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SANITATION AND ENVIRONMENTAL QUALITY SUBTITLE B. SOLID WASTE, TOXIC CHEMICALS, SEWAGE, LITTER, AND WATER

# CHAPTER 361. SOLID WASTE DISPOSAL ACT

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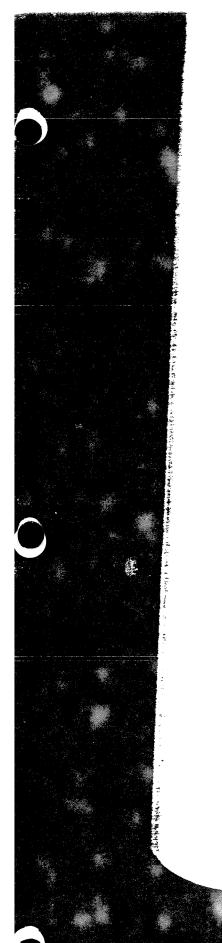
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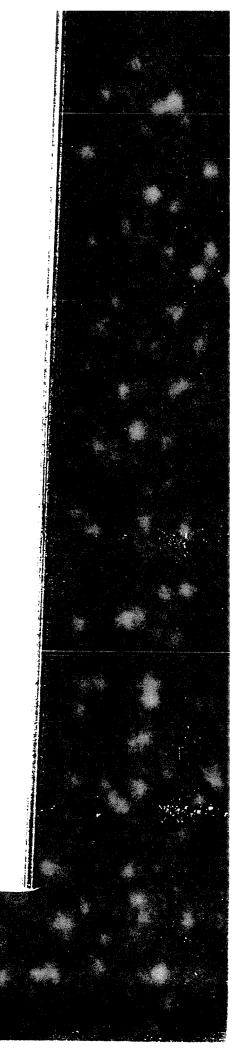
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#### Historical and Statutory Notes

Acts 1991, 72nd Leg., ch. 14, § 130, and Acts 1991, 72nd Leg., 1st C.S., ch. 3, § 1.046 amended the Subtitle heading.

#### WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

### SUBCHAPTER A. GENERAL PROVISIONS

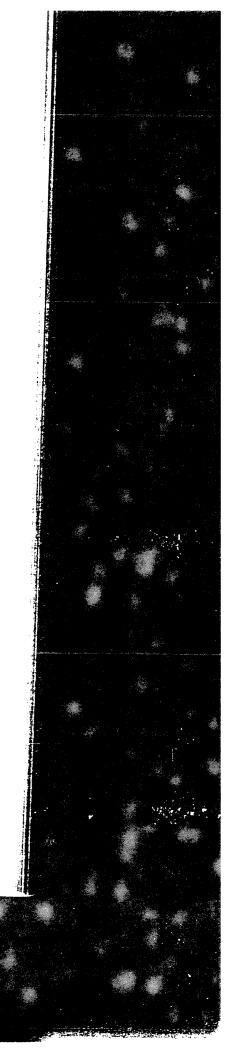
#### **Cross References**

Funeral directing and embalming,

Initiation of action against establishment or in regard to license, for violations of this chapter, see Vernon's Ann.Civ.St. art. 4582b, sec. 4, subsec. D.

Inspection of premises for violations of this chapter, see Vernon's Ann.Civ.St. art. 4582b, sec. 4, subsecs. G, J.

Recycling, exemption from franchise tax, see V.T.C.A. Tax Code, § 171.085.



## Administrative Code References

Solid waste management, see 25 TAC § 325.5 et seq.

#### Law Review Commentaries

Asset acquisitions: Caveat Emptor. James Ryan and Robert Beasley, 53 Tex.B.J. 1122 (1990).

LA. Debra L. Baker and Theodore G. Baroody, 22 St. Mary's L.J. 115 (1990).

What price innocence? A realistic view of the innocent landowner defense under CERC-

### § 361.001. Short Title

This chapter may be cited as the Solid Waste Disposal Act.

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

## Historical and Statutory Notes

Acts 1991, 72nd Leg., 1st C.S., ch. 15, § 1.09. provides:

"Transfer of Environmental Protection Duties to the Texas Water Commission. (a) On March 1, 1992, the powers, duties, obligations, functions, and activities of the Texas Board of Health and the Texas Department of Health or the officers of those agencies assigned by the following provisions of law are transferred to the Texas Water Commission:

- "(1) Subchapter C, Chapter 341, Health and Safety Code;
  - "(2) Chapter 361, Health and Safety Code;
  - "(3) Chapter 362, Health and Safety Code;
  - "(4) Chapter 363, Health and Safety Code;
  - "(5) Chapter 364, Health and Safety Code;
  - "(6) Chapter 365, Health and Safety Code;
  - "(7) Chapter 366, Health and Safety Code;
  - "(8) Chapter 367, Health and Safety Code;

- "(9) Chapter 368, Health and Safety Code;
- "(10) Chapter 401, Health and Safety Code, as it relates to the licensing and regulation of the disposal of radioactive substances, including by-product material, radioactive material, radioactive waste, source material, sources of radiation, and special nuclear material as those terms are defined by Section 401.003, Health and Safety Code; and
  - "(11) Chapter 402, Health and Safety Code.
- "(b) The secretary of state is authorized to adopt rules as necessary to expedite the implementation of this section."

#### Prior Law:

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

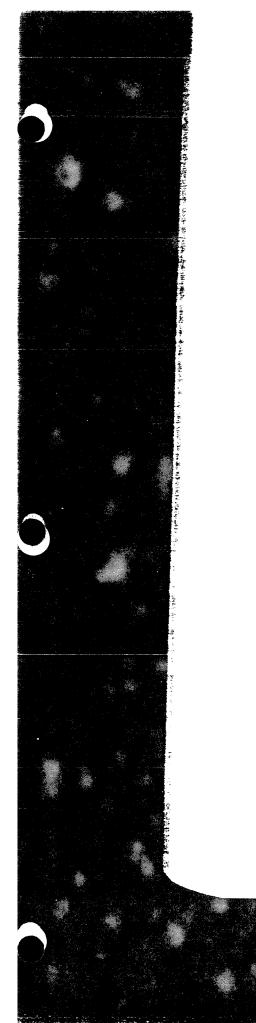
Vernon's Ann.Civ.St. art. 4477-7, § 1.

### Law Review Commentaries

Commanding respect: Criminal sanctions for environmental crimes. Eva M. Fromm, 21 St. Mary's L.J. 821 (1990).

# § 361.002. Policy; Findings

- (a) It is this state's policy and the purpose of this chapter to safeguard the health, welfare, and physical property of the people and to protect the environment by controlling the management of solid waste, including accounting for hazardous waste that is generated.
- (b) The storage, processing, and disposal of hazardous waste at municipal solid waste facilities pose a risk to public health and the environment, and in order to protect the environment and to provide measures for adequate protection of public health, it is in the public interest to require hazardous



waste to be stored, processed, and disposed of only at permitted hazardous industrial solid waste facilities.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1990, 71st Leg., 6th C.S., ch. 10, art. 2, § 1, eff. Sept. 6, 1990.

## Historical and Statutory Notes

Section 1 of art. 1 of the 1990 amendatory act provides:

"(a) This Act is enacted as part of the state's continuing statutory revision program under Chapter 323, Government Code. This Act is a revision of statutes, without substantive change, for purposes of Article III, Section 43, of the Texas Constitution and has the purposes of:

"(1) conforming the Health and Safety Code to certain laws that were passed by the 71st Legislature and that amended the laws codified by the Health and Safety Code or enacted new laws that should be codified in the Health and Safety Code;

"(2) codifying certain laws that were omitted from the Health and Safety Code;

"(3) making necessary corrective changes in the Health and Safety Code; and

"(4) making necessary conforming amendments to other laws.

"(b) The Code Construction Act (Chapter 311, Government Code) applies to this Act as if this Act were a code governed by that Act.

"(c) The repeal of a law, including a validating law, by this Act does not remove, void, or

otherwise affect in any manner a validation under the repealed law. The validation is preserved and continues to have the same effect that it would have if the law were not repealed. This subsection does not diminish the saving provisions prescribed by the Code Construction Act (Section 311.031, Government Code).

"(d) A transition or saving provision of a law codified by this Act applies to the codified law to the same extent as it applies to the original law. The repeal of a transition or saving provision by this Act does not affect the application of the provision to the codified law. In this subsection, "transition provision" includes any temporary provision providing for a special situation during the transition period between the time of the existing law and the establishment or implementation of a new law."

#### Prior Law:

Acts 1969, 61st Leg., p. 1320, ch. 405. Acts 1981, 67th Leg., p. 3170, ch. 831, §§ 1 to 8, 10. Acts 1989, 71st Leg., ch. 536, § 1. Vernon's Ann.Civ.St. art. 4477–7, § 1.

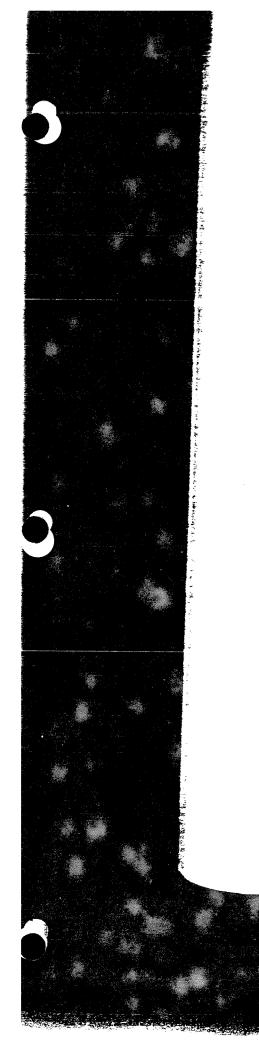
## § 361.003. Definitions

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

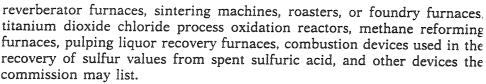


- (4) "Class I nonhazardous industrial solid waste" means any Class industrial solid waste that has not been identified or listed as a hazardou waste by the administrator of the United States Environmental Protectio Agency under the federal Solid Waste Disposal Act, as amended by th Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 e seq.).
- (5) "Commercial hazardous waste management facility" means any haz ardous waste management facility that accepts hazardous waste or PCBs fo 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 gener ates 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.
- (6) "Commission" means the Texas Natural Resource Conservation Commission.
- (7) "Commissioner" means the executive director of the Texas Natural Resource Conservation Commission.
- (8) "Composting" means the controlled biological decomposition of organic solid waste under aerobic conditions.
- (9) "Department" means the Texas Natural Resource Conservation Commission.
- (10) "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 air, discharged into surface water or groundwater, or introduced into the environment in any other manner.
- (11) "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.
  - (12) "Executive director" means the executive director of the commission.
- (13) "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.
  - (14) "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;



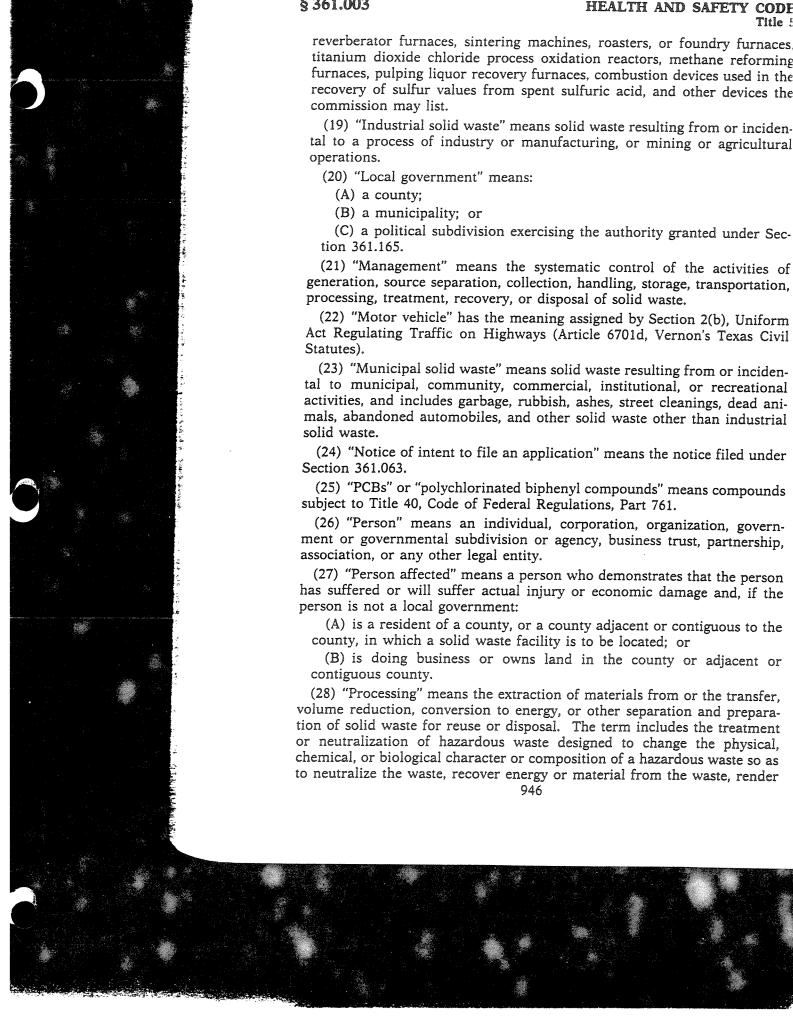
- (iii) a hazardous waste having the characteristics identified under or listed under Section 3001 of the federal Solid Waste Disposal Act, as amended (42 U.S.C. Section 6921), excluding waste, the regulation of which under the federal Solid Waste Disposal Act (42 U.S.C. Section 6901 et seq.) has been 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.
- (15) "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 Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Section 6901 et seq.).
- (16) "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.
- (17) "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.
- (18) "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,





- (19) "Industrial solid waste" means solid waste resulting from or incidental to a process of industry or manufacturing, or mining or agricultural
  - (C) a political subdivision exercising the authority granted under Sec-
- generation, source separation, collection, handling, storage, transportation,
- (22) "Motor vehicle" has the meaning assigned by Section 2(b), Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil
- tal 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

- has suffered or will suffer actual injury or economic damage and, if the person is not a local government:



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 or department determines that regulation of the activity under this chapter is necessary to protect human health or the environment.

- (29) "Radioactive waste" means waste that requires specific licensing under Chapter 401 and the rules adopted by the board of health under that law.
- (30) "Recycling" means the legitimate use, reuse, or reclamation of solid waste.
- (31) "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, or other response action, a release of source, by-product, or special nuclear 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.
- (32) "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



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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.

  (33) "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
- (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.
- (34) "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).
- (35) "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 board of health or the commission.
- (36) "Sludge" means solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water

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- (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.
- (39) "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.
- (40) "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 board of health or commission.
- (41) "Storage" means the temporary holding of solid waste, after which the solid waste is processed, disposed of, or stored elsewhere.
  - (42) [Blank].
  - (43) [Blank].
- (44) "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.

1 42 U.S.C.A. § 9604.

## Historical and Statutory Notes

Section 1.25(a), (d), (e) of Acts 1991, 72nd Leg., ch. 296 provides:

"(a) This article applies to any permit application, including permit applications for facilities operating under interim status, covered by

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the terms of this article that is pending approval on the effective date of this article. Any application for renewal of or amendment to a permit for an existing facility that includes a request for authorization to increase capacity at the facility shall comply with the terms of this article; provided, however, that the provisions of Sections 1.16 and 1.17 of this article do not apply to an application for renewal of or amendment to a permit for an existing facility or to an existing facility burning waste-derived fuels under a Texas Water Commission or Texas Air Control Board permit on the effective date of this article."

"(d) The provisions of this article do not apply to applications that are on file on the effective date of this article and that are only for permits for the disposal of treatment residues and other nonincinerable wastes generated at the same facility or at facilities wholly owned by the applicant.

"(e) The provisions of this article apply to any application to amend a nonhazardous waste facility permit to accept hazardous waste that is pending approval on the effective date of this article and to all existing nonhazardous waste permits. If a nonhazardous waste facility has become a hazardous waste facility as a result of the federal toxicity characteristic rule effective September 25, 1990, and is required to obtain a hazardous waste permit, such a facility that qualifies for interim status is limited to those activities that qualify it for interim status until the facility obtains the hazardous waste permit. The provisions of this article and this subsection do not apply to a noncommercial facility that is required to obtain a nazardous waste permit under the federal toxcity characteristic rule."

Sections 1.29 and 3.01 of Acts 1991, 72nd Leg., ch. 296 provide:

"Sec. 1.29. If either S.B. No. 35 or H.B. No. 2000, Acts of the 72nd Legislature, Regular Session, 1991, finally passes and is approved by the Governor, the duties, powers, and responsibilities conferred by this article on the Texas Water Commission, the Texas Department of Health, or the Texas Air Control Board

are transferred to the Texas Department of Natural Resources."

"Sec. 3.01. This Act may be referred to as the Waste Reduction Policy Act of 1991."

Neither S.B. No. 35 or H.B. No. 2000, Acts of the 72nd Legislature, Regular Session, 1991, were passed or approved by the Governor.

Acts 1991, 72nd Leg., 1st C.S., ch. 3, § 1.030 amended § 1.25 of Acts 1991, 72nd Leg., ch. 296 by adding (h) to read as follows:

"It is the policy of this state to encourage waste minimization through recycling. Therefore, the provisions of this article do not apply to any hazardous waste management facility that, before or during a recycling process, stores hazardous waste if the hazardous waste management facility engages only in storage incidental to a recycling process that does not include any treatment or disposal of hazardous waste by incineration, landfilling, or deep well injection on site. This subsection only applies to applications pending at the Texas Water Commission on the effective date of this article and does not apply to any commercial hazardous waste management facilities that burn waste-derived fuel."

#### Prior Law:

Acts 1969, 61st Leg., p. 1320, ch. 405. Acts 1973, 63rd Leg., ch. 576, § 1. Acts 1977, 65th Leg., p. 825, ch. 308, § 1. Acts 1977, 65th Leg., p. 2337, ch. 870, § 2. Acts 1979, 66th Leg., p. 536, ch. 251, §§ 1, 2. Acts 1981, 67th Leg., p. 3170, ch. 831, §§ 1 to Acts 1983, 68th Leg., p. 2946, ch. 503, § 1. Acts 1985, 69th Leg., ch. 566, § 1. Acts 1985, 69th Leg., ch. 795, § 1.160. Acts 1985, 69th Leg., ch. 921, § 3. Acts 1987, 70th Leg., ch. 279, § 1(a), (b). Acts 1987, 70th Leg., ch. 305, §§ 4, 5, 14(1), (2).Acts 1989, 71st Leg., ch. 536, § 2. Acts 1989, 71st Leg., ch. 641, § 2. Acts 1989, 71st Leg., ch. 703, §§ 1, 6.

Vernon's Ann.Civ.St. art. 4477-7, § 2.

#### Cross References

Recycling, exemption from franchise tax, see V.T.C.A. Tax Code, § 171.085. Removal and remedial action agreements, petroleum, see § 361.401.

[Sections 361.004 to 361.010 reserved for expansion]

supply treatment plant, or air pollution control facility, excluding the treated effluent from a wastewater treatment plant.

Subdivision (37) expires on delegation of Resource Conservation and Recovery Act authority to the Railroad Commission of Texas

(37) 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.

Subdivision (38) is effective on delegation of the Resource Conservation and Recovery Act authority to the Railroad Commission of Texas

(38) 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:

