



Governmental Entity Recycling Program

TAC Title 30 Chapter 328 Subchapter K

Frequently Asked Questions (FAQs)

What is our entity required to do?

Governmental entities are required to create and maintain a recycling program for their operations, as well as to create a preference in purchasing for products made of recycled materials when the cost difference is less than 10%.

When did the rules become effective and where can they be found?

The rules were required under the Texas Health and Safety Code 361.425 and 361.426. The provisions of the Texas Administrative Code (TAC) §328 Subchapter K were adopted to be effective on July 2, 2020. The rules can be found in [Title 30 Chapter 328 Subchapter K](#).

How do we know if we are a governmental entity?

TAC §328.200 defines a governmental entity as a state agency, state court or judicial agency, university system or institution of higher education, county, municipality, school district, or special district. Entities uncertain as to whether they are considered a 'governmental' entity, and are thereby subject to the rules, should consult with their legal council for guidance.

What materials are considered recyclable and what materials within our operations need to be recycled?

Recyclable materials, as defined in §328.201, include aluminum, steel containers, aseptic packaging, polycoated paperboard cartons, high-grade office paper, and corrugated cardboard. Entities should evaluate their operations, identify all recyclable materials, and implement the materials into their recycling program, where feasible.

If your entity cannot recycle one or multiple recyclable materials or give preference to purchasing recyclable materials due to a hardship, you must document and describe the reason(s) for exempting a material and maintain the documentation on-site.

What is a hardship?

Hardship is defined in [§328.201](#) as "A circumstance that causes unreasonable burden on the governmental entity."

A hardship may include, but is not limited to, fiscal limitations, viability of a solid waste provider or third-party recycler to provide full or partial recycling services, availability of recycling services, or other circumstantial limitations.

Do governmental entities determine a hardship?

The TCEQ and these rules recognize that each governmental entity is unique and may not be able to recycle one or multiple recyclable materials or give preference to purchasing recyclable materials for various circumstances.

Governmental entities facing an unreasonable burden to implement a recycling program and preference for purchasing materials made of recyclable materials should document the hardship. An entity that needs to exempt the program as a whole they should [contact us](#).

Are entities required to submit a hardship exemption to TCEQ?

No. If an entity claims a hardship for one or more recyclable materials and/or a purchasing preference for recyclable materials, the entity must document and describe the hardship and maintain the documentation on-site at each facility.

Are entities required to document a hardship?

Yes. If an entity identifies one or multiple hardships, they must create a document describing the hardship and what recyclable materials are affected by the hardship(s).

We recommend that entities review their recycling program annually to evaluate if exempted recyclable materials can be incorporated back into the recycling program.

Does the TCEQ need to review my entity's hardship exemption document?

Not unless it is requested, which may occur during a TCEQ compliance and/or complaint investigation at your entity.

Do the rules allow for partial exemptions?

Yes. Entities may exempt one or more recyclable materials from their program if the inclusion of a recyclable material would create a hardship.

Do the rules allow full exemptions?

Yes. If a hardship(s) causes your entity to exempt ALL recyclable materials from a program, please [contact us](#) for additional guidance.

How long does an exemption last?

There is no time limit for an exemption. However, we recommend that entities review their recycling program each year to evaluate if an exempted recyclable material(s) should be incorporated into an entity's recycling program.

When would the TCEQ request an entity's hardship exemption document?

The TCEQ may make a determination on a hardship exemption upon conducting a complaint investigation or compliance investigation.

What products do we need to give purchasing preference to?

Entities must give preference to products made with recycled materials when the cost difference is less than 10%. Therefore, entities should review all purchasing procedures and, where feasible, strive to primarily purchase products that contain recycled content.

Do we need to provide a recycling collections program to citizens?

The TCEQ encourages recycling wherever feasible. However, this rule does not require entities to provide recycling services to the public. The rule requires governmental entities to create and maintain a recycling program for their operations, as well as to create a preference in purchasing for products made of recycled materials.

Would we be subject to inspection or enforcement actions?

The goal of the TCEQ is to promote continued recycling efforts by governmental entities where feasible. Our External Relations Division is available to help governmental entities to achieve and maintain compliance with the rules. However, as with any regulation, noncompliance could result in compliance actions.

Please note that documentation of excluded recyclable materials and/or hardship exemptions must be kept on-site for inspection purposes.

Do all facilities within our municipality need to have a recycling program?

Yes, all facilities operating as a governmental entity, as defined in TAC §328.200, are subject to the rules.

When does our entity need to implement our recycling program?

The provisions of the TAC §328.200 became effective on July 2, 2020. Therefore, governmental entities are now required to create and maintain a recycling program for their operations and to create a preference in purchasing for products made of recycled materials when the cost difference is less than 10%.