

Earliest possible date of adoption: September 25, 1989

For further information, please call: (512) 462-6420

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• 19 TAC §25.54

The Texas Higher Education Coordinating Board proposes an amendment to §25.54, concerning studies, reports, records, and audits. The purpose of the amendment is to incorporate into the rules and regulations provisions of Senate Bill 457, 71st Legislature, 1989, relating to administration of the Higher Education Insurance Program.

Kathy Lewis, director, Higher Education Insurance Program, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Lewis also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section as proposed will be to help ensure that state funds are appropriately spent. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kathy Lewis, Director, Higher Education Insurance Program, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Insurance Code, Article 3.50-3, which provide the Administrative Council with the authority to adopt rules and regulations consistent with the provision of the Act to carry out its statutory responsibilities.

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§25.54. *Studies, Reports, Records, and Audits.*

(a)-(c) (No change.)

(d) The state auditor shall conduct periodic audits of each institution's insurance program to verify that each person enrolled in the insurance program is eligible for the program benefits.

(e) The executive secretary shall notify the state auditor if the executive secretary becomes aware of any inappropriate expenditure of insurance program funds.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on August 21, 1989.

TRD-8907630 Kathy Lewis
 Director
 Texas Higher Education
 Coordinating Board

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For further information, please call: (512) 462-6420
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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 10I. General Rules

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• 31 TAC §101.1

The Texas Air Control Board (TACB) proposes an amendment to §101.1, concerning definitions. The proposed amendment will define various terms relating to the incineration of infectious materials. The definitions are being proposed in response to House Bill 2468, enacted by the 71st session of the Texas Legislature, which requires that TACB initiate rulemaking concerning commercial infectious waste incinerators. Specifically, the agency proposes to add definitions of "commercial infectious waste incinerator," "fomites," and "infectious waste." The definitions are being proposed in support of concurrently proposed new §§111.121-111.129, concerning incineration.

There are several other related definitions in §101.1 for which TACB is requesting comments, namely: "commercial incinerators," "domestic waste," "garbage," "incinerator," "municipal solid waste," and "rubbish." These definitions have been in effect for several years and the agency is soliciting comments on whether the existing definitions continue to be appropriate.

Bennie Engelke, director of management and staff services, has determined that for the first five-year period the proposed section is in effect, there will be no fiscal implications for state or local units of government or for small businesses as a result of enforcing or administering the section.

Les Montgomery, director of technical support and regulation development program, has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be improved understanding and more consistent application of TACB regulations where the proposed and existing definitions are used. There is no anticipated cost to individuals who may be impacted by the proposed revisions.

Public hearings on this proposal are scheduled for the following times and places: September 21, 1989, 10 a.m., Texas Air Control Board Auditorium, 6330 Highway 290 East, Austin; and September 21, 1989, 7 p.m., City of Houston Pollution Control Auditorium, 7411 Park Place Boulevard, Houston.

Copies of the proposed sections are available at the Central Office of the TACB, 6330 Highway 290 East, Austin, Texas 78723, and at all Texas Air Control Board regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearings. TACB would appreciate receiving five copies of testimony prior to or at the hearings. Written testimony received by the Regulation Development Section by 4 p.m. on September 22, 1989, at the TACB central office, will be included in the hearing record.

The amendment is proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which

provide TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation TACB makes.

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§101.1. *Definitions.* Unless specifically defined in the Act or in the rules of the board, the terms used by the board have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by Texas Civil Statutes, Article 4477-5, the following words and terms, when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

Commercial Incinerator [incinerators]—An incinerator used to dispose of waste material from retail and wholesale trade establishments. (See also: Incinerator)

Commercial infectious waste incinerator—A facility that accepts for incineration infectious waste generated outside the incinerator property boundaries of the facility (See also: Incinerator, Infectious waste).

Fomites—Substances, such as clothing, capable of absorbing and transmitting the contagium of disease (See also: Infectious waste).

Infectious waste—Equipment, instruments, utensils, and fomites of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease and must, therefore, be isolated as required by public health agencies; laboratory wastes such as pathological specimens and disposable fomites attendant thereto; and surgical operating room pathologic specimens and disposable fomites attendant thereto and similar disposable materials from outpatient areas and emergency rooms (See also: Fomites).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on August 16, 1989.

TRD-8907484 Allen Eli Bell
 Executive Director
 Texas Air Control Board

Proposed date of adoption: October 20, 1989

For further information, please call: (512) 451-5711, ext. 354
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Chapter 11I. Control of Air Pollution from Visible Emissions and Particulate Matter

Incineration

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• 31 TAC §111.121

(Editor's note: The text of the following section proposed for repeal will not be published. The

section may be examined in the offices of the Texas Air Control Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Air Control Board (TACB) proposes to repeal §111.121, concerning single-chamber incinerators. In concurrent action, the TACB proposes a new undesignated head to, §§111.121-111.129, concerning incineration.

The new sections are proposed in order to strengthen enforceability and to outline equivalency requirements for single-chamber incinerators. Because the changes are extensive, the staff has determined that it would be administratively more efficient to propose concurrently the repeal of the existing undesignated head and the addition of a new one.

Bennie Engelke, director of management and staff services, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Les Montgomery, director of the technical support and regulation development program, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to eliminate weak and inconsistent language. The public benefit from the concurrent adoption of the new section would be a better understanding and enforcement of the repeal. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Public hearings on this proposal are scheduled for the following times and places: September 21, 1989, 10 a.m., Texas Air Control Board, Auditorium, 6330 Highway 290 East, Austin; and September 21, 1989, 7 p.m., City of Houston, Pollution Control, Building Auditorium, 7411 Park Place Boulevard, Houston.

Copies of the proposed sections are available at the central office of the TACB, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearings. The TACB would appreciate receiving five copies of testimony prior to or at the hearings. Written testimony received by the Regulation Development Section by 4 p.m. on September 22, 1989, at the TACB central office will be included in the hearing record.

The repeal is proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

§111.121. Single-Chamber Incinerators.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas on August 16, 1989.

TRD-8907485

Allen Eli Bell
Executive Director
Texas Air Control Board

Proposed date of adoption: October 20, 1989

For further information, please call: (512) 451-5711, ext. 354

• 31 TAC §§111.121, 111.123, 111.125, 111.127, 111.129

The Texas Air Control Board (TACB) proposes §§111.121, 111.123, 111.125, 111.127, and 111.129, concerning incineration. In concurrent action, the TACB proposes to repeal existing §111.121. The proposed new §111.121, concerning single-chamber incinerators, would establish limitations on the burning of domestic or municipal solid waste in residential, commercial, hospital/pathological waste, of publicly-owned incinerators and would prohibit the burning of other materials. The proposed new §111.123, concerning dual- or multiple-chamber incinerators, would establish opacity limits, as well as emissions limits, for particulates, hydrogen chloride (HCl), and organics for residential, publicly-owned, hospital/pathological waste, and commercial incinerators. The new section also would establish separate temperature, retention time, and emissions and opacity limits for commercial infectious waste incinerators, which are defined in the proposed section as facilities that accept for incineration infectious waste generated outside the property boundaries of the facility. The proposed new §111.125, concerning testing requirements, would establish test methods for determining compliance regarding particulate, HCl, and organic compound emissions. The proposed new §111.127, concerning monitoring requirements, would require facilities to install and operate continuous monitoring devices to record the waste flow to each incinerator and the oxygen content and exhaust gas temperature of the incinerator stack. The proposed new §111.129, concerning exemptions, would exempt incinerators burning less than five tons per day of domestic or municipal solid waste from all specified requirements with the exception of opacity limits.

The new sections are being proposed in response to House Bill 2468 enacted by the 71st Texas Legislature and requiring the TACB to initiate rulemaking concerning commercial infectious waste incinerators. The new sections are intended to improve enforceability regarding single- and multiple-chamber incinerators by establishing specific requirements and defining equivalency.

Bennie Engelke, director of management and staff services, has determined that for the first five years the proposed sections are in effect, the fiscal implications for state and local units of government would be the cost of staff resources to accomplish increased regulation of residential, commercial, publicly-owned, and hospital/pathological waste incinerators burning more than five tons of domestic or municipal solid waste per day and all incinerators burning commercial infectious waste. The fiscal implications for small businesses would involve meeting increased regulatory requirements for owners of such incinerators. The staff estimates that the cost of meeting the monitoring requirements in the proposed sections would be \$9,000 per facility.

Les Montgomery, P.E., director of technical support and regulation development program, has determined that for each of the first five years the sections as proposed are in effect the public benefit anticipated as a result of implementing the sections will be more effective enforcement associated with incineration. There is no anticipated cost to individuals who are required to comply with section as proposed.

Public hearings on this proposal are scheduled for the following times and places: September 21, 1989, 10 a.m., Texas Air Control Board Auditorium, 6330 Highway 290 East, Austin; and September 21, 1989, 7 p.m., City of Houston, Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston.

Copies of the proposed sections are available at the Central Office of the TACB, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearings. TACB would appreciate receiving five copies of testimony prior to or at the hearings. Written testimony received by the Regulation Development Section by 4 p.m. on September 22, 1989 at TACB central office, will be included in the hearing record.

These new sections are proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation TACB makes.

§111.121. *Single-Chamber Incinerators.* No person shall cause, suffer, allow, or permit the burning of domestic or municipal solid waste as defined in §101.1 of this title (relating to Definitions) in a single-chamber residential, publicly-owned, hospital/pathological waste, or commercial incinerator unless the incinerator has been demonstrated to provide equivalent performance to multiple-chamber incinerators as specified in §111.123(a) of this title (relating to Dual- or Multiple-Chamber Incinerators) and is approved by the executive director. Single-chamber incineration of any other material is prohibited.

§111.123. Dual- or Multiple-Chamber Incinerators.

(a) No person shall cause, suffer, allow, or permit a dual- or multiple-chamber residential, publicly-owned, hospital/ pathological waste, or commercial incinerator burning domestic or municipal solid waste as defined in §101.1 of this title (relating to Definitions) to discharge into the atmosphere unless the following requirements are met.

(1) Particulate emissions shall not exceed 0.18 gram per dry standard cubic meter (g/dscm) or 0.08 grain per dry standard cubic foot (gr/dscf), when corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = P_m \times \frac{14}{21 - Y}$$

Where:

P_c is the corrected concentration of particulate matter,

P_m is the measured particulate matter concentration, and

Y is the measured concentration of oxygen in the stack gas using the Orsat method for oxygen analysis of dry flue gas as defined in 40 CFR Part 60, Appendix A

(Method 3).

(2) Hydrogen chloride (HCl) emissions greater than 1.8 kilograms (four pounds) per hour require either a removal efficiency of 99% or an emission rate not to exceed 1.8 kilograms per hour.

(3) An overall destruction and removal efficiency of 99% is required for each principal organic constituent contained in burned organic waste.

(4) Visible emissions shall not exceed an opacity of 20% averaged over any six-minute period.

(b) No person shall cause, suffer, allow, or permit the burning of infectious waste in a facility that accepts for incineration infectious waste generated outside the property boundaries of the facility unless the facility meets the following requirements.

(1) The incinerator must be equipped with a secondary chamber which retains all combustion gases for one second or longer at a temperature of 1,800 degrees fahrenheit or higher.

(2) Particulate emissions shall not exceed 0.09 g/dscm or 0.04 gr/dscf, when corrected for the amount of oxygen in the stack gas as specified in subsection (a)(1) of this section.

(3) A removal efficiency of 99% is required for HCl emissions

(4) An overall destruction and removal efficiency of 99.99% is required for each principal organic constituent contained in burned organic waste.

(5) Visible emissions shall not exceed an opacity of 5.0% for any six-

minute period from any commercial infectious waste incinerator except for emissions during the cleaning of a firebox or the building of a new fire, soot-blowing, equipment changes, ash removal, and rapping of precipitators. During those periods, the visible emissions may not exceed 20% for a period of six minutes in any 60 consecutive minutes. This exemption shall not apply to the emissions mass rate standard as outlined in §111.151 of this title (relating to Allowable Emissions Limits).

(6) Compliance with the requirements of this section shall be as soon as practicable but no later than May 31, 1991.

§111.125. Testing Requirements. Compliance with §111.121 of this title (relating to Single-Chamber Incinerators) and §111.123 of this title (relating to Dual-or Multiple-Chamber Incinerators) shall be determined by applying the following test methods, as appropriate:

(1) Particulate matter. Test Method 5 (40 Code of Federal Regulations 60, Appendix A) modified to include particulate caught by impinger train;

(2) Hydrogen chloride. test method outlined in Chapter 5 of the latest edition of the Texas Air Control Board "Sampling Procedures Manual";

(3) Organic compounds. Test Method 25A or 25B (40 Code of Federal Regulations 60, Appendix A) for determining total gaseous organic concentrations using flame ionization or nondispersive infrared analysis; or

(4) Equivalent test methods. equivalent test methods approved by the executive director.

§111.127. Monitoring Requirements. Facilities subject to the requirements of §§111.121, 111.123, and 111.125 of this title (relating to Single-Chamber Incinerators, Dual- or Multiple Chamber Incinerators and Testing Requirements) shall install, calibrate, maintain, an operate a monitoring device that continuously measures and records the oxygen content and temperature of the exhaust gas and the supplemental fuel flow to the incinerator. The monitoring device for incinerators equipped with a wet scrubbing device shall continuously measure and record the pressure drop of the gas flow through the wet scrubbing device. All such monitoring equipment must be approved by the executive director of the Texas Air Control Board.

§111.129. Exemptions. Incinerators burning less than five tons per day of domestic or municipal solid waste shall be exempt from the requirements of §§111.121; 111.123(a)(1), (2), and (3); 111.125; and 111.127 of this title (relating to Single-Chamber Incinerators, Dual- or Multiple-Chamber Incinerators, Testing Requirements, and Monitoring Requirements)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas on August 16, 1989.

TRD-8907486

Allen Eli Bell
Executive Director
Texas Air Control Board

Proposed date of adoption: October 20, 1989

For further information, please call: (512) 451-5711, ext. 354

Part IX. Texas Water Commission

Chapter 325. Certificates of Competency

Subchapter A. Certificates of Competency

The Texas Water Commission proposes the repeal of §§325.2-325.5; new §§325.2-325.5 and 325.16; and amendments to §§325.1, 325.6, 325.7, 325.9, 325.12 and 325.15, concerning certificates of competency for wastewater treatment plant and collection system operators and wastewater treatment facility operations companies. The current §§325.2-325.5 are repealed in order that they may be replaced by sections which add new provisions and make substantive changes to existing provisions, resulting in the reorganization of current Subchapter A. These proposed sections are presented as follows. Sections 325.2, 325.4, and 325.5 of the current rules cover all wastewater treatment plant operators, whether they operate treatment facilities or collection system. Proposed sections divide the requirements into those for treatment plant operator in §325.2 and collection system operator in §325.3. New requirements covering classification of wastewater treatment facilities and the level of certification required of the operator of a certain facility are provided in proposed §325.4.

Finally, provisions relating to the application for certification under current §325.3 would be moved substantially unchanged, to proposed §325.5.

The proposed sections would amend §325.1, relating to the definitions of terms found in Chapter 325 by adding definitions for the terms "wastewater collection system" and "wastewater collection system operator."

The proposed sections would amend current §325.2 by adding new subsections (c)-(n). Proposed subsections (c)-(j) are substantially the same as current §325.4. Subsection (g), however, proposes that an additional 20-hour designated course (several are listed as options) be taken at the Class A, B, and C levels. This would not become effective until January 1, 1990. Proposed subsection (k) is the same as current §325.3 and proposed subsection (m) is the same as current §325.4(f). Proposed subsection (l) is new and provides that operators of both wastewater treatment plants collection systems need not hold both types of certificates. Proposed subsection (n) is new and provides that operators of domestic waste facilities located at an industry which is regulated by an industrial waste permit is required to be certified if the domestic waste outfall is separate from the one for the treated industrial waste.

Proposed §325.3 would add new provisions relating to the certification of collection system operators. This new section would provide that all operators must be certified, but new operators may be employed as an operator-in-training for one year without certi-

fication. The proposed sections also provide that person whose certificate is revoked or suspended may not operate a facility without commission authorization. The proposed sections would also divide the certifications into two levels - Class I and Class II - and provides minimum qualifications for obtaining each, as well as application fee amounts and maximum terms for certification.

Proposed §325.4 would classify wastewater treatment facilities as they relate to the degree of certification required by a facility's operator. Classification is done by the type of system and permitted daily average flow of the facility. This proposed section would not become effective until January 1, 1990.

Provisions relating to the application for certification under current §325.3 would be moved, substantially unchanged, to proposed §325.5.

The proposed sections would amend current §325.6, relating to certification renewal by providing that failure to submit a renewal application and fee within 30 days of expiration of the certification will require the applicant to re-take the examination for such certification. The proposed amendment would also provide requirements for collection system operators wishing to renew their certification. Class D certificates would not be renewable if the operator works at any activated sludge type facility, or at a trickling filter or RBC facility, and the facility has a permitted daily average flow of 100,000 gpd or greater. Additionally, to renew a certificate which has been expired for a year or more, the applicant would have to satisfy all current requirements necessary for the issuance of a new certification. Finally, if a certificate expires when the operator is serving actively in the military, the certification may be renewed without re-examination.

Provisions relating to certificates for wastewater treatment facility operations companies under current §325.7 are not substantially changed by proposed changes to the section.

The proposed sections would amend current §325.9, relating to the reports, applications, and certification renewal of wastewater treatment facility operations companies by adding subsection (c), providing that a certification will automatically be revoked if the company ceases operations, is sold, or reorganized under different ownership and control. Such certificates may not be transferred.

Provisions relating to public hearings on the renewal of certificates for wastewater treatment facility operations companies under current §325.10 are not substantially changed by proposed changes to the section.

Provisions relating to certificate revocation and suspension under current §325.11 are not substantially changed by proposed changes to the section.

Provisions relating to notice of hearings under current §325.12 are not substantially changed by proposed changes to the section.

The proposed sections would amend current §325.15, relating to perpetual certificates of competency by providing that an operator who has held a valid certificate for at least 30 years shall, upon proper application and verification, retain his certificate in perpetuum.

Finally, proposed §325.16 is new and provides for the nonrenewal of a certificate of

competency to a person in default on loans guaranteed by the Texas Guaranteed Student Loan Corporation unless certain conditions are met. This provision would not become effective until September 1, 1991.

Roger Bourdeau, chief fiscal officer, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Bourdeau also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be more competent operators and less pollution of waters in the state. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Kevin McCalla, Senior Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Water Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

• 31 TAC §§325.2-325.5

The repeals are proposed under the Texas Water Code, §5.103, and §5.105, which provides the commission with the authority to promulgate rules as necessary to carry out its powers and duties under the Texas Water Code and other laws of the state and to establish and approve all general policies of the commission.

§325.2. Certificates for Treatment Plant Operators.

§325.3. Application.

§325.4. Classes and Qualifications of Certificates for Operators.

§325.5. Terms of Certificates for Operators.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on August 21, 1989.

TRD-8907624

Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: September 25, 1989

For further information, please call: (512) 463-8087