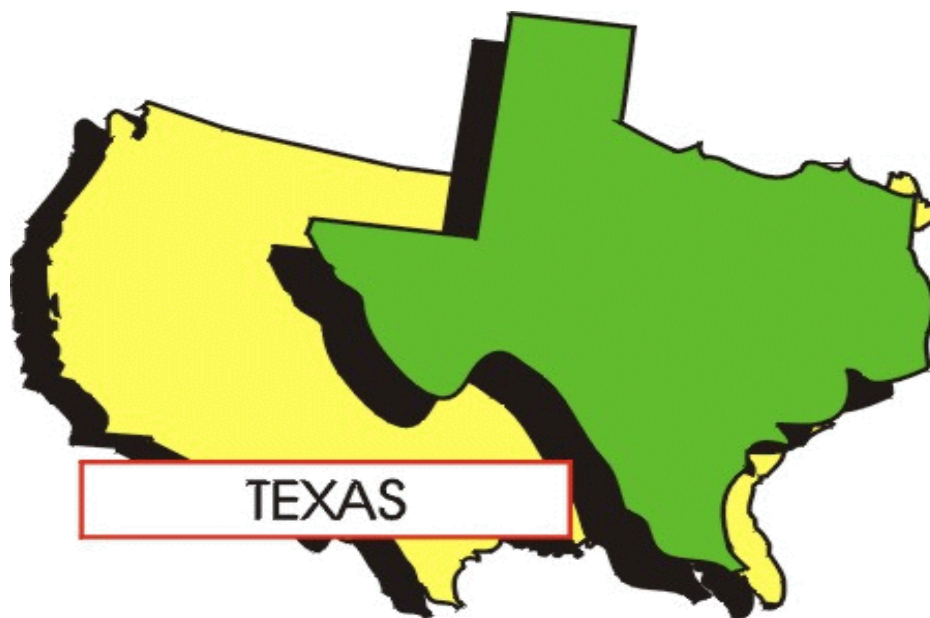


US EPA ARCHIVE DOCUMENT

**EPA-APPROVED TEXAS
STATUTORY AND REGULATORY
REQUIREMENTS APPLICABLE TO THE
HAZARDOUS WASTE MANAGEMENT
PROGRAM**



MAY 2012

**EPA-APPROVED TEXAS STATUTORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM *
May 2012**

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Vernon's
TEXAS CODES
ANNOTATED

HEALTH AND SAFETY CODE
Sections 361.001 to 400

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§ 361.002

Note 3

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~~whether design and engineering defects in dry cleaning equipment caused release chemical, and whether user had any control over release of chemical when separator malfunctioned precluded summary judgment in contribution action under CERCLA or Texas Solid Waste Disposal Act (SWDA) seeking to impose arranger liability on manufacturer's successors. Vine Street LLC v. Keeling, E.D.Tex.2005, 361 F.Supp.2d 600. Federal Civil Procedure~~

~~2498.3~~

4. Contribution

~~Fact that dry cleaning machines that allegedly released hazardous chemicals onto property could no longer be identified did not preclude property owner's contribution claims against machine manufacturer's successors under CERCLA or Texas Solid Waste Disposal Act (SWDA), where owner's claims were based on allegation that machines were defectively designed. Vine Street LLC v. Keeling, E.D.Tex. 2005, 361 F.Supp.2d 600. Environmental Law~~

~~6-447~~

§ 361.003. Definitions

Unless the context requires a different definition, in this chapter:

(1) "Apparent recharge zone" means that recharge zone designated on maps prepared or compiled by, and located in the offices of, the commission.

(2) "Class I industrial solid waste" means an industrial solid waste or mixture of industrial solid waste, including hazardous industrial waste, that because of its concentration or physical or chemical characteristics:

(A) is toxic, corrosive, flammable, a strong sensitizer or irritant, or a generator of sudden pressure by decomposition, heat, or other means; and

(B) poses or may pose a substantial present or potential danger to human health or the environment if improperly processed, stored, transported, or otherwise managed.

~~(3) "Class I nonhazardous industrial solid waste" means any Class I industrial solid waste that has not been identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.).~~

~~(4) "Commercial hazardous waste management facility" means any hazardous waste management facility that accepts hazardous waste or PCBs for a charge, except a captured facility or a facility that accepts waste only from other facilities owned or effectively controlled by the same person, where "captured facility" means a manufacturing or production facility that generates an industrial solid waste or hazardous waste that is routinely stored, processed, or disposed of on a shared basis in an integrated waste management unit owned, operated by, and located within a contiguous manufacturing complex.~~

(5) "Commission" means the Texas Natural Resource Conservation Commission.

(6) "Composting" means the controlled biological decomposition of organic solid waste under aerobic conditions.

(7) "Disposal" means the discharging, depositing, injecting, dumping, spilling, leaking, or placing of solid waste or hazardous waste, whether containerized or uncontainerized, into or on land or water so that the solid waste or hazardous waste or any constituent thereof may be emitted into the

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air, discharged into surface water or groundwater, or introduced into the environment in any other manner.

(8) "Environmental response law" means the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 through 9675, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(9) "Executive director" means the executive director of the commission.

(10) "Garbage" means solid waste that is putrescible animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.

(11) "Hazardous substance":

(A) means:

(i) a substance designated under Section 311(b)(2)(A) of the Federal Water Pollution Control Act, as amended (33 U.S.C. Section 1321);

(ii) an element, compound, mixture, solution, or substance designated under Section 102 of the environmental response law;

(iii) a hazardous waste having the characteristics identified under or listed under Section 3001 of the federal Solid Waste Disposal Act, as amended (42 U.S.C. Section 6921), excluding waste, the regulation of which under the federal Solid Waste Disposal Act (42 U.S.C. Section 6901 et seq.) has been suspended by Act of Congress;

(iv) a toxic pollutant listed under Section 307(a) of the Federal Water Pollution Control Act (33 U.S.C. Section 1317);

(v) a hazardous air pollutant listed under Section 112 of the federal Clean Air Act, as amended (42 U.S.C. Section 7412); and

(vi) any imminently hazardous chemical substance or mixture with respect to which the administrator of the Environmental Protection Agency has taken action under Section 7 of the Toxic Substances Control Act (15 U.S.C. Section 2606); but

(B) does not include:

(i) petroleum, which means crude oil or any fraction of crude oil that is not otherwise specifically listed or designated as a hazardous substance under Paragraphs (i) through (vi) of Subdivision (A);

(ii) natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel mixtures of natural gas and synthetic gas; or

(iii) waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources or any other substance or material regulated by the Railroad Commission of Texas under Section 91.101, Natural Resources Code.

(12) "Hazardous waste" means solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the

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Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Section 6901 et seq.).

(13) "Hazardous waste management facility" means all contiguous land, including structures, appurtenances, and other improvements on the land, used for processing, storing, or disposing of hazardous waste. The term includes a publicly or privately owned hazardous waste management facility consisting of processing, storage, or disposal operational hazardous waste management units such as one or more landfills, surface impoundments, waste piles, incinerators, boilers, and industrial furnaces, including cement kilns, injection wells, salt dome waste containment caverns, land treatment facilities, or a combination of units.

(14) "Hazardous waste management unit" means a landfill, surface impoundment, waste pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or land treatment unit, or any other structure, vessel, appurtenance, or other improvement on land used to manage hazardous waste.

(15) "Industrial furnace" includes cement kilns, lime kilns, aggregate kilns, phosphate kilns, coke ovens, blast furnaces, smelting, melting, or refining furnaces, including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, or foundry furnaces, titanium dioxide chloride process oxidation reactors, methane reforming furnaces, pulping liquor recovery furnaces, combustion devices used in the recovery of sulfur values from spent sulfuric acid, and other devices the commission may list.

(16) "Industrial solid waste" means solid waste resulting from or incidental to a process of industry or manufacturing, or mining or agricultural operations.

(17) "Local government" means:

(A) a county;

(B) a municipality; or

(C) a political subdivision exercising the authority granted under Section 361.165.

(18) "Management" means the systematic control of the activities of generation, source separation, collection, handling, storage, transportation, processing, treatment, recovery, or disposal of solid waste.

~~(19) "Motor vehicle" has the meaning assigned by Section 541.201, Transportation Code.~~

(20) "Municipal solid waste" means solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial solid waste.

(21) "Notice of intent to file an application" means the notice filed under Section 361.063.

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(22) "PCBs" or "polychlorinated biphenyl compounds" means compounds subject to Title 40, Code of Federal Regulations, Part 761.

(23) "Person" means an individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity.

(24) "Person affected" means a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government:

(A) is a resident of a county, or a county adjacent or contiguous to the county, in which a solid waste facility is to be located; or

(B) is doing business or owns land in the county or adjacent or contiguous county.

(25) "Processing" means the extraction of materials from or the transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal. The term includes the treatment or neutralization of hazardous waste designed to change the physical, chemical, or biological character or composition of a hazardous waste so as to neutralize the waste, recover energy or material from the waste, render the waste nonhazardous or less hazardous, make it safer to transport, store, or dispose of, or render it amenable for recovery or storage, or reduce its volume. The term does not include activities concerning those materials exempted by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Section 6901 et seq.), unless the commission determines that regulation of the activity under this chapter is necessary to protect human health or the environment.

(26) "Radioactive waste" means waste that requires specific licensing under Chapter 401 and the rules adopted by the commission under that law.

~~(27) "Recycling" means the legitimate use, reuse, or reclamation of solid waste.~~

(28) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment. The term does not include:

(A) a release that results in an exposure to a person solely within a workplace, concerning a claim that the person may assert against the person's employer;

(B) an emission from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;

(C) a release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. Section 2011 et seq.), if the release is subject to requirements concerning financial protection established by the Nuclear Regulatory Commission under Section 170 of that Act;

(D) for the purposes of Section 104 of the environmental response law,¹ or other response action, a release of source, by-product, or special nuclear

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material from a processing site designated under Section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. Sections 7912 and 7942); and

(E) the normal application of fertilizer.

(29) "Remedial action" means an action consistent with a permanent remedy taken instead of or in addition to a removal action in the event of a release or threatened release of a hazardous waste into the environment to prevent or minimize the release of hazardous waste so that the hazardous waste does not migrate to cause an imminent and substantial danger to present or future public health and safety or the environment. The term includes:

(A) actions at the location of the release, including storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous waste or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive waste, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, on-site treatment or incineration, provision of alternate water supplies, and any monitoring reasonably required to assure that those actions protect the public health and safety or the environment; and

(B) the costs of permanent relocation of residents, businesses, and community facilities if the administrator of the United States Environmental Protection Agency or the executive director determines that, alone or in combination with other measures, the relocation:

(i) is more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition off-site of hazardous waste; or

(ii) may otherwise be necessary to protect the public health or safety.

(30) "Removal" includes:

(A) cleaning up or removing released hazardous waste from the environment;

(B) taking necessary action in the event of the threat of release of hazardous waste into the environment;

(C) taking necessary action to monitor, assess, and evaluate the release or threat of release of hazardous waste;

(D) disposing of removed material;

(E) erecting a security fence or other measure to limit access;

(F) providing alternate water supplies, temporary evacuation, and housing for threatened individuals not otherwise provided for;

(G) acting under Section 104(b) of the environmental response law;

(H) providing emergency assistance under the federal Disaster Relief Act of 1974 (42 U.S.C. Section 5121 et seq.); or

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(I) taking any other necessary action to prevent, minimize, or mitigate damage to the public health and welfare or the environment that may otherwise result from a release or threat of release.

(31) "Rubbish" means nonputrescible solid waste, excluding ashes, that consists of:

(A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and

(B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1,600 to 1,800 degrees Fahrenheit).

(32) "Sanitary landfill" means a controlled area of land on which solid waste is disposed of in accordance with standards, rules, or orders established by the commission.

(33) "Sludge" means solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, excluding the treated effluent from a wastewater treatment plant.

(34) This subdivision expires on delegation of the Resource Conservation and Recovery Act authority to the Railroad Commission of Texas. Subject to the limitations of 42 U.S.C. Section 6903(27) and 40 C.F.R. Section 261.4(a), "solid waste" means garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term:

(A) does not include:

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

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

(iii) waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under Section 91.101, Natural Resources Code, unless the waste, substance, or material results from activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants and is hazardous waste as defined by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901 et seq.); and

(B) does include hazardous substances, for the purposes of Sections 361.271 through 361.277, 361.280, and 361.343 through 361.345.

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~~(35) This subdivision is effective on delegation of the Resource Conservation and Recovery Act authority to the Railroad Commission of Texas. Subject to the limitations of 42 U.S.C. Section 6903(27) and 40 C.F.R. Section 261.4(a), "solid waste" means garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term:~~

(A) does not include:

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

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

(iii) waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under Section 91.101, Natural Resources Code; and

~~(B) does include hazardous substances, for the purposes of Sections 361.271 through 361.277, 361.280, and 361.343 through 361.345.~~

(36) "Solid waste facility" means all contiguous land, including structures, appurtenances, and other improvements on the land, used for processing, storing, or disposing of solid waste. The term includes a publicly or privately owned solid waste facility consisting of several processing, storage, or disposal operational units such as one or more landfills, surface impoundments, or a combination of units.

(37) "Solid waste technician" means an individual who is trained in the practical aspects of the design, operation, and maintenance of a solid waste facility in accordance with standards, rules, or orders established by the commission.

(38) "Storage" means the temporary holding of solid waste, after which the solid waste is processed, disposed of, or stored elsewhere.

~~(39) "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any land or surface or subsurface water in the state that renders the land or water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare or impairs the usefulness or the public enjoyment of the land or water for any lawful or reasonable purpose.~~

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1990, 71st Leg., 6th C.S., ch. 10, art. 2, § 2, eff. Sept. 6, 1990; Acts 1991, 72nd Leg., ch. 296, § 1.01, eff. June 7, 1991; Acts 1991, 72nd Leg., ch. 703, § 1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 3, § 1.025, eff. Aug. 12, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 3, § 8.01, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, § 11.18, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, § 30.204, eff. Sept. 1, 1997.

§ 361.019**SANITATION & ENVIRONMENTAL QUALITY
Title 5****§ 361.019. Approval of Industrial Solid Waste Management in Municipal Solid Waste Facility**

(a) Except as provided by Subsection (b), Class I nonhazardous industrial solid waste and small quantities of hazardous waste generated by conditionally exempt small quantity generators, as defined by the commission, may be accepted in a municipal solid waste facility if:

- (1) authorized in writing by, or by rule of, the commission; and
- (2) the generator of the Class I nonhazardous waste certifies on an appropriate commission form that the waste is not a hazardous waste.

~~(b) Except as otherwise prohibited by this chapter, nonhazardous industrial solid waste generated by the mechanical shredding of motor vehicles, appliances, or other items of scrap, used, or obsolete metals shall be accepted, without authorization by the commission under Subsection (a), in a municipal solid waste facility that has previously been authorized to accept and has accepted Class I nonhazardous industrial solid wastes or Class II industrial solid wastes if the waste contains no free liquids, is not a hazardous waste as defined in Section 361.003, and satisfies other criteria that may be established by commission rule. Until the commission adopts rules establishing additional criteria, generators of this type of waste shall satisfy the two criteria described in this subsection when these wastes are disposed of in municipal solid waste facilities.~~

~~(c) Municipal solid waste may be accepted in an industrial solid waste facility if authorized in writing by the commission.~~

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1990, 71st Leg., 6th C.S., ch. 10, art. 2, § 5, eff. Sept. 6, 1990; Acts 1991, 72nd Leg., ch. 703, § 2, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, § 11.24, eff. Sept. 1, 1995.

Historical and Statutory Notes**Prior Laws:**

Acts 1969, 61st Leg., p. 1320, ch. 405.

Acts 1977, 65th Leg., p. 825, ch. 308, § 1.

Acts 1979, 66th Leg., p. 536, ch. 251, §§ 1, 2.

Acts 1981, 67th Leg., p. 3170, ch. 831, §§ 1 to 8, 10.

Acts 1985, 69th Leg., ch. 795, §§ 1.163, 7.001.

Acts 1989, 71st Leg., ch. 536, § 3.

Vernon's Ann.Civ.St. art. 4477-7, § 3(c).

Administrative Code References

Classification of specific industrial solid wastes, Texas Commission on Environmental Quality, see 30 TAC § 335.508.

Library References

Environmental Law ¶355.

Westlaw Topic No. 149E.

C.J.S. Health and Environment § 169.

Research References**Encyclopedias**

TX Jur. 3d Conservation & Pollution Laws

§ 88, Types of Waste that May be Accepted by Facilities.

§§ 361.0232 to 361.0234**SANITATION & ENVIRONMENTAL QUALITY****Repealed****Title 5**

~~Repealed §§ 361.0233, relating to assessment of commercial nonhazardous solid waste disposal capacity, was derived from:~~

~~Acts 1993, 73rd Leg., ch. 1045, § 7.~~

~~Acts 1995, 74th Leg., ch. 76, § 11.29.~~

~~Acts 1997, 75th Leg., ch. 1082, § 6.~~

~~Acts 1991, 72nd Leg., ch. 296, § 1.02.~~

~~Acts 1991, 72nd Leg., ch. 703, § 3.~~

~~Acts 1995, 74th Leg., ch. 76, § 11.28.~~

Former Sections:

~~Repealed §§ 361.0234, relating to rules, update of rules and assessments, and reports, was derived from:~~

~~A former § 361.0232, relating to hazardous waste generated in a foreign country, as added by Acts 1991, 72nd Leg., ch. 336, § 1, was~~

~~renumbered as V.T.C.A., Health & Safety Code § 361.0235 by Acts 1995, 74th Leg., ch. 76,~~

~~§ 17.01(27).~~

~~Acts 1991, 72nd Leg., ch. 296, § 1.02.~~

~~Acts 1991, 72nd Leg., ch. 703, § 3.~~

~~Acts 1993, 73rd Leg., ch. 1044, § 5.~~

§ 361.0235. Hazardous Waste Generated in Foreign Country

(a) Except as otherwise provided by this section, a person may not receive, transport, or cause to be transported into this state, for the purpose of treatment, storage, or disposal in this state, hazardous waste generated in a country other than the United States.

(b) This section may not be construed or applied in a manner that interferes with the authority of the federal government to regulate commerce with foreign nations and among the several states provided by Article I, Section 8, Clause 3, of the United States Constitution.

(c) This section does not apply to a person who transports or receives material from a country other than the United States for:

(1) recycling or reuse of the material; or

(2) use of the material as a feedstock or ingredient in the production of a new product.

(d) This section does not apply to waste transported or received for treatment, storage, or disposal at a hazardous waste management facility that is owned by the generator of the waste or by a parent, subsidiary, or affiliated corporation of the generator.

(e) This section does not apply to waste received by:

(1) a producer of the product or material from which the waste is generated; or

(2) a parent, subsidiary, or affiliated corporation of such producer.

(f) This section does not apply to waste generated in Mexico at an approved maquiladora facility to the extent that such waste:

(1) was generated as a result of the processing or fabrication of materials imported into Mexico from Texas on a temporary basis; and

(2) is required to be re-exported to the United States under Mexican law.

Added by Acts 1991, 72nd Leg., ch. 336, § 1, eff. Sept. 1, 1991. Renumbered from V.T.C.A., Health & Safety Code § 361.0232 by Acts 1995, 74th Leg., ch. 76, § 17.01(27), eff. Sept. 1, 1995.

§ 361.065

Repealed

SANITATION & ENVIRONMENTAL QUALITY

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~~§ 361.065. Repealed by Acts 1990, 71st Leg., 6th C.S., ch. 10, art. 3, § 1, eff. Sept. 6, 1990~~

Historical and Statutory Notes

The former section, relating to the permit application fee, was repealed to conform to Acts 1989, 71st Leg., ch. 1143, § 6, and was derived from:

Acts 1969, 61st Leg., p. 1320, ch. 405.
Acts 1971, 62nd Leg., p. 2631, ch. 863.
Acts 1977, 65th Leg., p. 825, ch. 308, § 1.
Acts 1981, 67th Leg., p. 3170, ch. 831, §§ 1 to 8, 10.

Acts 1985, 69th Leg., ch. 239, § 54.
Acts 1985, 69th Leg., ch. 457, § 3.
Acts 1985, 69th Leg., ch. 566, § 7.
Acts 1985, 69th Leg., ch. 887, § 1.
Acts 1985, 69th Leg., ch. 931, art. 8, § 2.
Vernon's Ann.Civ.St. art. 4477-7, § 4(k)(1), (4).
Acts 1989, 71st Leg., ch. 678, § 1.

§ 361.066. Submission of Administratively Complete Permit Application

(a) An applicant must submit any portion of an application that the commission determines is necessary to make the application administratively complete not later than the deadline set by the commission under Subsection (c).

~~(b) If an applicant does not submit an administratively complete application as required by this section, the application is considered withdrawn, unless there are extenuating circumstances.~~

~~(c) The commission by rule shall establish a deadline for the submission of additional information or material after the applicant receives notice from the commission that the information or material is needed to make the application administratively complete.~~

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, § 11.40, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 570, § 1, eff. Sept. 1, 1999.

Historical and Statutory Notes**Prior Laws:**

Acts 1969, 61st Leg., p. 1320, ch. 405.
Acts 1977, 65th Leg., p. 825, ch. 308, § 1.
Acts 1981, 67th Leg., p. 3170, ch. 831, §§ 1 to 8, 10.

Acts 1983, 68th Leg., p. 2443, ch. 435, § 2.
Acts 1985, 69th Leg., ch. 566, § 4.
Acts 1987, 70th Leg., ch. 299, § 1.
Vernon's Ann.Civ.St. art. 4477-7, § 4(e)(4)(B).

Research References**Encyclopedias**

TX Jur. 3d Conservation & Pollution Laws
§ 96, Application Procedure.

Treatises and Practice Aids

Civins, Hall & Sahs, 46 Tex. Prac. Series
§ 30.4, Public Comment on Proposed Permits.

~~**§ 361.0665. Notice of Intent to Obtain Municipal Solid Waste Permit**~~

~~(a) A person who applies for a municipal solid waste permit shall publish notice of intent to obtain a permit under this chapter at least once in a newspaper of the largest general circulation that is published in the county in which the facility is located or proposed to be located.~~

~~(b) Notice must include:~~

~~(1) a description of the location or proposed location of the facility.~~

§ 361.081**SANITATION & ENVIRONMENTAL QUALITY**

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Notes of Decisions**Laches 1****1. Laches**

Although solid waste facility was very near completion and public hearing had been held on permit application, action challenging facili-

ty was not barred by laches, where it appeared that plaintiffs who opposed its location did not know what was being constructed until a short time before bringing action and it did not appear that their failure to learn about it earlier was inexcusable. *Bean v. Southwestern Waste Management Corp.*, S.D.Tex.1979, 482 F.Supp. 673. Environmental Law 672

§ 361.082. Application for Hazardous Waste Permit; Notice and Hearing

(a) A person may not process, store, or dispose of hazardous waste without having first obtained a hazardous waste permit issued by the commission.

~~(b) On its own motion or the request of a person affected, the commission may hold a public hearing on an application for a hazardous waste permit in accordance with this subchapter.~~

(c) The commission by rule shall establish procedures for public notice and public hearing. At a minimum, the rules shall include the public notice requirements set forth in Section 361.081.

(d) In addition to the hearing held under this section, the commission may hold a public meeting and the applicant shall give notice as provided by Section 361.0791.

~~(e) The commission may include any requirement in the permit for remedial action by the applicant that the commission determines is necessary to protect the public health and safety and the environment.~~

(f) An owner or operator of a solid waste management facility that is in existence on the effective date of a statutory or regulatory change that subjects the owner or operator to a requirement to obtain a hazardous waste permit who has filed a hazardous waste permit application in accordance with commission rules may continue to process, store, or dispose of hazardous waste until the commission approves or denies the application, except as provided by Section 361.110 or, if the owner or operator becomes subject to a requirement to obtain a hazardous waste permit after November 8, 1984, except as provided by United States Environmental Protection Agency or commission rules relative to termination of interim status.

~~(g) On request under Section 361.082 by a person affected for a hearing on the permit application, the applicant for a permit for a new hazardous waste management facility shall furnish a bond or other financial assurance authorized by the commission to guarantee payment of the costs of a person affected who provides information to the commission on the question of the issuance of the permit and who is entitled to those costs under an order made as provided by Section 361.0833. For applications involving commercial hazardous waste management facilities, the bond or other financial assurance must be in the amount of \$100,000. For applications that do not involve commercial hazardous waste management facilities, the bond or other financial assurance must be in the amount of \$20,000.~~

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Research References**Encyclopedias**

TX Jur. 3d Conservation & Pollution Laws
 § 96, Application Procedure.
 TX Jur. 3d Conservation & Pollution Laws
 § 115, Generally; Registry and Cleanup of
 Hazardous Waste Facilities.

Treatises and Practice Aids

Civins, Hall & Sahs, 45 Tex. Prac. Series
 § 10.5, Municipal Solid Waste.

§ 361.086. Separate Permit for Each Facility

(a) Except as provided by Subsection (d), a separate permit is required for each solid waste facility.

(b) A permit under this subchapter may be issued only to the person in whose name the application is made and only for the facility described by the permit.

(c) A permit may not be transferred without first giving written notice to and receiving written approval of the agency that issued the permit.

(d) A separate permit is not required for activities authorized by a general permit issued under Section 27.025, Water Code.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 2007, 80th Leg., ch. 901, § 5, eff. Sept. 1, 2007; Acts 2009, 81st Leg., ch. 87, § 27.002(10), eff. Sept. 1, 2009.

Historical and Statutory Notes**Prior Laws:**

Acts 1969, 61st Leg., p. 1320, ch. 405.
 Acts 1977, 65th Leg., p. 825, ch. 308, § 1.
 Acts 1981, 67th Leg., p. 3170, ch. 831, §§ 1 to
 8, 10.

Acts 1983, 68th Leg., p. 2443, ch. 435, § 2.
 Vernon's Ann.Civ.St. art. 4477-7, § 4(e)(2),
 (7).

Library References

Environmental Law ¶432.
 Westlaw Topic No. 149E.
 C.J.S. Health and Environment § 170.

Research References**Encyclopedias**

TX Jur. 3d Conservation & Pollution Laws
 § 100, Content and Conditions of Permit.

~~§ 361.0861. Separate Recycling or Recovery Permit Not Required~~

(a) A permit holder or a municipal solid waste management facility that has or plans to have a recycling, waste separation, energy and material recovery, or gas recovery or transfer facility established in conjunction with the permitted municipal solid waste management facility is not required to obtain for that recycling, waste separation, energy and material recovery, or gas recovery or transfer facility a separate permit from the commission or to apply for an amendment to an existing permit issued by the commission.

(b) A facility to which this section applies must register with the commission in accordance with commission rules and comply with commission rules adopted under this chapter.

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~~(c) If a permit is otherwise required, the commission shall expedite the permit proceeding if the applicant is seeking a permit for a solid waste management facility that employs an innovative, high technology method of waste disposition and recycling.~~

Added by Acts 1990, 71st Leg., 6th C.S., ch. 10, art. 2, § 15, eff. Sept. 6, 1990. Amended by Acts 1995, 74th Leg., ch. 76, § 11.50, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 987, § 1, eff. Sept. 1, 1995.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 641, § 1
Vernon's Ann.Civ.St. art. 4477-7, § 4B.

Research References

Encyclopedias

~~TX Jur. 3d Conservation & Pollution Laws
§ 100, Content and Conditions of Permit.~~

Treatises and Practice Aids

~~Civins, Hall & Saks, 45 Tex. Prac. Series
§ 10.5, Municipal Solid Waste.~~

§ 361.087. Contents of Permit

A permit issued under this subchapter must include:

- (1) the name and address of each person who owns the land on which the solid waste facility is located and the person who is or will be the operator or person in charge of the facility;
- (2) a legal description of the land on which the facility is located; and
- (3) the terms and conditions on which the permit is issued, including the duration of the permit.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

Historical and Statutory Notes

Prior Laws:

Acts 1969, 61st Leg., p. 1320, ch. 405.
Acts 1977, 65th Leg. p. 825, ch. 308, § 1.
Acts 1981, 67th Leg., p. 3170, ch. 831, §§ 1 to 8, 10.

Acts 1983, 68th Leg., p. 2443, ch. 435, § 2.
Vernon's Ann.Civ.St. art. 4477-7, § 4(e)(2).

Library References

Environmental Law ¶432.
Westlaw Topic No. 149E.
C.J.S. Health and Environment § 170.

Research References

Encyclopedias

TX Jur. 3d Conservation & Pollution Laws
§ 100, Content and Conditions of Permit.

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Notes of Decisions

Conditions 1

1. Conditions

Administrative code section did not prohibit issuance of conditional permit for development of municipal solid-waste disposal facility but, rather, regulation countenanced use of special provisions where appropriate. *North Alamo Water Supply Corp. v. Texas Dept. of Health* (App. 3 Dist. 1992) 839 S.W.2d 448, writ denied. *Environmental Law* ⇌ 358

Special provisions in permit issued by Department of Health for solid waste sanitary landfill, requiring permit holder to upgrade access road and bridge to site in compliance with county specifications and subject to approval of county commissioners' court, and requiring that permit holder obtain approval from Department of Highways and Public Transportation for upgrading junction of county access road with highway, did not constitute unlawful reassignment by Department of Health of function committed to it by legislature; Department's authority under statute broadly includes "control of all aspects of municipal solid waste management," and special conditions did not require other public bodies to consider any health and envi-

ronmental concerns before giving their approval, but only that access road be improved so that it met requirements of other public bodies. *Lipsey v. Texas Dept. of Health* (App. 3 Dist. 1987) 727 S.W.2d 61, ref. n.r.e. *Administrative Law And Procedure* ⇌ 322.1; *Environmental Law* ⇌ 378

The Texas Water Quality Board is given broad discretion to issue rules and regulations governing proceedings before it for permits and orders and may require, as a condition to the issuance of a permit, that a feedlot owner submit evidence to establish that his operation will not cause wastes to pollute ground or surface waters. In any event, the Texas Water Quality Board is the agency designated by this article to control disposition of solid wastes. *Op.Atty. Gen.* 1973, No. H-64.

The Texas Water Quality Board has no general authority to engage in land-use planning, but it possesses authority under the Texas Water Quality Act (V.T.C.A. Water Code, § 21.001 et seq.), this article, and possibly the Disposal Well Act (V.T.C.A. Water Code, § 22.001 et seq.), to condition the granting of its permits to point or nonpoint sources of water contaminants upon proper site selection. *Op.Atty.Gen.* 1976, No. H-802.

§ 361.0871. Evaluation of Waste Stream; Land Use and Need

(a) Before a permit may be issued for a new hazardous waste management facility or amended to provide for capacity expansion, the applicant shall identify the nature of any known specific and potential sources, types, and volumes of waste to be stored, processed, or disposed of by the facility and shall identify any other related information the commission may require.

~~(b) In evaluating a permit for a new hazardous waste management facility, the commission shall assess the impact of the proposed facility on local land use in the area, including any relevant land use plans in existence before publication of the notice of intent to file a solid waste permit application or, if no notice of intent is filed, at the time the permit application is filed. In determining whether a new hazardous waste management facility is compatible with local land use, the commission shall consider, at a minimum, the location of industrial and other waste-generating facilities in the area, the amounts of hazardous waste generated by those facilities, and the risks associated with the transportation of hazardous waste to the facility. If the commission determines that a proposed application is not compatible with local land use, it may deny the permit. The commission shall adopt rules to implement this subsection.~~

~~(c) Repealed by Acts 2003, 78th Leg., 3rd C.S., ch. 3, § 7.04(a).~~

Added by Acts 1991, 72nd Leg., ch. 296, § 1.13, eff. June 7, 1991. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, § 7.04(a), eff. Jan. 11, 2004.

§ 361.092**SANITATION & ENVIRONMENTAL QUALITY**
Title 5~~**Administrative Code References**~~~~Municipal solid waste, general prohibitions, see 30 TAC § 330.15.~~~~**Library References**~~~~Environmental Law ¶426.~~~~Westlaw Topic No. 149E.~~~~C.J.S. Health and Environment § 170.~~~~**§ 361.093. Regulation and Permitting of Rendering Plants**~~

(a) A manufacturing or processing establishment, commonly known as a rendering plant, that processes waste materials originating from animals and from materials of vegetable origin, including animal parts and scraps, offal, paunch manure, and waste cooking grease of animal and vegetable origin, is subject to regulation under the industrial solid waste provisions of this chapter and may be regulated under Chapter 26, Water Code.

(b) If a rendering plant is owned by a person who operates the plant as an integral part of an establishment that manufactures or processes for animal or human consumption food derived wholly or partly from dead, slaughtered, or processed animals, the combined business may operate under a single permit issued under Chapter 26, Water Code.

(c) This section does not apply to a rendering plant in operation and production on or before August 27, 1973.

(d) In this section, "animals" includes only animals, poultry, and fish.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

~~**Historical and Statutory Notes**~~~~**Prior Laws:**~~~~Acts 1969, 61st Leg., p. 1320, ch. 405.~~~~Acts 1977, 65th Leg., p. 825, ch. 308, § 1.~~~~Acts 1977, 65th Leg., p. 2341, ch. 870, §§ 4, 5.~~~~Acts 1981, 67th Leg., p. 3170, ch. 831, §§ 1 to 8, 10.~~~~Acts 1983, 68th Leg., p. 2443, ch. 435, § 2.~~~~Vernon's Ann.Civ.St. art. 4477-7, § 4(e)(9).~~~~**Library References**~~~~Environmental Law ¶426.~~~~Westlaw Topic No. 149E.~~~~C.J.S. Health and Environment § 170.~~**§ 361.094. Permit Holder Exempt From Local License Requirements**

If a permit is issued, amended, renewed, or extended by the commission in accordance with this subchapter, the solid waste facility owner or operator does not need to obtain a license for the same facility from a political subdivision under Section 361.165 or from a county.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, § 11.54, eff. Sept. 1, 1995.

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Historical and Statutory Notes

Prior Laws:

Acts 1969, 61st Leg., p. 1320, ch. 405.
Acts 1977, 65th Leg., p. 825, ch. 308, § 1.
Acts 1981, 67th Leg., p. 3170, ch. 831, §§ 1 to 8, 10.

Acts 1983, 68th Leg., p. 2443, ch. 435, § 2.
Acts 1985, 69th Leg., ch. 566, § 4.
Vernon's Ann.Civ.St. art. 4477-7, § 4(e)(6).

Library References

Environmental Law ¶432.
Westlaw Topic No. 149E.
C.J.S. Health and Environment § 170.

Research References

Encyclopedias

TX Jur. 3d Conservation & Pollution Laws
§ 110, Licensing Powers.

§ 361.095. Applicant for Hazardous Waste Management Facility Permit Exempt From Local Permit

(a) An applicant for a permit under this subchapter is not required to obtain a permit for the siting, construction, or operation of a hazardous waste management facility from a local government or other political subdivision of the state.

~~(b) A local government or other political subdivision of the state may not adopt a rule or ordinance that conflicts with or is inconsistent with the requirements for hazardous waste management facilities as specified by the rules of the commission or by a permit issued by the commission.~~

(c) In an action to enforce a rule or ordinance of a local government or other political subdivision, the burden is on the facility owner or operator or on the applicant to demonstrate conflict or inconsistency with state requirements.

(d) The validity or applicability of a rule or ordinance of a local government or other political subdivision may be determined in an action for declaratory judgment under Chapter 37, Civil Practice and Remedies Code, if it is alleged that the rule or ordinance, or its threatened application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the plaintiff concerning an application for or the issuance of a permit for the siting, construction, or operation of a hazardous waste management facility.

(e) The local government or other political subdivision whose rule or ordinance is being questioned shall be made a party to the action. The commission shall be given written notice by certified mail of the pendency of the action, and ~~the commission may become a party to the action.~~

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§ 361.100

~~Research References~~

Encyclopedias

TX Jur. 3d Conservation & Pollution Laws
§ 101, Content and Conditions of Permit--
~~Water and Wetland Protection.~~

§ 361.099. Prohibition on Permit for Hazardous Waste Management Unit in Wetlands

~~(a) The commission by rule shall prohibit the issuance of a permit for a new hazardous waste management unit or an areal expansion of an existing hazardous waste management unit if the unit is to be located in wetlands, as defined by the commission.~~

(b) In this section and Section 361.100, "hazardous waste management unit" means a landfill, surface impoundment, land treatment facility, waste pile, or storage or processing facility used to manage hazardous waste.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

Historical and Statutory Notes

Prior Laws:

Acts 1969, 61st Leg., p. 1320, ch. 405.
Acts 1977, 65th Leg., p. 825, ch. 308, § 1.
Acts 1981, 67th Leg., p. 3170, ch. 831, §§ 1 to 8, 10.

Acts 1983, 68th Leg., p. 4586, ch. 771, § 1.
Acts 1985, 69th Leg., ch. 566, § 3.
Acts 1985, 69th Leg., ch. 795, § 7.002.
Acts 1987, 70th Leg., ch. 632, § 2.
Vernon's Ann.Civ.St. art. 4477-7, § 4(c).

Administrative Code References

Distance limitations in new source air permitting, see 30 TAC § 116.112.

Location standards for hazardous waste storage, disposal or processing, see 30 TAC § 335.201.

Library References

Environmental Law ¶432.
Westlaw Topic No. 149E.
C.J.S. Health and Environment § 170.

Research References

Encyclopedias

TX Jur. 3d Conservation & Pollution Laws
§ 101, Content and Conditions of Permit--
Water and Wetland Protection.

~~**§ 361.100. Prohibition on Permit for Certain Hazardous Waste Management Units**~~

~~The commission by rule shall prohibit the issuance of a permit for a new hazardous waste management unit if the landfill:~~

~~(1) is in a floodplain of a perennial stream subject to not less than one percent chance of flooding in any year, delineated on a flood map adopted by the Federal Emergency Management Agency after September 1, 1985, as zone A1-99, V0, or V1-30; and~~

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Note 3

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~~mit to build solid waste facility. Smith v. Houston Chemical Services, Inc. (App. 3 Dist. 1994) 872 S.W.2d 252, rehearing overruled, writ granted, writ withdrawn, writ denied, rehearing of writ of error overruled. Environmental Law ¶ 370~~

Evidence was sufficient to support Water Commission's findings, in considering application for permit to build solid waste facility, that estimated emissions rates were properly com-

~~puted; Commission could reasonably conclude that witness' testimony, that his employer would provide scrubbers sufficient to achieve 99% removal efficiency, had reference to design and operating particulars proposed in application but not introduced into evidence. Smith v. Houston Chemical Services, Inc. (App. 3 Dist. 1994) 872 S.W.2d 252, rehearing overruled, writ granted, writ withdrawn, writ denied, rehearing of writ of error overruled. Environmental Law ¶ 389~~

§ 361.110. Termination of Authorization or Permit

Authorization to store, process, or dispose of hazardous waste under Section 361.082 or under a solid waste permit issued under this subchapter that has not been reissued in accordance with an approved state program under Section 3006 of the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Section 6901 et seq.), terminates as follows:

- (1) in the case of each land disposal facility, on November 8, 1985, unless the facility owner or operator applied for a final determination concerning the issuance of a permit before that date and certified that the facility was in compliance with all applicable groundwater monitoring and financial responsibility requirements;
- (2) in the case of each incinerator facility, on November 8, 1989, unless the facility owner or operator applied for a final determination concerning the issuance of a permit by November 8, 1986; or
- (3) in the case of any other solid waste facility, on November 8, 1992, unless the facility owner or operator applied for a final determination concerning the issuance of a permit by November 8, 1988.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

Revisor's Note

The revised law omits as executed the source law provision stating that a land disposal facility permit terminates on November 8, 1985, under certain circumstances.

Historical and Statutory Notes

Prior Laws:

Acts 1969, 61st Leg., p. 1320, ch. 405.
Acts 1977, 65th Leg., p. 825, ch. 308, § 1.
Acts 1981, 67th Leg., p. 3170, ch. 831, §§ 1 to 8, 10.

Acts 1985, 69th Leg., ch. 457, § 3.
Vernon's Ann.Civ.St. art. 4477-7, § 4(I).

Library References

Environmental Law ¶432.
Westlaw Topic No. 149E.
C.J.S. Health and Environment § 170.

Research References

~~Treatises and Practice Aids~~

~~Civins, Hall & Sabs, 46 Tex. Prac. Series~~

~~§ 22.3, Texas Regulation of Used Oil~~

§ 371.003. Definitions

In this chapter:

(1) "Aboveground tank" means a tank used to store or process oil that is not an underground storage tank as defined by 40 C.F.R. Section 280.12.

(2) "Automotive oil" means any lubricating oils intended for use in an internal combustion engine, crankcase, transmission, gear box, or differential for an automobile, bus, or truck. The term includes oil that is not labeled specifically for that use but is suitable for that use according to generally accepted industry specifications.

(3) "Commission" means the Texas Natural Resource Conservation Commission.

(4) "Container" means a portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

(5) "Do-it-yourselfer used oil collection center" means a site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers. A registered do-it-yourselfer used oil collection center that is also a used oil generator may commingle household do-it-yourselfer used oil with the used oil it generates.

(6) "Existing tank" means a tank that is used for the storage or processing of used oil and that as of September 1, 1995, is in operation or is being installed. A tank is being installed if the owner or operator has obtained all necessary federal, state, and local approvals or permits and:

(A) a continuous on-site installation program has begun; or

(B) the owner or operator has entered into contractual obligations for installation of the tank that cannot be cancelled or modified without substantial loss.

(7) "Household do-it-yourselfer used oil" means oil that is derived from a household, including used oil generated by an individual through the maintenance of the individual's personal vehicle or equipment.

(8) "Household do-it-yourselfer used oil generator" means an individual who generates household do-it-yourselfer used oil.

(9) "New tank" means a tank for the storage or processing of used oil the installation of which begins on or after September 1, 1995.

(10) "Petroleum refining facility" means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes.

(11) "Processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of,

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fuel oils, lubricants, or other used-oil-derived products, including blending used oil with virgin petroleum products, blending used oils to meet fuel specifications, filtration, simple distillation, chemical or physical separation, and rerefining.

(12) "Reclaiming" means processing material to recover a usable product or regenerating material, including recovering lead from a spent battery and regenerating spent solvents.

(13) "Recycling" means:

(A) preparing used oil for reuse as a petroleum product by rerefining, reclaiming, or other means;

(B) using used oil as a lubricant or petroleum product instead of using a petroleum product made from new oil; or

(C) burning used oil for energy recovery.

(14) "Rerefining" means applying processes to material composed primarily of used oil to produce high-quality base stocks for lubricants or other petroleum products, including settling, filtering, catalytic conversion, fractional/vacuum distillation, hydrotreating, or polishing.

(15) "Rerefining distillation bottoms" means the heavy fraction of filtered and dehydrated used oil produced by vacuum distillation. The composition of still bottoms varies with column operation and feedstock.

(16) "Tank" means a stationary device designed to contain an accumulation of used oil that is constructed primarily of nonearthen materials that provide structural support, including wood, concrete, steel, and plastic.

(17) "Used oil" means oil that has been refined from crude oil, or synthetic oil, that as a result of use has been contaminated by physical or chemical impurities.

(18) "Used oil aggregation point" means a site or facility that accepts, aggregates, or stores used oil collected from:

(A) used oil generation sites owned or operated by the owner or operator of the used oil aggregation point and transported to the used oil aggregation point in shipments of not more than 55 gallons; or

(B) household do-it-yourselfers.

(19) "Used oil burner" means a facility in which used oil not meeting the specifications in 40 C.F.R. Section 279.11 is burned for energy recovery in a device listed in 40 C.F.R. Section 279.61(a).

(20) "Used oil collection center" means a site or facility that is registered by the commission to manage used oil and accepts, aggregates, or stores used oil collected from:

(A) used oil generators regulated under 40 C.F.R. Part 279, Subpart C, who transport used oil to the used oil collection center in shipments of not more than 55 gallons under 40 C.F.R. Section 279.24; or

(B) household do-it-yourselfers.

(21) "Used oil fuel marketer" means a person who:

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(A) directs a shipment of used oil not meeting the specifications in 40 C.F.R. Section 279.11 from the person's facility to a used oil burner; or

(B) first claims that used oil to be burned for energy recovery meets the used oil specifications in 40 C.F.R. Section 279.11.

(22) "Used oil generator" means a person, by site, whose act or process:

(A) produces used oil; or

(B) first causes used oil to become subject to regulation.

(23) "Used oil processor or rerefiner" means a facility that processes used oil.

(24) "Used oil transfer facility" means a transportation-related facility, including a loading dock, parking area, storage area, or other area, where shipments of used oil are held for more than 24 hours and not more than 35 days during the normal course of transportation. A transfer facility that stores used oil for more than 35 days is subject to 40 C.F.R. Part 279, Subpart F.

(25) "Used oil transporter" means a person who:

(A) transports used oil; or

(B) owns or operates a used oil transfer facility.

Added by Acts 1991, 72nd Leg., ch. 303, § 8, eff. Sept. 1, 1991. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, § 1.045, eff. Aug. 12, 1991; Acts 1993, 73rd Leg., ch. 899, § 4.05, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 76, § 11.122, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 3, eff. Sept. 1, 1995.

Research References

Treatises and Practice Aids

Civins, Hall & Sahs, 46 Tex. Prac. Series
§ 22.7, Application of Texas Used Oil Act.
Civins, Hall & Sahs, 46 Tex. Prac. Series
§ 22.10, Standards for Used Oil Generators.

Civins, Hall & Sahs, 46 Tex. Prac. Series
§ 22.11, Standards for Used Oil Collection
Centers and Aggregation Points.

~~SUBCHAPTER B. USED OIL RECYCLING PROGRAM~~

§ 371.021. Public Education

The commission shall conduct an education program to inform the public of the need for and benefits of the collection and recycling of used oil and used oil filters. The program shall:

(1) establish, maintain, and publicize a used oil information center that prepares and disperses materials and information explaining laws and rules regulating used oil and informing the public of places and methods for proper recycling of used oil;

(2) encourage the voluntary establishment of used oil collection and recycling programs by private businesses and organizations and by local governments and provide technical assistance to persons who organize those programs; and

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~~(5) any other activity the advisory committee established under Subsection (c) determines will encourage the proper recycling of household do-it-yourselfer used oil.~~

(c) The commission shall appoint an advisory committee for the used oil grant program. The advisory committee consists of seven members who serve at the pleasure of the commission and represent oil manufacturers as defined by Section 371.062, operators of used oil collection centers, and local governments. The advisory committee members serve without compensation and are not entitled to reimbursement for expenses incurred in the performance of their duties. The advisory committee shall:

- (1) recommend criteria for grants;
- (2) establish guidelines for allowable administrative expenses; and
- (3) recommend grant recipients to the commission based on the used oil collection needs of this state.

(d) The commission by rule shall:

- (1) establish procedures for the application for and criteria for the award of grants under this section; and
- (2) adopt guidelines for allowable administrative expenses in accordance with guidelines established by the advisory committee.

Added by Acts 1991, 72nd Leg., ch. 303, § 8, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, § 11.123, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

Administrative Code References

~~Grants pertaining to the collection, reuse, and recycling of used oil, see 30 TAC § 328.41 et seq.~~

§ 371.024. Collection Facilities

~~(a) All appropriate businesses and government agencies are encouraged to serve as do-it-yourselfer used oil collection centers or used oil collection centers.~~

(b) A do-it-yourselfer used oil collection center and a used oil collection center shall:

- (1) register biennially with the commission; and
- (2) report annually to the commission the amounts of used oil collected by the center from the public.

~~(c) The commission shall adopt rules governing the registration of and reporting by do-it-yourselfer used oil collection centers and used oil collection centers.~~

(d) The commission by rule shall adopt standards for managing and operating a do-it-yourselfer used oil collection center or a used oil collection center.

(e) The commission may impose a registration fee in an amount sufficient to cover the actual cost of registering do-it-yourselfer used oil collection centers and used oil collection centers. A private entity that serves voluntarily as a do-

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~~accepted for processing or rerefining and the manner in which the used oil is processed or rerefined, including the specific processes employed.~~

(b) The commission by rule shall adopt reasonable management and safety standards for the handling of used oil.

~~(c) The commission may impose a registration fee in an amount sufficient to cover the actual cost of registering used oil handlers other than generators.~~

(d) A used oil transporter may consolidate or aggregate loads of used oil for purposes of transportation but may not process used oil, except that a used oil transporter may conduct incidental processing operations, including settling and water separation, that occur in the normal course of the transportation of used oil but that are not designed to produce, or make more amenable for the production of, used-oil-derived products or used oil fuel.

Added by Acts 1991, 72nd Leg., ch. 303, § 8, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, § 11.126, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 389, § 1, eff. Sept. 1, 1997.

Historical and Statutory Notes

Section 24(e) of Acts 1991, 72nd Leg., ch. 303 transports, markets, or recycles used oil on or after April 1, 1992." provides:

"Section 371.026, Health and Safety Code, as added by this Act, applies only to a person who

Cross References

Noncompliance with registration requirements as an offense, see V.T.C.A., Health & Safety Code § 371.041.

Used oil recycling fund, contributions from fees collected under this section, see V.T.C.A., Health & Safety Code § 371.061.

Administrative Code References

Financial assurance, see 30 TAC § 37.1 et seq.

Research References**Treatises and Practice Aids**

Civins, Hall & Saks, 46 Tex. Prac. Series
§ 22.3, Texas Regulation of Used Oil.

~~§ 371.027. Gifts and Grants~~

~~The commission may apply for, request, solicit, contract for, receive, and accept gifts, grants, donations, and other assistance from any source to carry out its powers and duties under this chapter.~~

~~Added by Acts 1991, 72nd Leg., ch. 303, § 8, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, § 11.127, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.~~

Cross References

~~Used oil recycling fund, contributions from gifts collected under this section, see V.T.C.A., Health & Safety Code § 371.061.~~

USED OIL
Ch. 371

§ 371.042
Repealed

Research References

~~Treatises and Practice Aids~~

- ~~Civins, Hall & Sahs, 46 Tex. Prac. Series~~
~~§ 22.22, Used Oil Recycling Account.~~

~~§ 371.028. Rules~~

Not later than January 1, 1996, the commission shall adopt rules, standards, and procedures necessary to implement the used oil recycling program established by this chapter. Unless otherwise required by federal or state law, the rules, standards, and procedures must be consistent with and not more stringent than the used oil management standards under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.).

Added by Acts 1991, 72nd Leg., ch. 303, § 8, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, § 11.127, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

SUBCHAPTER C. CERTAIN ACTIONS PROHIBITED; PENALTIES

§ 371.041. Actions Prohibited

A person may not collect, transport, store, recycle, use, discharge, or dispose of used oil in any manner that endangers the public health or welfare or endangers or damages the environment.

Added by Acts 1991, 72nd Leg., ch. 303, § 8, eff. April 1, 1992. Amended by Acts 1995, 74th Leg., ch. 76, § 11.128, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1072, § 40, eff. Sept. 1, 1997.

Historical and Statutory Notes

Section 24(b) of Acts 1991, 72nd Leg., ch. 303 provides:

"Subchapter C, Chapter 371, Health and Safety Code, as added by this Act, takes effect

April 1, 1992, and applies only to an offense that occurs on or after April 1, 1992. For purposes of this subsection, an offense is committed on or after April 1, 1992, if any element of the offense occurs on or after that date."

Research References

Encyclopedias

TX Jur. 3d Conservation & Pollution Laws
§ 145, Prohibited Acts.

Civins, Hall & Sahs, 46 Tex. Prac. Series
§ 22.21, Penalties for Violations of the Texas Health & Safety Code.

Treatises and Practice Aids

Civins, Hall & Sahs, 46 Tex. Prac. Series
§ 22.3, Texas Regulation of Used Oil.

~~§ 371.042. Repealed by Acts 1997, 75th Leg., ch. 1072, § 60(b)(5), eff. Sept. 1, 1997~~

**EPA-APPROVED TEXAS REGULATORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT PROGRAM *
May 2012**

This Binder contains the following sets of regulations:

- A. Texas Administrative Code, (TAC), Title 30, Environmental Quality, 2010, as amended, effective through December 31, 2009.
- B. Texas Administrative Code, (TAC), Title 30, Environmental Quality, 2008, as amended, effective through December 31, 2007.
- C. Texas Administrative Code, (TAC), Title 30, Environmental Quality, 2002, as amended, effective through December 31, 2001.
- D. Texas Administrative Code, (TAC), Title 30, Environmental Quality, 2000, as amended, effective through December 31, 1999.
- E. Texas Administrative Code, (TAC), Title 30, Environmental Quality, 1997, as amended, effective through January 1, 1997.
- F. Texas Administrative Code, (TAC), Title 30, Environmental Quality, 1994, as amended, effective through January 1, 1994.

Please note the following:

- (1) The 2010 TAC, Title 30 is the most recent version of the Texas authorized hazardous waste regulations. For a few provisions, the authorized version is found in the TAC, Title 30, Environmental Quality dated January 1, 1994, January 1, 1997, December 31, 1999, December 31, 2001, or December 31, 2007. Texas made subsequent changes to these provisions but these changes have not been authorized by EPA. The provisions from earlier sets of regulations are noted in the table below.
- (2) Certain provisions found in the official regulations in this Binder include amendments that are not approved by EPA. Such unauthorized amendments are not part of the State's authorized program and are; therefore, not Federally enforceable. EPA will enforce the State regulations that are actually authorized by EPA. In the Table below, provisions with unauthorized amendments are presented in italics. The actual State regulatory text authorized by EPA (i.e., without the unauthorized amendments) is available as a separate document, *Addendum to the EPA-Approved Texas Regulatory Requirements Applicable to the Hazardous Waste Management Program, May 2012*. This document is available from EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202, Phone number: (214) 665-8533.