

The Advocate



For and about small businesses and local governments affected by environmental regulations

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The 82nd Texas Legislature Update

The 82nd regular session of the Texas Legislature has enacted several environmental laws that may affect small businesses and local governments. Over the next few months, the TCEQ will create new rules or make rule changes to meet the new requirements. Some of the new laws include:

Don't Mess with Texas Water Program (House Bill 451): The Don't Mess with Texas Water Program will set up a central phone number for the public to report illegal dumping in lakes, rivers, and streams. The central number will redirect a caller to the participating local government or appropriate law enforcement agency for enforcement and cleanup.

Disposal of Demolition Waste from Abandoned or Nuisance Buildings (Senate Bill 1258): This law allows small counties or municipalities (10,000 people or fewer) to dispose of demolition debris from buildings on county or municipal land in arid exempt areas of the state. An arid exempt area is one that receives no more than 25 inches of annual average precipitation, based on data from the nearest official precipitation recording station for the most recent 30-year reporting period.

Aggregates Registration and Inspection Program (HB 571/SB 160): This program will require aggregate-production operations to register with the TCEQ and renew annually. Initial

registration is required by Sept. 1, 2012. If your facility is not registered, penalties can range from \$5,000 to \$10,000 for every year it is out of compliance with the registration rule. Exempted from the requirements are temporary sites used solely to provide aggregate products for use in public works projects involving the Texas Department of Transportation and for local governmental entities. After an initial inspection, the TCEQ will inspect the facility every three years.

Affected Utilities (HB 805): The new law redefines an "affected utility," which was enacted by SB 361, Emergency Operations (81st regular session). The new definition changes the county population threshold from 400,000 to 350,000. Also, the new law will specify the deadlines that newly affected utilities must submit and implement emergency preparedness plans (EPPs). Affected utilities will be required to ensure emergency operations during power outages.

Air Pollutant Watch List (HB 1981): This statute puts the TCEQ's Air Pollutant Watch List (APWL) process into law. The APWL is a list of areas in Texas where ambient air pollution exceeds potential levels of concern for human health and welfare. The APWL allows the TCEQ to focus resources on areas of concern and establishes a notification process in which legislators, local officials and public interest groups are

informed when a new area of concern is added to the APWL.

Television Equipment Recycling Program (SB 329): Manufacturers of television equipment will be required to establish programs for the collection, transport, and recycling of television equipment that are free for consumers at the time of recycling. Unless participating in a Recycling Leadership Program, which exempts participants from some requirements, manufacturers must register with the TCEQ annually and pay a fee. Retailers in Texas can only sell TVs from manufacturers that are on the TCEQ's online list of manufacturers indicating they are in compliance with the new statute's requirements. Additional requirements will apply to television-equipment recyclers, including annual registration, renewal of registration, and reporting.

Penalty Requirements for Concrete Batch Plants and Rock Crushers (SB 1003): The TCEQ will be allowed to apply a penalty to concrete batch plants or rock crushers of up to \$10,000 per day for each day they operate beyond their authorized time. Previously the TCEQ was required to apply this penalty. Each day will be considered a separate violation. Some discretion is allowed if the facility notifies the TCEQ in advance that it will be operating beyond the approved time frame. ■

TCEQ Sunset Review

The Sunset Advisory Commission's review of the TCEQ has been completed. The Sunset process gives the Texas Legislature an opportunity to assess the need for continuing a state agency, eliminate duplication, and improve overall agency operations.

House Bill 2694, passed overwhelmingly by the 82nd Legislature, affirms the ongoing need for the TCEQ and continues the agency for 12 years. The bill also makes a number of changes to agency programs. Some of the changes that may affect you include the following:

- The coordination of public assistance, education, and outreach will be enhanced to ensure that the agency is responsive to environmental and citizens' concerns, including environmental quality and consumer protection.
- Eligible owners of out-of-service petroleum storage tanks will be able to apply for financial assistance from a remediation fund to help them meet compliance.
- The Compliance History protocol will be evaluated to make the ratings more equitable and meaningful when comparing different facilities. Additionally, the "average by default" rating will be eliminated in favor of a rating that indicates adequate information was not available.
- Certain oil- and gas-related matters that the TCEQ has been involved in

will be transferred to the Railroad Commission of Texas. Examples include groundwater-protection recommendations related to well casings, letters of determination for the impact of disposing wastes, and anthropogenic carbon in underground injection wells.

- The administrative penalty maximum will increase to \$25,000 for all penalties, with a few specific exceptions. The maximum penalties related to occupational licensing, on-site sewage disposal, performance standards for plumbing fixtures, used oil, and irrigators will be increased to \$5,000. An individual associated with water rate penalties may be assessed a fine up to \$5,000.
- Upon request by the TCEQ executive director, water-rights holders can be required to provide monthly water-use reports under specified circumstances, and the TCEQ executive director will have the authority to suspend water rights and adjust allocation of water-right holders during times of drought or other emergency shortages of water.
- Additional resources will be dedicated to ensure the safety of the most hazardous dams in Texas. Some dams will be exempt from dam safety regulations, based on the amount of water impounded, location, and county population. All dams must continue to comply with operation and maintenance requirements.

- The Texas On-Site Wastewater Treatment Research Council (TOWTRC) will be abolished, and its functions will transfer to the TCEQ.

You can read a summary of the TCEQ Sunset Bill passed by the Texas Legislature, as well as receive up-to-date information on implementation of the legislation, by visiting the TCEQ's Sunset Legislation Web page at: www.tceq.texas.gov/agency/sunset/index.html. ■

Local Compliance Assistance Specialists are Ready to Help You!

Free, confidential help in your backyard.

- | | |
|--|---|
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<i>Patty Avery,</i>
806-468-0505 | Region 9 - Waco
<i>Polly Porter,</i>
254-761-3039 |
| Region 2 - Lubbock
<i>Celeste Hoehne,</i>
806-796-7642 | Region 10 - Beaumont
<i>Charlie Adams,</i>
409-899-8788
<i>Lori Palmer,</i>
409-899-8789 |
| Region 3 - Abilene
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210-403-4092 |
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915-834-4974 | Region 14 - Corpus Christi
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| Region 7 - Midland
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956-721-8457 |



Discharge Monitoring Report (DMR) Changes Coming Down the Pike



June 2011 marks the two-year anniversary of electronic reporting of Discharge Monitoring Reports—known as NetDMR in Texas. NetDMR is a Web-based tool that allows you as a permittee in the Texas Pollutant Discharge Elimination System to electronically sign and submit

your water-quality DMRs to the TCEQ.

Over the last two years, the NetDMR support team has been actively listening to our customers' needs and opinions. This summer, the TCEQ will send an e-mail invitation to each NetDMR user to participate in an online survey.

The team is currently working on the following customer suggestions:

- improving screen appearance
- making the forms printer friendly
- ensuring reliability of forms
- notifying users when information is missing prior to submittal

- notifying users when their entry exceeds permit limits and sending an e-mail to the cognizant official when an effluent exceedance has been submitted

To find out more, e-mail us your questions at <NetDMR@tceq.texas.gov> or call us at 512-239-eDMR (3367). ■

TCEQ Changes E-Mail and Domain to tceq.texas.gov

Our e-mail and website addresses are changing— but, don't worry, our old addresses still work, too.

The TCEQ has changed employee e-mail addresses to Firstname.Lastname@tceq.texas.gov and group e-mail addresses to end in @tceq.texas.gov. For example, the Small Business and Local Government Assistance group's e-mail address is <sbap@tceq.texas.gov>.

Our website address has changed from <www.tceq.state.tx.us> to <www.tceq.texas.gov>.

We are phasing this in, but much of the changeover was rolled out on Jan. 15, 2011.

You may notice these changes in correspondence you receive from the TCEQ. Our old e-mail addresses and domain name will still work for at least five years—however, we encourage you to update your bookmarks and e-mail address book.

If you encounter a broken link, try replacing state.tx.us with texas.gov. If that doesn't work, then the page no longer exists or has moved and the broken link is not due to the change to tceq.texas.gov.

Questions or problems? Contact webmast@tceq.texas.gov. ■

UPCOMING EVENTS

Small Business Advisory Committee (SBAC)

Sept. 13, 11:30 a.m.–1 p.m.,
Southeast Texas Regional Planning Commission
2210 Eastex Freeway, Beaumont 77703
Contact: Lori Palmer, 409-899-8789

Sept. 14, 10 a.m.–noon,
Houston Galveston Area Council
3555 Timmons Lane, Conference Room C, Houston 77027
Contact: Cynthia Williams, 713-767-3549

Water Quality/Storm Water Seminar

Sept. 8–9, 8 a.m.–5 p.m.,
J.J. Jake Pickle Research Center, Commons Learning Center
10100 Burnet Road, Austin 78758
For more information and to register please visit:
<www.tceq.texas.gov/p2/events/stormwater.html>

Pollution Prevention Workshops

Sept. 20–21,
The University of Texas at Arlington Center for Environmental Excellence
9390 Research Blvd, Suite 300, Austin 78759
Contact: Zero Waste Network, 512-904-2281

Oct. 4–5,
UTA Automation and Robotics Institute
7300 Jack Newell Blvd. S., Fort Worth 76118
Contact: Zero Waste Network, 512-904-2281
For more information and to register please visit:
<www.tceq.texas.gov/p2/events/P2Workshops/p2workshop.html>