.61 adopted to be effective June 19, 1986, 11 TexReg 2594.

§ 305.62. Amendment

(a) Causes for amendment. Except as provided in §305.65 of this title (relating to Corrections of Permits), a change in a term, condition, or provision of a permit requires an amendment. The permittee or an affected person may request an amendment to a permit. If the permittee requests an amendment, the application shall be processed in accordance with Chapter 281 of this title (relating to Applications Processing). If an affected per-

son requests an amendment, such request shall be submitted to the executive director for review. If the executive director determines such a request is not justified, the executive director will respond within 60 days of submittal of the request, stating the reasons for that determination. The person requesting such amendment may petition the commission for a review of the request and the executive director's recommendation. If the executive director determines that such a request is justified, the amendment will be processed in accordance with subsections (d) and (f) of this section.

(b) Application for amendment. An application for an amendment to a permit shall include all requested changes to the permit. Information sufficient to review the application shall be submitted in the form and manner and under the procedures specified in §§305.41-305.53 of this title (relating to Application for Permit). The application shall include a statement describing the reason for the requested changes.

(c) Types of amendments.

(1) A major amendment is an amendment that changes a substantive term, provision, requirement, or a limiting parameter of a permit.

(2) A minor amendment is an amendment to improve or maintain the permitted quality or method of disposal of waste or injection of fluid if there is neither a significant increase of the quantity of waste or fluid to be discharged or injected nor a material change in the pattern or place of discharge or injection. A minor amendment includes any other change to a permit issued under this chapter that will not cause a potential deterioration of quality of water in the state nor relax a standard or criterion which may result in a potential deterioration of quality of water in the state. A minor amendment also includes, but is not limited, to the following:

(A) changing an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date;

(B) requiring more frequent monitoring or reporting by the permittee;

(C) for solid waste permits, the following changes:

(i) change in the estimates of maximum inventory under 40 Code of Federal Regulations §264.112(a)(2);

(ii) change in the estimates of expected year of closure or schedules for final closure under 40 Code of Federal Regulations §264.11(a)(4);

(iii) extension of periods longer than 90 days or 180 days under 40 Code of Federal Regulations §264.113(a) and (b);

(iv) change in the ranges of the operating requirements set in the permit to reflect the results of a trial burn, provided that the change is minor;

(v) a minor change to the operating requirements set in the permit for conducting a trial burn;

(vi) an extension of the time period for determining operational readiness following completion of construction, for up to 720 hours operating time for treatment of hazardous waste;

(vii) change in the treatment program requirements for land treatment units under 40 Code of Federal Regulations §264.271 to improve treatment of hazardous constituents, provided that the change is minor;

(viii) a minor change to any conditions specified in the permit for land treatment units to reflect the results of field tests or laboratory analyses used in making a treatment demonstration in accordance with §§305.181-305.184 of this title (relating to Permits for Land Treatment Demonstrations Using Field Tests or Laboratory Analysis);

(ix) authorization for a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by the regulations contained in 40 Code of Federal Regulations, §264.272(a) which are in effect as of April 1, 1983, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration;

(x) change in ownership or operational control of a facility where the executive director determines that no other change in the permit is necessary, provided that a

written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the executive director and provided that the requirements of §305.64 of this title (relating to Transfer of Permits) have been satisfied; or

(xi) authorization of the treatment of hazardous waste not previously specified in the permit if:

(I) the hazardous waste has been prohibited from one or more methods of land disposal under the regulations contained in 40 Code of Federal Regulations, Part 268, Subpart C, which are in effect as of June 4, 1987, and treatment standards have been established under the regulations contained in 40 Code of Federal Regulations, Part 268, Subpart D as adopted in Subchapter O of this chapter (relating to Land Disposal Restrictions);

(II) treatment is in accordance with the standards established under the regulations contained in 40 Code of Federal Regulations, §268.41 which are in effect as of June 4, 1987, or a variance established under the regulations contained in 40 Code of Federal Regulations, §268.44 which are in effect as of June 4, 1987;

(III) handling and treatment of the restricted waste will not present risks substantially different from those of wastes listed in the permit; and

(IV) federal or state approval of a minor permit modification request is granted. No permit changes can occur except for the addition of new waste codes and administrative or technical changes necessary to handle new wastes. Changes in treatment processes or physical equipment may not be made under this clause.

(d) Good cause for amendments. The executive director may initiate and the commission may order an amendment to a permit if good cause exists. Good cause includes, but is not limited to, the following:

(1) there are material and substantial changes to the permitted facility or activity which justify permit conditions that are different or absent in the existing permit;

(2) information not available at the time of permit issuance is received by the executive

dire
men
(3)
pern
been
or b
(4)
shor
tee l
reaso
mine
of a
(5)
haza
(
re
tio
(
mo
Co
the
sio
Co
cat
de
§2
me
of
Fe
ed;
(
un
§2
na
dir
era
adj
bili
(
gra
this
Pro
bee
pro
to
rec
title
anc
enc
uni
(
uni
inc

director, and such information justifies amendment of existing permit conditions;

(3) the standards or regulations on which the permit or a permit condition was based have been changed by new standards or regulations or by judicial decision;

(4) an act of God, strike, flood, material shortage, or other event over which the permittee has no control and for which there is no reasonably available alternative may be determined to constitute good cause for amendment of a compliance schedule;

(5) for permits to store, process, or dispose of hazardous waste:

(A) when modification of a closure plan is required under 40 Code of Federal Regulations §§264.112(b) or 264.118(b);

(B) after the executive director receives the modification of expected closure under 40 Code of Federal Regulations §264.113, when the executive director determines that extension of the 90- or 180-day periods under 40 Code of Federal Regulations §264.113, modification of the 30-year post-closure period under 40 Code of Federal Regulations §264.117(a), continuation of security requirements, or permission to disturb the integrity of the containment system under 40 Code of Federal Regulations §264.117(c) are warranted;

(C) when the permittee has filed a request under 40 Code of Federal Regulations §264.147(d) for a variance to the level of financial responsibility or when the executive director demonstrates under 40 Code of Federal Regulations §264.147(e) that an upward adjustment of the level of financial responsibility is required;

(D) to include a detection monitoring program meeting the requirements of §335.164 of this title (relating to Detection Monitoring Program), when the owner or operator has been conducting a compliance monitoring program under §335.165 of this title (relating to Compliance Monitoring Program) or a corrective action program under §335.166 of this title (relating to Corrective Action Program) and the compliance period ends before the end of the post-closure care period for the unit;

(E) to include conditions applicable to units at a facility that were not previously included in the facility's permit; or

(F) when a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.

(e) Amendment of land disposal facility permit. When a permit for a land disposal facility used to manage hazardous waste is reviewed by the commission under §305.127(1)(B)(iii) of this title (relating to Conditions to be Determined for Individual Permits), the commission shall modify the permit as necessary to assure that the facility continues to comply with currently applicable requirements of this chapter and Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste).

(f) Amendment initiated by the executive director. If the executive director determines to file a petition to amend a permit, notice of the determination stating the grounds therefor and a copy of a proposed amendment draft shall be personally served on or mailed to the permittee at the last address of record with the commission. This notice should be given at least 15 days before a petition is filed with the commission. However, such notice period shall not be jurisdictional.

(g) Amendment initiated permit expiration. The existing permit will remain effective and will not expire until commission action on the application for amendment is final. The commission may extend the term of a permit when taking action on an application for amendment.

(h) Amendment application considered a request for renewal. For applications filed under the Texas Water Code, Chapter 26, an application for a major amendment to a permit may also be considered as an application for a renewal of the permit if so requested by the applicant.

Source: The provisions of this §305.62 adopted to be effective June 19, 1986, 11 TexReg 2594; amended to be effective July 14, 1987, 12 TexReg 2102; amended to be effective July 27, 1988, 13 TexReg 3513.

§ 305.63. Renewal

The permittee or the executive director may file an application for renewal of a permit. The application shall be filed with the executive director before the permit expiration date. For permits involving hazardous waste under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, any hazardous waste management facility with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit, unless permission for later

31 TAC § 305.63

TEXAS WATER COMMISSION

date has been granted by the executive director. The executive director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

(1) An application for renewal may be in the same form as that required for the original permit application.

(2) An application for renewal shall request continuation of the same requirements and conditions of the expiring permit.

(3) If an application for renewal in fact requests a modification of requirements and conditions of the existing permit, an application for amendment shall also be filed before further action is taken. For applications filed under the Texas Water Code, Chapter 26, if an application for renewal in fact requests a modification of requirements and conditions of the existing permit, an application for amendment shall be filed in place of an application for renewal.

(4) If renewal procedures have been the initiated before the permit expiration date, the existing permit will remain in full force and effect and will not expire until commission action on the application for renewal is final.

(5) The commission may deny an application for renewal on the grounds set forth in §305.66 of this title (relating to Revocation and Suspension).

(6) During the renewal process, the executive director may make any changes or additions to permits authorized by §305.65 of this title (relating to Corrections of Permits), or §305.62(d) of this title (relating to Amendment) provided the requirements of §305.62(f) of this title (relating to Amendment) and §305.96 of this title (relating to Action on Application for Amendment) are satisfied.

Source: The provisions of this §305.63 adopted to be effective June 19, 1986, 11 TexReg 2594; amended to be effective July 14, 1987, 12 TexReg 2102.

§ 305.64. Transfer of Permits

(a) A permit is issued in personam and may be transferred only upon approval of the commission. An attempted transfer is not effective for any purpose until actually approved by the commission.

(b) Except as provided otherwise in subsection (g) of this section, the permittee shall submit to the executive director an application for transfer at least 30 days before the proposed transfer date. The application shall contain the following:

- (1) name and address of the transferee;
- (2) date of proposed transfer;
- (3) if the permit requires financial responsibility, the method by which the proposed transferee intends to assume or provide financial responsibility, including proof of such financial responsibility to become effective when the transfer becomes effective;
- (4) a fee of \$100 to be applied toward the processing of the application, as provided in §305.53(a) of this title (relating to Application Fees); and
- (5) any other information the executive director may reasonably require.

(c) If no agreement regarding transfer of permit responsibility and liability is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation associated therewith is assumed by the transferee, effective on the date of the approved transfer. This section is not intended to relieve a transfer or of any liability.

(d) The executive director must be satisfied that proof of any required financial responsibility is sufficient before transmitting an application for transfer to the commission for further proceedings.

(e) If a person attempting to acquire a permit causes or allows operation of the facility before approval is given, such person shall be considered to be operating without a permit or other authorization.

(f) The commission may refuse to approve a transfer where conditions of a judicial decree, compliance agreement, or other enforcement order have not been entirely met. The commission shall also consider the prior compliance record of the transferee, if any.

(g) For permits involving hazardous waste under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of 40 Code of Federal Regulations Part 264, Subpart H, as adopted by reference in §335.152(a)(6), until the new owner or operator has demonstrated to the executive director that he is complying with the requirements of 40 Code of

Feder
owne
with
Subp
date
al co
the e
tor of
tions
shall
that h
Feder
date

Sou
June 1
1987, 1

§ 30

The
mits,
an er
sity
dures

(
ror

(
of

inj
the

wa
(

qui
be

(
dis

be
(

a p
suc

Sou
June 1
1987,

§ 30

(a)
does

voke

orde

publ
is no

(
co:
co:

Federal Regulations Part 264, Subpart H. The new owner or operator must demonstrate compliance with 40 Code of Federal Regulations Part 264, Subpart H requirements within six months of the date of the change in the ownership or operational control of the facility. Upon demonstration to the executive director by the new owner or operator of compliance with 40 Code of Federal Regulations Part 264 Subpart H, the executive director shall notify the old owner or operator in writing that he no longer needs to comply with 40 Code of Federal Regulations Part 264, Subpart H as of the date of demonstration.

Source: The provisions of this §305.64 adopted to be effective June 19, 1986, 11 TexReg 2594; amended to be effective July 14, 1987, 12 TexReg 2102.

§ 305.65. Corrections of Permits

The commission may make corrections to permits, either by reissuing the permit or by issuing an endorsement to the permit, without the necessity of observing the formal amendment procedures prescribed in this chapter:

- (1) to correct a clerical or typographical error;
- (2) to describe more accurately the location of the authorized point or place of discharge, injection, deposit, or disposal of any waste, or the route which any waste follows along the watercourses in the state after being discharged;
- (3) to describe more accurately the character, quality, or quantity of any waste authorized to be disposed of;
- (4) to describe more accurately the pattern of discharge or disposal of any waste authorized to be disposed of; or
- (5) to state more accurately any provision in a permit without changing the substance of any such provision.

Source: The provisions of this §305.65 adopted to be effective June 19, 1986, 11 TexReg 2594; amended to be effective July 14, 1987, 12 TexReg 2102.

§ 305.66. Revocation and Suspension

(a) A permit or other order of the commission does not become a vested right and may be revoked or suspended for good cause at any time by order of the commission after opportunity for a public hearing is given. Good cause includes, but is not limited to, the following:

- (1) the permittee has failed or is failing to comply with the conditions of the permit or a commission order, including failure to con-

struct, during the life of the permit, facilities necessary to conform with the terms and conditions of the permit;

(2) the permit or the operations thereunder have been abandoned;

(3) the permit or other order is no longer needed by the permittee;

(4) the permittee's failure in the application or hearing process to disclose fully all relevant facts, or the permittee's misrepresentation of relevant facts at any time;

(5) a determination that the permitted activity endangers human health or safety or the environment to such an extent that permit termination is necessary to prevent further harm;

(6) the facility is being operated by a transferee before commission approval of the transfer;

(7) for Class III injection wells, failure to achieve satisfactory restoration progress; or

(8) such other cause sufficient to warrant termination or suspension of the authorization.

(b) The authority to discharge waste into or adjacent to the water in the state under a waste discharge permit is subject to cancellation or suspension under the Texas Water Code, §26.084.

(c) The commission may amend, revoke, or suspend, after notice and hearing according to §305.68 of this title (relating to Action and Notice on Petition for Revocation and Suspension), any permit for a solid waste storage, processing, or disposal facility, for good cause, for reasons pertaining to public health, air or water pollution, land use, or for violations of the Texas Solid Waste Disposal Act, or any other applicable laws or rules controlling the management of solid waste.

(d) When the executive director determines revocation or suspension proceedings are warranted, a petition requesting appropriate action may be filed by the executive director with the commission. A person affected by the issuance of a permit or other order of the commission may initiate proceedings for revocation or suspension by forwarding a petition to the executive director to be filed with the commission.

(e) If the executive director or an affected person intends to file a petition to revoke or suspend a permit, notice of the intention and a copy of the petition to be filed shall be personally served on or sent by registered or certified mail to the per-

31 TAC § 305.66

TEXAS WATER COMMISSION

mittee at the last address of record with the commission. This notice shall be given at least 15 days before a petition for revocation or suspension is submitted to the executive director or filed with the commission for further proceedings. Failure to provide such notice shall not be jurisdictional.

Source: The provisions of this §305.66 adopted to be effective June 19, 1986, 11 TexReg 2594.

§ 305.67. Revocation and Suspension upon Request or Consent

(a) If a permittee no longer desires to continue a waste disposal activity or to dispose of waste under a permit, or is agreeable to a suspension of authorization to do so for a specified period of time, the permittee should file with the executive director a written request or a written consent and waiver not later than 10 days following receipt of notice of the intention to file a petition under §305.66 of this title (relating to Revocation and Suspension).

(b) If a permittee requests or consents to the revocation or suspension of the permit, the executive director may revoke or suspend the permit without the necessity of a public hearing or commission action. The executive director shall notify the commission of each such revocation or suspension.

Source: The provisions of this §305.67 adopted to be effective June 19, 1986, 11 TexReg 2594.

§ 305.68. Action and Notice on Petition for Revocation or Suspension

(a) In the absence of a request filed by the permittee or of sufficient consent and waiver, the commission shall conduct a public hearing on a petition to revoke or suspend a permit or other order of the commission, notice of which shall be given to the permittee not less than 30 days prior to the hearing by certified mail, return receipt requested, of the time and place of the hearing. For permits or orders involving hazardous waste under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, public notice shall be given by publication, by mail and by radio broadcast, in accordance with §§305.102-305.104 of this title (relating to Notice by Publication; Notice by Mail; and Radio Broadcasts).

(b) If the permittee requests or consents to the revocation or suspension of the permit and the executive director has not revoked or suspended the permit, the commission may take action at a regular meeting of the commission without hold-

ing a public hearing, provided notice of the hearing is given by first-class mail at least 10 days prior to the meeting. For permits involving hazardous waste under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, notice of the hearing shall be given by first-class mail at least 30 days prior to the meeting.

Source: The provisions of this §305.68 adopted to be effective June 19, 1986, 11 TexReg 2594; amended to be effective July 14, 1987, 12 TexReg 2102.

SUBCHAPTER E. ACTIONS, NOTICE AND HEARING

Authority: The provisions of this subchapter issued under the Texas Water Code, §5.103 and §5.105.

§ 305.91. Applicability

This subchapter sets forth the manner in which action will be taken on applications filed with the commission.

Source: The provisions of this §305.91 adopted to be effective June 19, 1986, 11 TexReg 2596.

§ 305.92. Action on Applications

The commission may conduct a public hearing on any application. The commission shall conduct a public hearing on an application for permit, major amendment, or renewal covered by this chapter, if a request for hearing is made by a commissioner, the executive director, or an affected person who objects to the application and files a request in accordance with commission rules. If a hearing is held, notice of hearing shall be given by publication and by mail, as required by law.

Source: The provisions of this §305.92 adopted to be effective June 19, 1986, 11 TexReg 2596.

§ 305.93. Action on Application for Permit

(a) Except as provided in subsection (b) of this section, the commission may take action on an application at a regular meeting without holding a public hearing, provided:

(1) at least 30 days prior to the regular meeting at which action is to be taken, notice of the application has been given by publication and by mail as required by law; and

(2) within the 30-day period after the first publication of the notice, no request for a public hearing has been made by a commissioner, the executive director, or an affected person.

(b) The time limits of subsection (a) of this section shall be 45 days for applications involving

hazardous waste disposal

(c) daily notice of commission action with which who give to waste under

Source: June 19, 1986, 11 TexReg 2594.

§ 3

Th
tion
meet
of the
mail
Source: June 19, 1986, 11 TexReg 2594.

§ 3

(a)
(c) c
tion
pres
Action

(b)
hear
utive
pern
hear
tion

(c)
plica
feed
as V
with
prov
sons
10 d
Source: June 19, 1986, 11 TexReg 2594.

§ 3

(a)
sect

hazardous waste under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7.

(c) For any application involving an average daily discharge of five million gallons or more, notice shall be given not less than 20 days prior to commission action on the application to each county judge of the county or counties located within 100 statute miles of the point of discharge who has requested in writing that such notice be given; and through which water, into or adjacent to which waste or pollutants are to be discharged under the permit, flows after the discharge.

Source: The provisions of this §305.93 adopted to be effective June 19, 1986, 11 TexReg 2596.

§ 305.94. Action on Application for Production Area Authorization

The commission may take action on an application for production area authorization at a regular meeting without a public hearing, provided notice of the application has been given by first-class mail at least 10 days prior to the meeting.

Source: The provisions of this §305.94 adopted to be effective June 19, 1986, 11 TexReg 2596.

§ 305.95. Action on Application for Renewal

(a) Except as provided in subsections (b) and (c) of this section, the commission may take action on an application for renewal in the manner prescribed by §305.93 of this title (relating to Action on Application for Permit).

(b) The commission shall conduct a public hearing on an application for renewal if the executive director has recommended denial, unless the permittee files sufficient consent and waiver of hearing, in which case the provisions of subsection (a) of this section apply.

(c) The commission may take action on an application to renew a permit for a confined animal feeding operation within the definition of the Texas Water Code, §26.028(c), at a regular meeting without the necessity of holding a public hearing, provided notice of the application is given to persons as required by law by first-class mail at least 10 days prior to the meeting.

Source: The provisions of this §305.95 adopted to be effective June 19, 1986, 11 TexReg 2596.

§ 305.96. Action on Application for Amendment

(a) Except as provided in subsection (c) of this section, the commission may take action on an

application for a major amendment in the manner prescribed by §305.93 of this title (relating to Action on Application for Permit).

(b) The commission may take action on an application for minor amendment at a regular meeting of the commission without holding a public hearing, provided notice of the application is given to persons as required by law by first-class mail at least 10 days prior to the meeting.

(c) The commission shall conduct a public hearing on a petition for a major amendment, unless no person requests a hearing and the permittee files sufficient consent and waiver of hearing, in which case the provisions of subsection (a) of this section apply.

Source: The provisions of this §305.96 adopted to be effective June 19, 1986, 11 TexReg 2596; amended to be effective July 14, 1987, 12 TexReg 2102.

§ 305.97. Action on Application for Transfer

The commission may approve a transfer by order at a regular meeting of the commission.

Source: The provisions of this §305.97 adopted to be effective June 19, 1986, 11 TexReg 2596.

§ 305.98. Scope of Proceedings

The commission may limit consideration in permit renewal or amendment proceedings to only those portions or provisions of a permit for which the application or petition requests action. All terms, conditions, and provisions of an existing permit remain in full force and effect during such proceedings, and the permittee shall comply with an existing permit until a new or amended permit is issued.

Source: The provisions of this §305.98 adopted to be effective June 19, 1986, 11 TexReg 2596.

§ 305.99. Commission Action

(a) The commission may grant or deny an application or petition in whole or in part, suspend the authority to conduct an activity or disposal of waste for a specified period of time, dismiss the proceedings, amend a permit or other order, or take any other action as may be appropriate. For applications involving hazardous waste under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, the commission may issue or deny a permit for one or more units at the facility. The interim status of any facility unit compliant with the provisions of the Texas Solid Waste Disposal Act, §4(f)(2) and §335.2(c) of this title (relating to Permit Required) for which a permit has

31 TAC § 305.99

TEXAS WATER COMMISSION

not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

(b) If the commission directs a person to perform or refrain from performing a certain act or activity, there shall be set forth in the order the findings on which the directive is based. The commission may set a compliance deadline in its order to represent a reasonable period of time in which:

- (1) to terminate the operation or activity;
- (2) to cease disposal, handling, or storage of any waste;
- (3) to conform to the permit requirements, including any new or additional conditions imposed by the commission; or
- (4) to otherwise comply with the commission's order.

(c) The commission may grant an extension of time to a compliance deadline upon application by the permittee for good cause.

Source: The provisions of this §305.99 adopted to be effective June 19, 1986, 11 TexReg 2596.

§ 305.100. Notice of Application

A notice of application shall fairly set forth the substance of the application and proposed action, including, but not limited to, the location and nature of any proposed or existing facility, the location of any point of injection, discharge or place of disposal, the rate of discharge or injection, the method for obtaining additional information about the application, the method for submitting a response or protest to the application and request for a hearing, and such other information necessary to give a fair appraisal of the application. The notice shall state whether a draft permit or a draft solid waste compliance plan has been prepared by the executive director.

Source: The provisions of this §305.100 adopted to be effective June 19, 1986, 11 TexReg 2596.

§ 305.101. Notice of Hearing

A notice of hearing shall identify the application, the date, time, place, and nature of the hearing, the legal authority and jurisdiction under which the hearing is to be held, the proposed action, the requirements for submitting written protests, the method for obtaining additional information, and such other information the commission deems necessary. The notice shall state whether a draft permit has been prepared by the

executive director. For applications involving hazardous waste under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, the notice shall include a statement that a draft permit for the facility has been prepared and that a copy of the draft permit is available to the public.

Source: The provisions of this §305.101 adopted to be effective June 19, 1986, 11 TexReg 2596; amended to be effective July 14, 1987, 12 TexReg 2102.

§ 305.102. Notice by Publication

(a) If notice by publication is required, the applicant shall cause the notice approved by the commission to be published in a newspaper regularly published, and generally circulated within the county and area wherein the proposed facility or discharge is to be located, and within each county and area wherein persons reside who would be affected by the facility or proposed discharge. For applicants for solid waste permits, notice shall be published in each county and area which is adjacent or contiguous to each county wherein the proposed facility or discharge is to be located.

(b) The date of publication for a notice of application shall be as set forth in this subchapter for each type of action.

(c) The date of publication for a notice of hearing for any application covered by this chapter shall be not less than 30 days before the date set for hearing.

(d) The applicant is responsible for the cost of publication. If the applicant does not cause the notice approved by the commission to be published within 30 days of receipt of the notice from the commission, the commission may cause the notice to be published and the applicant must reimburse the commission for the cost of publication within 30 days of publication.

Source: The provisions of this §305.102 adopted to be effective June 19, 1986, 11 TexReg 2596; amended to be effective July 14, 1987, 12 TexReg 2102.

§ 305.103. Notice by Mail

(a) If notice by mail is required, the commission will transmit the notice by first-class mail to persons listed in subsection (b) of this section and to other persons, who in the judgment of the commission, may be affected. Personal service may be substituted for mailing.

(b) The notice shall be mailed to the following:

(1
app
she
mer
(2
city
loca
of;
(3
the
whi
(4
(5
(6
(7
the
(8
(9
mai
mis
acti
be 1
(1
tice
tion
(1
elec
(1
of 1
for
(c)
tion s
each
(d)
shall
heari
(e)
requi
Sour
June 19
1987, 1
§ 30
For
of ha
Dispo
the a
pared
or mo
the a
permi

CONSOLIDATED PERMITS

31 TAC § 305.105

(1) the affected landowners named on the application map or supplemental map or, the sheet attached to the application map or supplemental map;

(2) the mayor and health authorities of the city or town in which the facility is or will be located or in which waste is or will be disposed of;

(3) the county judge and health authorities of the county in which the facility is located or in which waste is or will be disposed of;

(4) the Texas Department of Health;

(5) the Texas Parks and Wildlife Department;

(6) the Texas Railroad Commission;

(7) for an injection well permit application, the Texas Water Well Drillers Board;

(8) the applicant;

(9) persons who request to be put on the mailing list, including participants in past commission permit proceedings for the facility or activity who have submitted a written request to be put on the mailing list;

(10) state and federal agencies for which notice is required in 40 Code of Federal Regulations §124.10(c);

(11) any other person the commission may elect to include; and

(12) county judges as required by §305.93(c) of this title (relating to Action on Application for Permit).

(c) The date of mailing for a notice of application shall be as set forth in this subchapter for each type of action.

(d) The date of mailing for a notice of hearing shall be at least 30 days before the date set for hearing.

(e) The applicant is responsible for the cost of required notice.

Source: The provisions of this §305.103 adopted to be effective June 19, 1986, 11 TexReg 2596; amended to be effective July 14, 1987, 12 TexReg 2102.

§ 305.104. Radio Broadcasts

For an application to store, process, or dispose of hazardous waste under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, the applicant shall cause the public notice prepared by the commission to be broadcast over one or more local radio stations which are located in the affected area of a pending hazardous waste permit application. For purposes of this section,

the affected area is an area to be determined by the commission on each application which includes the county in which the site is to be located and may include contiguous counties at the discretion of the commission. If the applicant does not cause the notice approved by the commission to be broadcast in the affected area within 30 days of receipt of the notice from the commission, the commission may cause the notice to be broadcast and the applicant shall reimburse the commission for the cost of the broadcast within 30 days of each broadcast.

Source: The provisions of this §305.104 adopted to be effective June 19, 1986, 11 TexReg 2596; amended to be effective July 14, 1987, 12 TexReg 2102.

§ 305.105. Request for Public Hearing

(a) A request for public hearing under this chapter must be made in writing and submitted by an affected person to the commission within 30 days after the first publication of the notice of application, except that a request must be submitted within 45 days after the first publication of the notice of an application involving hazardous waste under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7. The commission may extend the time allowed for submitting a request for public hearing.

(b) The written request shall contain the following information:

(1) the name, mailing address, and phone number of the person making the request;

(2) a brief description of the interest of the person making the request, or of persons represented by the person making the request; and

(3) a brief description of how the application, if granted, would adversely affect such interest.

(c) An affected person is one who is determined by the commission to have an interest that may be adversely affected by action taken on the application.

(d) If the commission determines the request for public hearing is in compliance with this section, or that a public hearing would serve the public interest, the commission shall conduct a public hearing.

Source: The provisions of this §305.105 adopted to be effective June 19, 1986, 11 TexReg 2596; amended to be effective April 8, 1987, 12 TexReg 998.

31 TAC § 305.106

TEXAS WATER COMMISSION

§ 305.106. Response to Comments

This section shall apply only to applications for hazardous waste permits under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, and is adopted for the purposes of conforming commission procedures to 40 Code of Federal Regulations §124.17. The commission, through the executive director or the Office of Hearings Examiners, shall prepare and make available to the public a brief description and response to all significant comments on the draft permit which are filed with the commission during the 45-day comment period in accordance with the provisions of the §305.93 of this title (relating to Action on Application for Permit), or which are made during the public comment session of a hearing held pursuant to §305.105 of this title (relating to Request for Public Hearing) and the Texas Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. The response to comments shall include a specification of which provisions of the draft permit, if any, have been changed in response to comments, and the reasons for the change. If a hearing is held and a hearings examiner's proposal for decision is issued, the response to comments may be incorporated into the proposal for decision.

Source: The provision of this §305.106 adopted to be effective July 14, 1987, 12 TexReg 2102.

SUBCHAPTER F. PERMIT CHARACTERISTICS AND CONDITIONS

Authority: The provisions of this subchapter issued under the Texas Water Code §5.103 and §5.105.

§ 305.121. Applicability

The provisions of this subchapter establish the characteristics and standards for permits issued for injection wells, waste discharges, and solid waste management.

Source: The provisions of this §305.121 adopted to be effective June 19, 1986, 11 TexReg 2597.

§ 305.122. Characteristics of Permits

(a) A permit issued within the scope of this subchapter does not convey any property rights of any sort, nor any exclusive privilege, and does not become a vested right in the permittee.

(b) The issuance of a permit does not authorize any injury to persons or property or an invasion

of other property rights, or any infringement of state or local law or regulations.

Source: The provisions of this §305.122 adopted to be effective June 19, 1986, 11 TexReg 2597.

§ 305.123. Reservation in Granting Permit

Every permit is subject to further orders and rules of the commission. In accordance with the procedures for amendments and orders, the commission may incorporate into permits already granted any condition, restriction, limitation, or provision reasonably necessary for the administration and enforcement of Texas Water Code, Chapters 26, 27, and 28, and the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7.

Source: The provisions of this §305.123 adopted to be effective June 19, 1986, 11 TexReg 2597.

§ 305.124. Acceptance of Permit, Effect

Acceptance of the permit by the person to whom it is issued constitutes an acknowledgement and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the commission.

Source: The provisions of this §305.124 adopted to be effective June 19, 1986, 11 TexReg 2597.

§ 305.125. Standard Permit Conditions

The following conditions are applicable to all permits issued within the scope of this chapter, and shall be incorporated into each permit expressly or by reference to this chapter.

(1) The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Solid Waste Disposal Act, and is grounds for enforcement action, for permit amendment, revocation, or suspension or for denial of a permit renewal application or of an application for a permit for another facility.

(2) The permittee must apply for an amendment or renewal prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. Authorization to continue such activity will terminate upon the effective denial of said application.

(3) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activi-

CONSOLIDATED PERMITS

31 TAC § 305.125

ty in order to maintain compliance with the conditions of the permit.

(4) The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

(5) The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit.

(6) The permittee shall furnish to the executive director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending, or terminating the permit. The permittee shall also furnish to the executive director, upon request, copies of records required to be kept by the permit.

(7) The permittee shall give notice to the executive director prior to physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements.

(8) Authorization from the commission is required before beginning any change in the permitted facility or activity that would result in noncompliance with other permit requirements.

(9) Unless specified otherwise, the permittee shall report any noncompliance to the executive director which may endanger human health or safety or the environment. Report of such information shall be provided orally within 24 hours from the time the permittee becomes aware of the noncompliance. A written submission of such information shall also be provided within five working days of the time the permittee becomes aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

(10) Inspection and entry shall be allowed as prescribed in the Texas Water Code, Chapters 26-28 and the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §7.

(11) Monitoring and reporting requirements are as follows:

(A) Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.

(B) Monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by the permit, records of all data used to complete the application for this permit, and the certification required by 40 Code of Federal Regulations §264.73(b)(9), shall be retained at the facility site for a period of three years from the date of the record or sample, measurement, report, application, or certification. This period may be extended at the request of the executive director.

(C) Records of monitoring activities shall include the following:

(i) date, time, and place of sample or measurement;

(ii) identity of individual who collected the sample or made the measurement;

(iii) date of analysis;

(iv) identity of the individual and laboratory who performed the analysis;

(v) the technique or method of analysis; and

(vi) the results of the analysis or measurement.

(12) Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly shall be reported to the executive director as promptly as possible.

(13) A permit may be transferred only according to the provisions of §305.64 of this title (relating to Transfer of Permits) and §305.97 of this title (relating to Action on Application for Transfer).

(14) All reports and other information requested by the executive director shall be signed by the person and in the manner required by §305.128 of this title (relating to Signatories to Reports).

(15) A permit may be amended, suspended and reissued, or revoked for cause. The filing of a request by the permittee for a permit amend-

31 TAC § 305.125

TEXAS WATER COMMISSION

ment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(16) A permit does not convey any property rights of any sort or any exclusive privilege.

(17) Monitoring results shall be provided at the intervals specified in the permit.

(18) Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date.

(19) Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application, or in any report to the executive director, it shall promptly submit such facts or information.

Source: The provisions of this §305.125 adopted to be effective June 19, 1986, 11 TexReg 2597; amended to be effective July 14, 1987, 12 TexReg 2102; amended to be effective July 27, 1988, 13 TexReg 3513.

§ 305.126. Additional Standard Permit Conditions for Waste Discharge Permits

Whenever flow measurements for any sewage treatment facility in the state reaches 75% of the permitted average daily flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment and/or collection facilities. Whenever the average daily flow reaches 90% of the permitted average daily flow for three consecutive months, the permittee shall obtain necessary authorization from the Texas Water Commission to commence construction of the necessary additional treatment and/or collection facilities. In the case of a wastewater treatment facility which reaches 75% of the permitted average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee will submit an engineering report supporting this claim to the executive director. If, in the judgment of the executive director, the population to be served will not cause permit noncompliance, then the requirements of this section may be waived. To be effective, any waiver must be in writing and signed by the director of the Water

Quality Division of the Texas Water Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit. However, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

Source: The provisions of this §305.126 adopted to be effective June 19, 1986, 11 TexReg 2597.

§ 305.127. Conditions to be Determined for Individual Permits

The following conditions are to be determined on a case-by-case basis according to the criteria set forth herein, and when applicable, shall be incorporated into the permit expressly or by reference.

(1) Duration.

(A) Injection well permits.

(i) Permits for Class I wells shall be effective for a fixed term not to exceed 10 years.

(ii) Permits for Class III wells or projects may be effective for the life of the well or project, and shall be reviewed at least once every five years.

(B) Solid waste permits.

(i) Hazardous waste permits shall be effective for a fixed term not to exceed 10 years.

(ii) Other solid waste permits may be effective for the life of the project.

(iii) Each permit for a land disposal facility used to manage hazardous waste shall be reviewed by the executive director five years from the date of permit issuance or reissuance and shall be modified as necessary by the commission, as provided in §305.62(e) of this title (relating to Amendment).

(C) Waste discharge permits.

(i) Permits which authorize a direct discharge of wastewater into a surface drainageway shall be effective for a term not to exceed five years.

(ii) Confined animal feeding operation permits may be effective for the life of the project.

(iii) Other wastewater permits, including permits which regulate no-discharge systems, shall be effective for a term not to exceed 10 years.

(D) Drilled or mined shaft permits. Drilled or mined shaft permits which authorize operation of a drilled or mined shaft shall be effective for a term not to exceed 10 years.

(E) Term of permit. The term of a permit shall not be extended by amendment beyond the maximum duration specified in this section.

(F) Duration of permit. The executive director may recommend that a permit be issued and the commission may issue any permit for a duration that is less than the full allowable term under this section.

(2) Monitoring, recording, and reporting.

(A) Requirements concerning the proper use, maintenance, and installation of monitoring equipment or methods shall be specified by the commission as appropriate.

(B) The type, intervals, and frequency of monitoring shall be set to yield data representative of the monitored activity, at a minimum as specified in commission rules for monitoring and reporting.

(C) Other requirements for monitoring and reporting shall be set at a minimum as specified in commission rules for monitoring and reporting.

(3) Schedule of compliance.

(A) A schedule of compliance prescribing a time-table for achieving compliance with the permit conditions, the appropriate act, and regulations may be incorporated into a permit. The schedule shall require compliance as soon as possible and may set interim dates of compliance. For injection wells, compliance shall be required not later than three years after the effective date of the permit.

(B) For schedules of compliance exceeding one year, interim dates of compliance not exceeding one year shall be set wherever practicable. If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into interim stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(C) Reporting requirements for each schedule of compliance shall be specified by the commission as appropriate. Reports of progress and completion shall be submitted to

the executive director no later than 14 days after each schedule date.

(4) Requirements for individual programs.

(A) Requirements to provide for and assure compliance with standards set by the rules of the commission and the laws of Texas shall be determined and included in permits on a case-by-case basis to reflect the best method for attaining such compliance. Each permit shall contain terms and conditions as the commission determines necessary to protect human health and safety and the environment. Reference is made to Chapter 331 of this title (relating to Underground Injection Control) for injection well standards, to Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste) for solid waste facility standards, and to Chapter 309 of this title (relating to Effluent Standards) for waste discharge standards, and to Chapter 329 of this title (relating to Drilled or Mined Shafts) for drilled or mined shaft standards.

(B) Any statutory or regulatory requirement which takes effect prior to final administrative disposition of an application for a permit or prior to the amendment or suspension and reissuance of a permit shall be included in the permit.

(C) New, amended, or renewed permits shall incorporate any applicable requirements contained in Chapter 331 of this title (relating to Underground Injection Control) for injection well standards, Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste) for solid waste facility standards, Chapter 309 of this title (relating to Effluent Standards) (waste discharge standards), and Chapter 329 of this title (relating to Drilled or Mined Shafts) for drilled or mined shaft standards.

(5) Wastes authorized.

(A) Injection well permits. Each category of waste to be disposed of by injection well shall be authorized in the permit.

(B) Drilled or mined shaft permits. Each category of waste to be handled, stored, processed, or disposed of in a drilled or mined shaft, or in associated surface facilities shall be authorized in the permit.

(C) Unauthorized wastes. Wastes not authorized by permit are prohibited from being

31 TAC § 305.127

TEXAS WATER COMMISSION

transported to, stored, and processed or disposed of in a permitted facility.

(6) Permit conditions. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable rules or requirements must be given in the permit.

Source: The provisions of this §305.127 adopted to be effective June 19, 1986, 11 TexReg 2597.

§ 305.128. Signatories to Reports

(a) All reports requested by permits and other information requested by the executive director shall be signed by a person described in §305.44(a) of this title (relating to Signatories to Applications) or by a person described in §305.50(9) of this title (relating to Additional Requirements for an Application for a Solid Waste Permit), or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) the authorization is made in writing by a person described in §305.44(a) of this title (relating to Signatories to Applications) or described in §305.50(9) of this title (relating to Additional Requirements for an Application for a Solid Waste Permit);

(2) 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 applicant, such as the position of plant manager, operator of a well or well field, 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

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

(b) 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.

(c) For matters involving hazardous waste, any person signing a report required by a permit shall make the certification set forth in §305.50(10) of this title (relating to Additional Requirements for an Application for a Solid Waste Permit).

Source: The provisions of this §305.128 adopted to be effective June 19, 1986, 11 TexReg 2597; amended to be effective July 14, 1987, 12 TexReg 2102.

SUBCHAPTER G. ADDITIONAL CONDITIONS FOR SOLID WASTE STORAGE, PROCESSING OR DISPOSAL PERMITS

Authority: The provisions of this subchapter issued under the Texas Water Code, §5.103 and §5.105.

§ 305.141. Applicability

(a) Unless otherwise stated, the conditions contained in this subchapter apply to all solid waste storage, processing, or disposal permits. These conditions are in addition to those set forth in §305.66 of this title (relating to Revocation and Suspension).

(b) In addition to the conditions established under §305.127(4) of this title (relating to Conditions to be Determined for Individual Permits), each permit for a facility used for the storage, processing, and disposal of hazardous waste shall include:

(1) each of the applicable requirements specified in Chapter 335, Subchapter F of this title (relating to Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities); and

(2) a list of the wastes or classes of wastes which will be processed, stored, or disposed of at the facility, and a description of the processes to be used for the processing, storage, or disposal of such hazardous wastes at the facility, including the design capacity of each storage, processing, and disposal unit. Except in the case of containers, the description must identify the particular wastes or classes of wastes which will be processed, stored, or disposed of in particular equipment or locations (e.g., halogenated organics may be stored in Tank A and metal hydroxide sludges may be disposed of in landfill cells B, C, and D).

Source: The provisions of this §305.141 adopted to be effective June 19, 1986, 11 TexReg 2597.

§ 305.142. Duty to Comply

The permittee need not comply with the conditions of the permit to the extent and for the duration such noncompliance is authorized in an emergency order issued by the commission.

Source: The provisions of this §305.142 adopted to be effective June 19, 1986, 11 TexReg 2597.

§ 305.143. Recordkeeping

For those permits containing a groundwater monitoring requirement, the permittee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations for the active life of the facility and for disposal facilities for the post-closure care period as well.

Source: The provisions of this §305.143 adopted to be effective June 19, 1986, 11 TexReg 2597.

§ 305.144. Certification and Inspection

For a new facility, the permittee may not commence storage, processing, or disposal of solid waste; and for a facility being modified, the permittee may not process, store, or dispose of solid waste in the modified portion of the facility until:

(1) the permittee has submitted to the executive director by certified mail or hand delivery a letter signed by the permittee and a Texas registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

(2) the executive director has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or if within 15 days of submission of the letter required by paragraph (1) of this section, the permittee has not received notice from the executive director of an intent to inspect, prior inspection is waived, and the permittee may commence processing, storage, or disposal of solid waste.

Source: The provisions of this §305.144 adopted to be effective June 19, 1986, 11 TexReg 2597.

§ 305.145. Release or Discharges of Solid Waste

(a) The following shall be included as information which must be reported orally within 24 hours pursuant to §305.125(9) of this title (relating to Standard Permit Conditions):

(1) information concerning release of any solid waste that may cause an endangerment to public drinking water supplies;

(2) any information of a release or discharge of solid waste, or of a fire or explosion from a facility, which could threaten the environment or human health or safety outside the facility. The description of the occurrence and its cause shall include:

(A) name, address, and telephone number of the owner or operator;

(B) name, address, and telephone number of the facility;

(C) date, time, and type of incident;

(D) name and quantity of material(s) involved;

(E) the extent of injuries, if any;

(F) an assessment of actual or potential hazards to the environment and human health or safety outside the facility, where this is applicable; and

(G) estimated quantity and disposition of recovered material that resulted from the incident.

(b) The executive director may waive the five-day written notice requirement under §305.125(9) of this title (relating to Standard Permit Conditions) in favor of a written report pursuant to this section within 15 days.

Source: The provisions of this §305.145 adopted to be effective June 19, 1986, 11 TexReg 2597; amended to be effective April 8, 1987, 12 TexReg 998.

§ 305.146. Reporting

The following reports shall be submitted:

(1) manifest discrepancy report required by §335.12 of this title (relating to Shipping Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities); if a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within 15 days, the permittee must submit a letter report including a copy of the manifest to the executive director. (This condition applies only to permits for off-site facilities that store, process, or dispose of municipal hazardous waste or Class I industrial hazardous or nonhazardous solid waste);

(2) waste report required by §335.15(c) of this title (relating to Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities); a waste report must be submitted to the executive director on a monthly basis. (This condition applies only to permits for off-site facilities that store, process, or dispose of municipal hazardous waste or Class I hazardous or nonhazardous industrial solid waste);

(3) annual report required by §335.9 of this title (relating to Shipping and Reporting Proce-

dures Applicable to Generators) and §335.71 of this title (relating to Annual Reporting); an annual report must be submitted covering facility activities during the previous calendar year;

(4) monthly summary required by §335.15(b) of this title (relating to Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities) and §335.154 of this title (relating to Reporting Requirements for Owners and Operators); a monthly summary must be submitted covering facility activities during the previous calendar year. (This condition applies only to permits for off-site facilities that store, process, or dispose of municipal hazardous waste or Class I waste hazardous or nonhazardous industrial solid waste).

Source: The provisions of this §305.146 adopted to be effective June 19, 1986, 11 TexReg 2597.

SUBCHAPTER H. ADDITIONAL CONDITIONS FOR INJECTION WELL PERMITS

Authority: The provisions of this subchapter issued under the Texas Water Code §5.103 and §5.105.

§ 305.151. Applicability

Unless stated otherwise, the following conditions apply to all Class I and Class III injection well permits and shall be incorporated into the permit expressly or by reference. The commission may require such conditions for Class V injection well permits as are necessary to prevent pollution of fresh water. These conditions are in addition to those set forth in §§305.121-305.128 of this title (relating to Permit Characteristics and Conditions).

Source: The provisions of this §305.151 adopted to be effective June 19, 1986, 11 TexReg 2598.

§ 305.152. Corrective Action

(a) For such wells within the area of review which are inadequately constructed, completed, or abandoned, and which as a result of the injection activities may cause the pollution of fresh water, the commission shall prescribe or incorporate into the permit a condition requiring corrective action adequate to prevent such pollution. Corrective action will be required unless the owner or operator demonstrates to the executive director that, despite the owner or operator's best efforts, he is unable to obtain the necessary permission to undertake such action.

(b) The criteria of §331.44 of this title (relating to Corrective Action Standards) will be used to determine adequacy.

(c) A permit issued for an existing injection well requiring corrective action may include a compliance schedule prescribing the time within which the corrective action must be completed.

(d) As part of the corrective action plan, the commission may impose an injection pressure limitation that does not cause the pressure in the injection zone to exceed hydrostatic pressure in those wells described in subsection (a) of this section, which condition shall expire upon adequate completion of all corrective action measures.

(e) Action prescribed by a corrective action plan for new wells or new areas must be completed to the satisfaction of the executive director before operation of the well begins.

(f) In the event that, after an authorization for injection has been granted, additional information is submitted or discovered that a well within the applicable area of review might pose a hazard to a freshwater aquifer, the commission may prescribe a corrective action plan and compliance schedule as a condition for continued injection activities.

Source: The provisions of this §305.152 adopted to be effective June 19, 1986, 11 TexReg 2598.

§ 305.153. Financial Responsibility

(a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise. The definitions are intended to represent the common meanings of the terms as they are generally used by the business community.

(1) Assets—All existing and all probable future economic benefits obtained or controlled by a particular entity.

(2) Current assets—Cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(3) Current closure cost estimate—The dollar amount of financial assurance currently approved by the commission to ensure the proper closing, plugging, and abandoning of injection operations.

(4) Current liabilities—Obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as

current assets or the creation of other current liabilities.

(5) Independently audited—Refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

(6) Liabilities—Probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(7) Net working capital—Current assets minus current liabilities.

(8) Net worth—Total assets minus total liabilities equivalent to owner's equity.

(9) Parent corporation—A corporation which directly owns at least 50% of the voting stock of the corporation which is the facility permittee; the latter corporation is deemed a subsidiary of the parent corporation.

(10) Permittee—The owner and/or operator of injection well facilities authorized by rule or authorized by a valid commission permit.

(11) Tangible worth—The tangible assets that remain after deducting liabilities; such assets do not include intangibles, such as goodwill, or rights to patents or royalties.

(b) The permittee shall secure and maintain a performance bond or other equivalent form of financial assurance or guarantee approved by the commission to ensure the closing, plugging, and abandonment of the injection operation in the manner prescribed by the commission. The assurance may cover more than one well or operation. For new hazardous waste disposal wells, financial security shall be obtained at least 60 days prior to the commencement of drilling operations for the well. For other injection wells, financial security shall be obtained prior to the injection of fluids. In addition to other forms of financial security authorized by this section, an applicant may use the letter of credit form of financial security if either the issuing institution or another institution which generates payment under the letter:

(1) is a bank chartered by the state or by the federal government; and

(2) is federally insured and its financial practices are regulated by the state or federal government.

(c) An injection well permittee may satisfy the requirements of subsection (b) of this section by qualifying under the financial test as specified in

subsections (d) - (n) of this section. To pass this test, the permittee must meet the criteria of either subsection (d) or (e) of this section.

(d) The permittee must have:

(1) two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;

(2) net working capital and tangible net worth each at least six times the sum of the current closure cost estimate;

(3) tangible net worth of at least \$10 million; and

(4) assets in the United States amounting to at least 90% of total assets or at least six times the sum of the current closure cost estimate.

(e) The permittee must have:

(1) a current rating for the permittee's most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's, or Aaa, Aa, A, or Baa as issued by Moody's;

(2) tangible net worth at least six times the sum of the current closure cost estimate;

(3) tangible net worth of at least \$10 million; and

(4) assets located in the United States amounting to at least 90% of total assets or at least six times the sum of the current closure cost estimate.

(f) To demonstrate qualification under the financial test specified under either subsection (d) or (e) of this section, the permittee must submit the following items to the executive director:

(1) a letter signed by the permittee's chief financial officer and worded as specified in subsection (m) of this section;

(2) a copy of an independent certified public accountant's report on examination of the permittee's financial statements for the latest completed fiscal year; and

(3) a report from an independent certified public accountant to the permittee stating that:

(A) the independent accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) no matters have come to the attention of the independent accountant which suggest that the specified data should be adjusted.

(g) After the initial submission of items specified in subsection (f) of this section, the permittee must send updated information to the executive director within 90 days after the close of each succeeding fiscal year. This information must consist of all items specified in subsection (f) of this section.

(h) If the permittee no longer meets the requirements of subsection (c) of this section, the permittee must send notice to the executive director of the permittee's intent to establish alternate financial assurance as specified in this section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the permittee no longer meets the requirements. The permittee must provide the alternate financial assurance within 120 days after the end of such fiscal year.

(i) The executive director may, based on a reasonable belief that the permittee no longer meets the requirements of subsection (c) of this section, require reports of financial condition at any time from the permittee in addition to those specified in subsection (f) of this section. If the executive director finds on the basis of such reports or other information that the permittee no longer meets the requirements of subsection (c) of this section, the permittee must provide alternate financial assurance as specified in this section within 30 days after notification of such a finding.

(j) The executive director may disallow use of the financial test specified in subsections (d) - (n) of this section on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the permittee's financial statements as required under subsection (f)(2) of this section. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The executive director will evaluate other qualifications on an individual basis. The permittee must provide alternate financial assurance acceptable to the executive director within 30 days after notification of the disallowance.

(k) A permittee will no longer be required to submit the items specified in subsection (f) of this section when:

(1) a permittee substitutes alternate financial assurance acceptable to the executive director; or

(2) the permittee properly closes, plugs, and abandons the permitted injection well in accordance with applicable permit provisions and rules of the commission.

(l) A permittee may meet the requirements of the financial test specified in subsections (d) - (n) of this section by obtaining a written guarantee, hereinafter referred to as corporate guarantee. The guarantor must meet the requirements for permittees in subsections (d) - (j) of this section and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in subsection (n) of this section. The corporate guarantee must accompany the items sent to the executive director as specified in subsection (f) of this section. The terms of the corporate guarantee must provide that:

(1) if the permittee fails to properly close, plug, and abandon the permitted injection well covered by the corporate guarantee, the guarantor will do so;

(2) the corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the permittee and to the executive director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the permittee and the executive director, as evidenced by the return receipts;

(3) if the permittee fails to provide alternate financial assurance and obtain the written approval of such alternate financial assurance from the executive director within 90 days after receipt by both the permittee and the executive director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternative financial assurance in the name of the permittee.

(m) A letter from the chief financial officer, as specified in subsection (f) of this section, must be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted: (Address to Executive Director, Texas Water Commission, P. O. Box 13087, Austin, Texas 78711) I am the chief financial officer of (name and address of permittee). This letter is in support of this firm's use of the financial test to demonstrate financial responsibility required by 31 TAC §305.153. (Fill

CONSOLIDATED PERMITS

31 TAC § 305.153

out the following two paragraphs regarding facilities and associated closure cost estimates. If your firm has no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include the commission's permit or control file number, name and address of the facility, and current closure cost estimate.)

1. This firm is authorized by the Texas Water Commission to operate the following injection well facilities for which financial assurance is demonstrated through the TWC financial test. The current closure cost estimates covered by the test are shown for each facility:
2. This firm guarantees, through the attached corporate guarantee, the closure of the following injection well facilities owned or operated by subsidiaries of this firm. The current closure cost estimates so guaranteed are shown for each facility:

This firm (insert "is required" or "is not required") to file a form 10K with the Securities and Exchange Commission for the latest fiscal year.

The fiscal year of this firm ends on (month, day). The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended (date).

(Fill in appropriate alternatives as most applicable to your firm).

Alternative I

1. Sum of current closure cost estimates (total of all cost estimates shown in the two paragraphs above) \$ _____
 - *2. Total liabilities (if any portion of the closure cost estimates is included in "total liabilities", you may deduct the amount of that portion from this line and add that amount to lines 3 and 4) \$ _____
 - *3. Tangible net worth \$ _____
 - *4. Net worth \$ _____
 - *5. Current assets \$ _____
 - *6. Current liabilities \$ _____
 7. Net working capital (Line 5 minus line 6) \$ _____
 - *8. The sum of net income plus depreciation, depletion and amortization \$ _____
 - *9. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.) \$ _____
- | | |
|--|-------|
| Yes | No |
| 10. Is line 3 at least \$10 million? _____ | _____ |
| 11. Is line 3 at least 6 times line 1? _____ | _____ |
| 12. Is line 7 at least 6 times line 1? _____ | _____ |

- *13. Are at least 90% of firm's assets located in the U.S.? If not, complete line 14 _____
14. Is line 9 at least 6 times line 1? _____
15. Is line 2 divided by line 4 less than 2.0? _____
16. Is line 8 divided by line 2 greater than 0.1? _____
17. Is line 5 divided by line 6 greater than 1.5? _____

Alternative II

1. Sum of current closure cost estimates (total of all cost estimates shown in the two paragraphs above) \$ _____
 2. Current bond rating of most recent issuance of this firm and name of rating service _____
 3. Date of issuance of bond _____
 4. Date of maturity of bond _____
 - *5. Tangible net worth (if any portion of the closure cost estimates is included in "total liabilities" on your firm's financial statements, you may add the amount of that portion to this line) \$ _____
 - *6. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.) \$ _____
 7. Is line 5 at least \$10 million? _____
 8. Is line 5 at least 6 times line 1? _____
 - *9. Are at least 90% of firm's assets located in the U.S.? (If not, complete line 10.) _____
 10. Is line 6 at least 6 times line 1? _____
- (Signature) _____
 (Name) _____
 (Title) _____
 (Date) _____

(n) A corporate guarantee, as specified in subsection (1) of this section, must be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted: Corporate Guarantee for Injection Well Closure Guarantee made this (date) by (name of guarantor entity), a business corporation organized under the laws of the State of (insert name of state), herein referred to as Guarantor, to the Texas Water Commission (hereinafter referred to as TWC), obligee, on behalf of our subsidiary (permittee) of (business address).

Recitals

1. Guarantor meets or exceeds the TWC financial test criteria and agrees to comply with the reporting requirements for Guarantors as required by TWC.
2. (Permittee) owns or operates the following injection well facility(ies) covered by this

31 TAC § 305.153

TEXAS WATER COMMISSION

guarantee: (List for each facility the TWC permit or control file number, name and address).

3. For value received from (permittee), Guarantor guarantees to TWC that in the event that (permittee) fails to close, plug and abandon the above facility(ies) in accordance with applicable permit provisions and/or TWC rules whenever so required, the Guarantor shall do so upon request of TWC.

4. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the Guarantor fails to meet the financial test criteria, Guarantor shall send within 90 days, by certified mail, notice to the TWC executive director and to (permittee) that guarantor intends to provide alternate financial assurance as required by 31 TAC § 305.153 in the name of (permittee). Within 120 days after the end of such fiscal year, the Guarantor shall establish such financial assurance unless (permittee) has done so.

5. The Guarantor agrees to notify the TWC executive director by certified mail of any voluntary or involuntary proceeding under Title 11 United States Code, naming Guarantor as debtor, within 10 days after commencement of the proceeding.

6. Guarantor agrees that within 30 days after being notified by the TWC executive director of a determination that Guarantor no longer meets the financial test criteria or that Guarantor is disallowed from continuing as a guarantor of closure or post-closure care, Guarantor shall establish alternate financial assurance as required by 31 TAC § 305.153 in the name of (permittee) unless (permittee) has done so.

7. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure plans, amendment or modification of the permit, the extension or reduction of the time of performance of closure, or any other modification or alteration of an obligation of the permittee pursuant to the rules of the commission.

8. Guarantor agrees to remain bound under this guarantee for so long as (permittee) must comply with the applicable requirements of 31 TAC § 305.153 for the above listed injection well facility(ies), except that Guarantor may cancel this guarantee by sending notice by certified mail to the executive director of the commission and to (permittee), such cancellation to become effective no earlier than 120 days after receipt of such notice by both the commission and (permittee), as evidenced by the return receipts.

9. Guarantor agrees that if (permittee) fails to provide alternate financial assurance as required by 31 TAC § 305.153 and obtain written approval of such assurance from the executive director of the commission within 90 days after a notice of cancellation by the Guarantor is received by the executive director of the commission from Guarantor, Guarantor shall provide such alternate financial assurance in the name of (permittee).

10. Guarantor expressly waives notice of acceptance of this guarantee by the commission or by (permittee). Guarantor also expressly waives notice of amendments or modifications of the closure plans and of amendments or modifications of the injection well permits.

Effective date:

(Name of Guarantor)

(Authorized Signature for Guarantor)

(Name of Person Signing)

(Title of Person Signing)

(Signature of Witness or Notary)

(o) Permittees who are also filing financial test assurances for purposes of 40 Code of Federal Regulations, Part 264, Subpart H, may satisfy the requirements of this section by combining their submittals to the commission with appropriate changes or additions to required wording, subject to approval of the executive director.

Source: The provisions of this §305.153 adopted to be effective June 19, 1986, 11 TexReg 2598; amended to be effective January 5, 1988, 12 TexReg 4844.

§ 305.154. Standards

Although the commission may impose stricter standards where appropriate, at a minimum, the permittee shall comply with the standards prescribed by Chapter 331 of this title (relating to Underground Injection Control), and the rules referenced herein.

(1) Construction requirements. Section 331.62 and §331.82 of this title (relating to Construction Standards; Construction Requirements).

(2) Compliance schedule. The commission may establish a compliance schedule for existing wells to achieve compliance with the requirements of this section.

(3) Construction plans. Changes in construction plans shall be approved by certification under §331.45 of this title (relating to Certification of Construction and Completion), or, if required, by permit amendment before such changes may be physically incorporated into construction of the well.

(4)
of in
the
com
lato
grou
perm
(5)
this
and
Requ
(6)
and
Requ
\$331
Mon
men
to St
Deve
(7)
exec
plug
Sourc
June 19,

§ 305.154. Standards

A p
for ea

(1)
(2)
(3)
(4)
(5)
(6)
pria
Sourc
June 19

§ 305.154. Standards

For
facilit
title (r
ipal F
an in
waste
Sourc
June 19

§ 305.154. Standards

The
ing th
until

CONSOLIDATED PERMITS

31 TAC § 305.171

(4) Commencing operations. Commencement of injection operations prior to certification by the executive director that construction and completion are compliant shall constitute a violation of the permit and may be considered grounds for revocation or suspension of the permit, as well as for enforcement action.

(5) Operating requirements. Section 331.63 of this title (relating to Operating Requirements) and §331.83 of this title (relating to Operating Requirements).

(6) Monitoring and reporting. Section 331.64 and §331.65 of this title (relating to Monitoring Requirements; Reporting Requirements), §331.84 and §331.85 of this title (relating to Monitoring Requirements; Reporting Requirements); or §331.101-331.107 of this title (relating to Standards for Class III Well Production Area Development).

(7) Plugging. The permittee shall notify the executive director and obtain approval before plugging an injection well.

Source: The provisions of this §305.154 adopted to be effective June 19, 1986, 11 TexReg 2598.

§ 305.155. Production Area Authorization

A production area authorization shall include for each production area:

- (1) a mine plan;
- (2) a restoration table;
- (3) a baseline water quality table;
- (4) control parameters upper limits;
- (5) monitor well locations; and
- (6) any special provisions determined appropriate by the commission.

Source: The provisions of this §305.155 adopted to be effective June 19, 1986, 11 TexReg 2598.

§ 305.156. Hazardous Waste

For a hazardous waste disposal well, the surface facilities shall comply with Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste). The surface facilities for an injection well which disposes of hazardous waste are hazardous waste management facilities.

Source: The provisions of this §305.156 adopted to be effective June 19, 1986, 11 TexReg 2598.

§ 305.157. Record Retention

The permittee shall retain all records concerning the nature and composition of injected fluids until five years after completion of plugging and

abandonment procedures for the well. The executive director may require a permittee to submit copies of the records at any time prior to conclusion of the retention period.

Source: The provisions of this §305.157 adopted to be effective June 19, 1986, 11 TexReg 2598.

§ 305.158. Additional Conditions

The commission shall impose any other condition necessary to prevent the pollution of fresh water.

Source: The provisions of this §305.158 adopted to be effective June 19, 1986, 11 TexReg 2598.

§ 305.159. Additional Class I Conditions

A permit for a Class I well shall include expressly or by reference the following conditions.

(1) A sign shall be posted at the well site which shall show the name of the company, company well number and commission permit number. The sign and identification shall be in the English language, clearly legible, and shall be in numbers and letters at least one inch high.

(2) An all-weather road shall be installed and maintained to allow access to the injection well and related facilities.

(3) The wellhead and associated facilities shall be painted, if appropriate, and maintained in good working order without leaks.

Source: The provisions of this §305.159 adopted to be effective June 19, 1986, 11 TexReg 2598.

SUBCHAPTER I. HAZARDOUS WASTE INCINERATOR PERMITS

Source: The provisions of this subchapter issued under the Texas Water Code, §5.103 and §5.105.

§ 305.171. Determining Operational Readiness

For the purposes of determining operational readiness following completion of physical construction of a hazardous waste incinerator, the commission shall establish permit conditions including, but not limited to, specification of allowable waste feeds and operating conditions, in a permit for a new hazardous waste incinerator. These permit conditions will be effective for a minimum required time not to exceed 720 hours operating time for treatment of hazardous waste to bring the incinerator to a point of operational readiness sufficient to conduct a trial burn. The commission may extend the duration of this oper-

ational period once for up to 720 additional hours at the request of the applicant, when good cause is shown. The permit may be amended to reflect the extension pursuant to §305.62(c)(2)(C)(vii) of this title (relating to Amendment).

(1) Applicant must submit a statement, with Part B of the permit application, which suggests the conditions necessary to operate in compliance with the performance standards of 40 Code of Federal Regulations §264.343 during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates, and the operating parameters identified in 40 Code of Federal Regulations §264.345.

(2) The executive director shall review this statement and any other relevant information submitted with Part B of the permit application and shall specify requirements for this period sufficient to meet the performance standards of 40 Code of Federal Regulations §264.343, based on the executive director's engineering judgment.

Source: The provisions of this §305.171 adopted to be effective June 19, 1986, 11 TexReg 2600.

§ 305.172. Determining Feasibility of Compliance and Adequate Operating Conditions

For the purposes of determining feasibility of compliance with the performance standards of 40 Code of Federal Regulations §264.343 and of determining adequate operating conditions under 40 Code of Federal Regulations §264.345, the commission shall establish conditions in the permit for a new hazardous waste incinerator, to be effective during the trial burn.

(1) Applicant shall propose a trial burn plan, prepared under paragraph (2) of this section, with Part B of the permit application.

(2) The trial burn plan shall include the following information:

(A) an analysis of each waste or mixture of wastes to be burned which includes:

- (i) heat value of the waste in the form and composition in which it will be burned;
- (ii) viscosity (if applicable), or description of physical form of the waste;

(iii) an identification of any hazardous organic constituents listed in 40 Code of Federal Regulations Part 261, Appendix VIII, which are present in the waste to be burned, except that the applicant need not

analyze for constituents listed in Part 261, Appendix VIII, which reasonably would not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for their exclusion established. The waste analysis must rely on analytical techniques specified in Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods or their equivalent; and

(iv) an approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods, or their equivalent;

(B) a detailed engineering description of the incinerator for which the permit is sought, including:

(i) manufacturer's name and model number of incinerator (if available);

(ii) type of incinerator;

(iii) linear dimensions of the incinerator unit, including the cross sectional area of combustion chamber;

(iv) description of the auxiliary fuel system (type/feed);

(v) capacity of prime mover;

(vi) description of automatic waste feed cut-off system(s);

(vii) stack gas monitoring and pollution control equipment;

(viii) nozzle and burner design;

(ix) construction materials; and

(x) location and description of temperature, pressure, and flow indicating and control devices;

(C) a detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis;

(D) a detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the decision under paragraph (5) of this section;

(E) a detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity,

CONSOLIDATED PERMITS

31 TAC § 305.172

use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator;

(F) a description of, and planned operating conditions for, any emission control equipment which will be used;

(G) procedures for rapidly stopping the waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction; and

(H) such other information as the executive director reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this paragraph and the criteria in paragraph (5) of this section.

(3) The executive director, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this section.

(4) Based on the waste analysis data in the trial burn plan, the commission shall specify as trial principal organic hazardous constituents (POHCs), those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the commission based on an estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and for wastes listed in 40 Code of Federal Regulations Part 261, Subpart D, the hazardous waste organic constituent or constituents identified in Appendix VII of that Part as the basis for listing.

(5) The commission shall approve a trial burn plan if it finds that:

(A) the trial burn is likely to determine whether the incinerator performance standard required by 40 Code of Federal Regulations §264.343 can be met;

(B) the trial burn itself will not present an imminent hazard to human health or safety or the environment;

(C) the trial burn will help the commission to determine the operating requirements to be specified (in the permit) according to 40 Code of Federal Regulations §264.345; and

(D) the information sought in subparagraphs (A) and (C) of this paragraph cannot

reasonably be developed through other means.

(6) During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(A) a quantitative analysis of the trial POHCs in the waste feed to the incinerator;

(B) a quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, oxygen (O₂), and hydrogen chloride (HCl);

(C) a quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial POHCs;

(D) a computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in 40 Code of Federal Regulations §264.343(a);

(E) if the HCl emission rate exceeds 1.8 kilograms of HCl per hour (four pounds per hour), a computation of HCl removal efficiency in accordance with 40 Code of Federal Regulations §264.343(b);

(F) a computation of particulate emissions, in accordance with 40 Code of Federal Regulations §264.343(c);

(G) an identification of sources of fugitive emissions and their means of control;

(H) a measurement of average, maximum, and minimum temperatures and combustion gas velocity;

(I) a continuous measurement of carbon monoxide (CO) in the exhaust gas; and

(J) such other information as the executive director may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in 40 Code of Federal Regulations §264.343 and to establish the operating conditions required by 40 Code of Federal Regulations §264.345 as necessary to meet those performance standards.

(7) The applicant must submit to the executive director a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and shall submit the results of all the determinations required in paragraph (6) of this section. This submission shall be made within 90 days of completion of the trial burn, or later with the prior approved of the executive director.

31 TAC § 305.172

TEXAS WATER COMMISSION

(8) All data collected during any trial burn shall be submitted to the executive director immediately following the completion of the trial burn.

(9) All submissions required by this section shall be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under §305.44 of this title (relating to Signatories to Applications) and §305.128 of this title (relating to Signatories to Reports).

(10) Based on the results of the trial burn, the commission shall set the operating requirements in the final permit according to 40 Code of Federal Regulations §264.345. The permit amendment shall proceed as a minor amendment according to §305.62(c) of this title (relating to Amendment).

Source: The provisions of this §305.172 adopted to be effective June 19, 1986, 11 TexReg 2600.

§ 305.173. Operation Prior to Final Amendment of the Permit

For the purposes of allowing operation of a new hazardous waste incinerator following completion of the trial burn and prior to final amendment of the permit conditions to reflect the trial burn results, the commission may establish permit conditions, including, but not limited to, allowable waste feeds and operating conditions sufficient to meet the requirements of 40 Code of Federal Regulations §264.345, in the permit for a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation, and submission of the trial burn results by the applicant, and amendment of the facility permit by the commission.

(1) Applicants shall submit a statement with Part B of the permit application which identifies the conditions necessary to operate in compliance with the performance standards of 40 Code of Federal Regulations §264.343, during the trial burn period. This statement shall include, at a minimum, restrictions on waste constituents, waste feed rates, and the operating parameters identified in 40 Code of Federal Regulations §264.345.

(2) The executive director shall review this statement and any other relevant information submitted with Part B of the permit application, and shall specify those requirements for this period most likely to meet the performance

standards of 40 Code of Federal Regulations §264.343, based on the executive director's engineering judgment.

Source: The provisions of this §305.173 adopted to be effective June 19, 1986, 11 TexReg 2600.

§ 305.174. Existing Incinerators

For the purposes of determining feasibility of compliance with the performance standards of 40 Code of Federal Regulations §264.343, and of determining adequate operating conditions under 40 Code of Federal Regulations §264.345, the applicant for a permit for an existing hazardous waste incinerator may prepare and submit a trial burn plan and perform a trial burn in accordance with §305.172(2)-(9) of this title (relating to Determining Feasibility of Compliance and Adequate Operating Conditions). Applicants who submit trial burn plans and receive approval before submission of a permit application shall complete the trial burn and submit the results specified in §305.172 of this title (relating to Determining Feasibility of Compliance and Adequate Operating Conditions) with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant shall contact the executive director to establish a later date for submission of the Part B application or the trial burn results. If the applicant submits a trial burn plan with Part B of the permit application, the trial burn shall be conducted and the results submitted within a time period to be specified by the executive director.

Source: The provisions of this §305.174 adopted to be effective June 19, 1986, 11 TexReg 2600.

SUBCHAPTER J. PERMITS FOR LAND TREATMENT DEMONSTRATIONS USING FIELD TESTS OR LABORATORY ANALYSES

Authority: The provisions of this subchapter issued under the Texas Water Code, §§5.103 and §5.105.

§ 305.181. Treatment Demonstration Permit

For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of 40 Code of Federal Regulations §264.272, the commission may issue a treatment demonstration permit. The permit shall contain only those requirements necessary to meet the standards in 40 Code of Federal Regulations §264.272(c). The permit may be issued either as a treatment or

disposal permit covering only the field test or laboratory analyses, or as a two phase facility permit covering the field tests or laboratory analyses, and the design, construction, operation, and maintenance of the land treatment unit.

(1) The commission may issue a two-phase facility permit if it finds that, based on information submitted in Part B of the application, substantial information, although incomplete or inconclusive, already exists upon which to base the issuance of a facility permit.

(2) If the commission finds that insufficient information exists upon which to establish permit conditions to attempt to provide for compliance with all of the requirements relating to land treatment, the commission may issue a treatment demonstration permit covering only the field test or laboratory analyses.

Source: The provisions of this §305.181 adopted to be effective June 19, 1986, 11 TexReg 2600.

§ 305.182. Two-Phase Facility Permit

If the commission finds that a phased permit may be issued, the commission shall establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions shall include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration clean-up activities, and any other conditions which the commission finds may be necessary under 40 Code of Federal Regulations §264.272(c). The commission shall include conditions in the second phase of the facility permit to attempt to meet all requirements pertaining to unit design, construction, operation, and maintenance of land treatment facilities. The commission shall establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the Part B application.

(1) The first phase of the permit shall be effective as provided in Texas Civil Statutes, Article 6252-13, and the rules of the commission.

(2) The second phase of the permit shall be effective as provided in §305.184 of this title (relating to Permit Amendment).

Source: The provisions of this §305.182 adopted to be effective June 19, 1986, 11 TexReg 2600.

§ 305.183. Certification

When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he shall submit to the executive director a certification, signed by a person authorized to sign a permit application or report under §305.44 of this title (relating to Signatories to Applications) and §305.128 of this title (relating to Signatories to Reports), that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator shall also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the executive director approves a later date.

Source: The provisions of this §305.183 adopted to be effective June 19, 1986, 11 TexReg 2600.

§ 305.184. Permit Amendment

If the commission determines that the results of the field tests or laboratory analyses meet the requirements of 40 Code of Federal Regulations §264.272, it shall amend the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with requirements applicable to land treatment, based upon the results of the field tests or laboratory analyses.

(1) This permit amendment may proceed as a minor amendment under §305.62(c) of this title (relating to Amendment), provided any such change is minor, or otherwise will proceed as an amendment under §305.62(d) of this title (relating to Amendment).

(2) If no amendments of the second phase of the permit are necessary, or if only minor amendments are necessary and have been made, the commission shall give notice in accordance with §305.96(b) of this title (relating to Action On Application For Amendment). The second phase of the permit then will become effective as specified in Texas Civil Statutes, Article 6252-13, and the rules of the commission.

(3) If amendments under §305.62(d) of this title (relating to Amendment) are necessary, the second phase of the permit will become effective only after those amendments have been made.

Source: The provisions of this §305.184 adopted to be effective June 19, 1986, 11 TexReg 2600.

31 TAC § 305.191

TEXAS WATER COMMISSION

SUBCHAPTER K. RESEARCH, DEVELOPMENT AND DEMONSTRATION PERMITS

Authority: The provisions of this subchapter issued under the Texas Water Code, §§5.103 and §5.105.

§ 305.191. Applicability and Scope

The commission may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under 40 Code of Federal Regulations Parts 264 or 266. Any such permit shall include such terms and conditions as will assure protection of human health or safety and the environment. Such permits:

(1) shall provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in §305.194 of this title (relating to Renewal);

(2) shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the commission deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and safety and the environment; and

(3) shall include such requirements as the commission deems necessary to protect human health and safety and the environment, including, but not limited to, requirements regarding monitoring, operation, financial responsibility closure, and remedial action, and such other requirements as the commission deems necessary regarding testing with respect to the operation of the facility and providing of information to the executive director.

Source: The provisions of this §305.191 adopted to be effective June 19, 1986, 11 TexReg 2601.

§ 305.192. Waiver of Requirements

For the purpose of expediting review and issuance of permits under this subchapter, the commission may, consistent with the protection of human health and safety and the environment, modify or waive permit application and permit issuance requirements of this chapter, except that there may be no modification or waiver of regulations regarding financial responsibility (including

insurance) or of procedures regarding public participation.

Source: The provisions of this §305.192 adopted to be effective June 19, 1986, 11 TexReg 2601; amended to be effective August 30, 1988, 13 TexReg 4071.

§ 305.193. Termination

The commission may order an immediate termination of all operations at a facility subject to this subchapter at any time the commission determines that termination is necessary to protect human health and safety and the environment.

Source: The provisions of this §305.193 adopted to be effective June 19, 1986, 11 TexReg 2601.

§ 305.194. Renewal

Any permit issued under this subchapter may be renewed not more than three times. Each such renewal shall be for a period of not more than one year.

Source: The provisions of this §305.194 adopted to be effective June 19, 1986, 11 TexReg 2601.

SUBCHAPTER L. GROUNDWATER COMPLIANCE PLAN

Authority: The provisions of this subchapter issued under the Texas Water Code §§5.103 and §5.105.

§ 305.401. Compliance Plan

(a) In order to administer the groundwater protection requirements relating to compliance monitoring and corrective action for facilities that store, process, or dispose of hazardous waste in surface impoundments, waste piles, land treatment units, or landfills, and the requirements of §335.167 of this title (relating to Corrective Action for Solid Waste Management Units), the commission shall establish a compliance plan.

(b) The following rules pertaining to application and notice an hearing shall be applicable in proceedings to establish the plan: Chapter 281 of this title (relating to Applications Processing), §305.44 of this title (relating to Signatories to Applications), §305.47 of this title (relating to Retention of Application Data), §305.43 of this title (relating to Who Applies), §305.53 of this title (relating to Application Fees), §305.50 of this title (relating to Additional Requirements for an Application for a Solid Waste Permit), §305.92 of this title (relating to Action on Applications), §305.93 of this title (relating to Action on Application for Permits), §305.96 of this title (relating to Action on Application for Amendment), §§305.98-305.105 of this ti-

CONSOLIDATED PERMITS

31 TAC § 305.401

tle (relating to Scope of Proceedings; Commission Action; Notice of Commission Consideration of Application; Notice of Hearing; Notice by Publication; Notice by Mail; Radio Broadcasts; and Request for Public Hearing), §§305.122-305.124 of this title (relating to Characteristics of Permits; Reservation in Granting Permit; and Acceptance of Permit, Effect); and §305.128 of this title (relating to Signatories to Reports).

(c) Any investigation report to establish compliance monitoring or corrective action shall contain the information specified in the regulations contained in 40 Code of Federal Regulations, §270.14(c)(7) and (8), which are in effect as of September 9, 1987. The executive director may authorize, in writing, in advance the submittal of a proposed permit schedule for the submittal of an engineering feasibility plan as set forth in the regulations contained in 40 Code of Federal Regulations, §270.14(c)(7), which are in effect as of September 9, 1987. The executive director may also authorize, in writing, prior to the submittal of a complete permit application, the submittal of a schedule for the information required in the regulations contained in 40 Code of Federal Regulations, §270.14(c)(8)(iii) and (iv), as set forth in the regulations contained in 40 Code of Federal Regulations, §270.14(c)(8)(v), which are in effect as of September 9, 1987. The executive director may request information necessary to determine the appropriateness and extent of corrective action required by §335.167 of this title (relating to Corrective Action for Solid Waste Management Units).

(d) The executive director shall prepare a draft compliance plan unless the executive director recommends not to approve the plan. The draft compliance plan shall be available for public review, and notice that the executive director has prepared such a plan will be given pursuant to §305.100 of this title (relating to Notice of Application). The draft compliance plan shall be filed with the commission to be included in its consideration of the approval of a compliance plan.

(e) The executive director shall prepare a technical summary which sets forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft compliance plan. The executive director shall send this summary together with the draft compliance plan to the applicant and, on request, to any other person. The summary shall include the following information, where applicable:

(1) a brief description of the type of facility or activity which is the subject of the draft compliance plan;

(2) the type and quantity of wastes, fluids, or pollutants which are being managed at the facility;

(3) a brief summary of the basis for the conditions of the draft compliance plan, including references to applicable statutory or regulatory provisions;

(4) a description of the procedures for reaching a final decision on the draft compliance plan, including procedures whereby the public may participate in the final decision; and

(5) the name and telephone number of a person in the commission to contact for additional information.

(f) The plan may be amended:

(1) when the corrective action program specified in the plan under §335.165 of this title (relating to Compliance Monitoring Program) has not brought the regulated unit into compliance with the groundwater protection standard within a reasonable time;

(2) When the plan requires a compliance monitoring program under §335.165 of this title (relating to Compliance Monitoring Program), but monitoring data collected prior to permit issuance indicate that the facility is exceeding the groundwater protection standard. The sections of this chapter pertaining to major amendments shall be applicable to the foregoing amendments to the compliance plan.

(g) Whenever a facility is subject to permitting under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, and is further required under §§335.156-335.167 of this title (relating to Applicability of Groundwater Monitoring and Response; Required Programs; Groundwater Protection Standard; Hazardous Constituents; Concentration Limits; Point of Compliance; Compliance Period; General Groundwater Monitoring Requirements; Detection Monitoring Program; Compliance Monitoring Program; Corrective Action Program; and Corrective Action for Solid Waste Management Units) to conduct compliance monitoring or corrective action, processing of the permit application for the facility and the establishment of the compliance plan shall be consolidated in one proceeding.

(h) Nothing herein shall be construed to be inconsistent with the commission's authority un-

31 TAC § 305.401

TEXAS WATER COMMISSION

der the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §8 and §8b.

Source: The provisions of this §305.401 adopted to be effective June 19, 1986, 11 TexReg 2601; amended to be effective July 14, 1987, 12 TexReg 2102; amended to be effective July 27, 1988, 13 TexReg 3514.

SUBCHAPTER M. WASTE TREATMENT INSPECTION FEE PROGRAM

Authority: The provisions of this subchapter issued under the Texas Water Code, §5.103 and §5.105.

§ 305.501. Purpose

It is the purpose of these sections to maintain the waste treatment inspection fee program. Under this program, an annual waste treatment inspection fee is imposed on each permittee holding a permit under the Texas Water Code, Chapter 26. All fees shall be deposited in a fund for the purpose of supplementing other funds appropriated by the legislature to pay the expenses of the commission in inspecting waste treatment facilities and enforcing the provisions of the Texas Water Code, Chapter 26, rules and order of the commission, and the provisions of the commission permits governing waste discharges and waste treatment facilities.

Source: The provisions of this §305.501 adopted to be effective April 27, 1988, 13 TexReg 1775.

§ 305.502. Definitions and Abbreviations

(a) Definitions. The definitions contained in the Texas Water Code, §26.001, shall apply herein. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context indicates otherwise.

(1) Annual waste treatment inspection fee—A fee charged to each permittee holding a permit under the Texas Water Code, Chapter 26, and assessed once per year, ranging from \$150 to \$11,000.

(2) Commission—The Texas Water Commission.

(3) Final flow limit—The maximum amount of wastewater discharge authorized during any term of the permit, expressed as a daily average flow, a daily minimum flow, an annual average, or an annual maximum.

(4) Flow—The total amount of all wastewater discharges authorized under a permit expressed as an average flow per day, a maximum flow per day, an annual average, or an annual maximum, exclusive of variable or occasional storm-

water discharges. Generally, the flow is based on the sum of the volumes of discharge for all outfalls of a facility, but excludes internal outfalls. However, for those facilities for which permit limitations on the volumes of discharge apply only to internal outfalls, the flow is based on the sum of the volumes of discharge for all internal outfalls of the facility, exclusive of variable or occasional stormwater discharges.

(5) Flow volume—

(A) Type I contaminated—these backwaters include sanitary wastewater, process wastewater flows or any mixed wastewaters containing more than 10% process wastewaters;

(B) Type II uncontaminated—these wastewaters are relatively uncontaminated. They include noncontact cooling water, or mixed flows which contain at least 90% noncontact cooling water and not more than one million gallons per day of process wastewater.

(6) Fund—The waste treatment facility inspection fund.

(7) Heat load parameter—The temperature limitation specified in a permit. For purposes of assessing the waste treatment inspection fee, points are assigned according to the existence of a temperature limitation within a waste discharge permit.

(8) Inactive permit—A permit which authorizes a waste treatment facility, but where the facility itself is not yet operational or where operation has been suspended.

(9) No discharge permit—A permit which does not authorize the discharge of wastewaters into waters in the state, including, but not limited to, permits for evaporation ponds and irrigation systems.

(10) Parameter—A variable which acts as a set of physical properties whose values determine the characteristics of a waste discharge. Those parameters to be considered under the waste treatment facility inspection fee are: standard industrial classification (SIC) group, flow volume, biochemical oxygen demand (BOD)/chemical oxygen demand (COD)/total organic compound (TOC) value, total suspended solids (TSS) value, ammonia value, heat load, and major/minor designation.

(11) Payment—Payment is effective upon receipt by the commission of the full amount of the annual waste treatment inspection fee.

CONSOLIDATED PERMITS

31 TAC § 305.503

(12) Permit—Any permit issued by the Texas Water Commission under authority of the Texas Water Code, Chapter 26, and other statutory provisions (such as Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7).

(13) Report discharge permit—A permit which authorizes the variable or occasional discharge of waste waters with a requirement that the volume of discharge be reported, but without any limitation on the volume of discharge.

(14) Stormwater discharge permit—A permit which authorizes the variable or occasional discharge of accumulated stormwater and stormwater runoff, but without any specified limitation on the volume of discharge.

(15) Traditional pollutants—The wastewater parameters typically found in wastewater discharge permits, specifically, BOD/COD/TOC, TSS, and ammonia. For purposes of assessing the waste treatment inspection fee, points are assigned to these parameters if they are allowed in a permit.

(b) Abbreviations. The following abbreviations apply to these sections.

(1) BOD—Five-day biochemical oxygen demand.

(2) COD—Chemical oxygen demand.

(3) MGD—Million gallons per day.

(4) mg/l milligrams per liter—All limits measured in mg/l are converted to pounds per day (lb/day) using the following conversion: mg/l by flow volume in MGD by 8.34 equals lb/day.

(5) SIC—Standard industrial classification assigned to a waste discharger.

(6) TOC—Total organic carbon.

(7) TSS—Total suspended solids.

Source: The provisions of this §305.502 adopted to be effective April 27, 1988, 13 TexReg 1775.

§ 305.503. Fee Assessment

(a) An annual waste treatment inspection fee is hereby assessed each permit for deposit in the fund. The amount assessed is determined by the parameters for which the facility is authorized as of each October 1. Where the permitted facility has not been constructed, or is inactive, the set point value of three points is assessed. Those permits authorizing only storm water or report discharges as of each October 1 are assessed a set point value of 12 points for such discharges. The set point value for a no discharge permit is four points. The maximum fee which may be assessed each permit is \$11,000. In assessing a fee, the commission considers the following parameters.

(1) pollutant potential/SIC group;

(2) flow volume;

(3) traditional pollutants;

(4) heat load; and

(5) major/minor designation.

(b) The commission assigns a point value to each of the parameters in subsection (a)(1)-(5) of this section. The assigned value is weighted according to the permitted limits. The rating points are summed and multiplied by a rate factor of \$50.

(c) For the purpose of fee calculation, COD and TOC are converted to BOD values and the higher value is assessed points. The conversion for TOC is: three pounds of TOC is equal to one pound of BOD (3:1). The conversion for COD is eight pounds of COD is equal to one pound of BOD (8:1).

(d) For the purpose of fee calculation, a permit which authorizes a secondary treatment system consisting of ponds or lagoons at limits of 30 mg/l BOD and 90 mg/l TSS shall be assumed to be equivalent to 20 mg/l BOD and 20 mg/l TSS. This equivalency is based on treatment provided by different types of secondary treatment systems. The following schedule describes the method of calculating the fee:

1. POLLUTANT POTENTIAL Primary SIC Code

Group

_____	I	(0 points)
_____	II	(10 points)
_____	III	(15 points)
_____	IV	(20 points)
_____	V	(30 points)
_____	VI	(40 points)

31 TAC § 305.503

TEXAS WATER COMMISSION

Points Assigned = _____

2. FLOW VOLUME

<u>Wastewater Type</u>	<u>Flow</u>	<u>Points</u>
Type I - Contaminated	≤ .05 mgd	3 points
Flow = _____	>.05 but ≤.25	5 points
	>.25 but ≤2.0	10 points
	>2.0 but ≤4.0	20 points
	>4.0 but ≤6.0	30 points
	>6.0 but ≤8.0	40 points
	>8.0 but ≤10.0	50 points
	> 10.0 mgd	60 points
Type II - Uncontaminated	≤1.0 mgd	3 points
Flow = _____	>1.0 but ≤5.	10 points
	>5.0 but ≤10.	20 points
	>10. but ≤50.	30 points
	>50. but ≤500.	40 points
	> 500. mgd	50 points

Points Assigned = _____ (Maximum 60 points)

3. TRADITIONAL POLLUTANTS

(a) OXYGEN DEMAND (*)

Daily Average Load = _____	≤ 50 lb/day	1 point
(BOD, COD, or TOC Value)	>50 but ≤100	5 points
	>100 but ≤250	10 points
	>250 but ≤500	20 points
	>500 but ≤750	30 points
	>750 but ≤1000	40 points
	>1000 but ≤3000	60 points
	>3000 lb/day	80 points

Points Assigned = _____

(* COD and TOC limits are converted to BOD values and the higher value is used.)

(b) TSS

Daily Average Load = _____	≤ 50 lb/day	1 point
	>50 but ≤100	5 points
	>100 but ≤250	10 points
	>250 but ≤500	20 points
	>500 but ≤750	30 points
	>750 but ≤1000	40 points
	>1000 but ≤3000	60 points
	> 3000 lb day	80 points

Points Assigned = _____

(c) AMMONIA

Daily Average Load = _____	≤250 lb/day	0 points
	>250 but ≤500	10 points

CONSOLIDATED PERMITS**31 TAC § 305.505**

>500 but ≤1000	20 points
>1000 but ≤3000	30 points
>3000 lb/day	40 points

Points Assigned = _____

4. HEAT LOAD

If heat loading parameter is not present 0 points
If heat loading parameter is present 10 points

Points Assigned = _____

5. MAJOR/MINOR DESIGNATION

If facility is rated as EPA minor facility 0 points
If facility is rated as EPA major facility 10 points

Points Assigned = _____

SET POINT PERMITS

- (a) Inactive Permits.....3 POINTS.....\$150.00
 - (b) No Discharge Permits.....4 POINTS.....\$200.00
 - (c) Stormwater*/Reports Permits....12 POINTS.....\$600.00
- *For stormwater permits which have permitted flow parameters, a fee will be calculated upon those values using the point system.

TOTAL POINTS ASSIGNED = _____

RATE = _____ /POINT

TOTAL FEE ASSESSED = \$ _____

(E8575)

Source: The provisions of this §305.504 adopted to be effective April 27, 1988, 13 TexReg 1775.

§ 305.504. Fee Payment

Annual waste treatment inspection fees are payable within 30 days of the billing each year for all permittees. Fees shall be paid by check, certified check, or money order payable to the Texas Water Commission. New permits will require full payment of the appropriate fee within 30 days of the billing, and thereafter will be assessed an annual waste treatment inspection fee under the schedule set forth herein, beginning with the next regular billing date. All fee assessments are to be based on the permitted parameters (interim or final) specified in the permit, without regard to the actual quality of effluent that the permitted facility is discharging. Where the parameters authorized for a permitted facility change to a higher interim level or to the final level authorized by the permit,

the revised fee, if any, will be assessed at the next regular payment date following the change in authorized limits. If a permit is amended to authorize lesser or greater parameters, the revised fee will be assessed at the next regular payment date following the final order of the Texas Water Commission effecting the amendment. If initial construction of a newly permitted facility is not complete, the facility will be assessed a fee as an inactive permit. Fees are payable regardless of whether the permitted facility actually is in operation.

Source: The provisions of this §305.504 adopted to be effective April 27, 1988, 13 TexReg 1775.

§ 305.505. Fund

All fees collected under this waste treatment inspection fee program are to be deposited in the waste treatment facility inspection fund. The fund

31 TAC § 305.505

TEXAS WATER COMMISSION

shall be managed in accordance with §305.501 of this title (relating to Purpose).

Source: The provisions of this §305.505 adopted to be effective April 27, 1988, 13 TexReg 1775.

§ 305.506. Cancellation, Revocation, and Transfer

Cancellation or revocation of a permit, whether by voluntary action on the part of the permittee or as a result of involuntary proceedings initiated by the commission, will not constitute grounds for a

refund, in whole or in part, of any annual inspection fee already paid by the permittee. Transfer of a permit will not entitle the transferor permittee to a refund, in whole or in part, of any annual inspection fee already paid by that permittee. Any permittee to whom a permit is transferred shall be liable for payment of the annual inspection fee assess for the permitted facility on the same basis as the transferor of the permit.

Source: The provisions of this §305.506 adopted to be effective April 27, 1988, 13 TexReg 1775.

CHAPTER 307. SUPPLEMENTAL SURFACE WATER QUALITY STANDARDS

Section

- 307.1. General Policy Statements.
- 307.2. Description of Standards.
- 307.3. Definitions and Abbreviations.
- 307.4. General Criteria.
- 307.5. Antidegradation.
- 307.6. Toxic Materials.
- 307.7. Site-specific Uses and Criteria.
- 307.8. Application of Standards.
- 307.9. Determination of Standards Attainment.
- 307.10. Appendices A-C.

§ 307.1. General Policy Statements

It is the policy of this state and the purpose of this chapter to maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and economic development of the state; to encourage and promote development and use of regional and areawide wastewater collection, treatment, and disposal systems to serve the wastewater disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.

Source: The provisions of this §307.1 adopted to be effective April 29, 1988, 13 TexReg 1784.

§ 307.2. Description of Standards

(a) Contents of the Texas surface water quality standards.

(1) Section 307.1 of this title (relating to General Policy Statement) contains the general standards policy of the commission.

(2) This §307.2 lists the major sections of the standards, defines basin classification categories, and describes justifications for standards modifications.

(3) Section 307.3 of this title (relating to Definitions and Abbreviations) defines terms and abbreviations used in the standards.

(4) Section 307.4 of this title (relating to General Criteria) lists the general criteria which are applicable to all surface waters of the state unless specifically excepted in §307.8 of this title (relating to Application of Standards) or §307.9 of this title (relating to Determination of Standards Attainment).

(5) Section 307.5 of this title (relating to Antidegradation) describes the antidegradation policy and implementation procedures.

(6) Section 307.6 of this title (relating to Toxic Materials) establishes criteria and control procedures for specific toxic substances and total toxicity.

(7) Section 307.7 of this title (relating to Site-Specific Uses and Criteria) defines appropriate water uses and supporting criteria for site specific standards.

(8) Section 307.8 of this title (relating to Application of Standards) sets forth conditions under which portions of the standards do not apply—such as in mixing zones or below critical low-flows.

(9) Section 307.9 of this title (relating to Determination of Standards Attainment) describes sampling and analytical procedures to determine standards attainment.

(10) Section 307.10 of this title (relating to Appendices A through C) lists site-specific standards and supporting information for each classified segment. Specific appendices are as follows.