

The commission proposes the repeal of §§121.1, 121.3, 121.11, 121.13, 121.15, and 121.21, concerning Control of Air Pollution from Municipal Solid Waste Facilities. This proposal results from recommendations of the agency's Regulatory Reform Committee, which on an ongoing basis identifies commission rules and regulations which need clarification, impose regulatory requirements in excess of their contribution to the commission's mission, or are duplicative, outdated, or inconsistent.

Chapter 121 was adopted in 1986 in response to amendments to the Solid Waste Disposal Act (SWDA), enacted by House Bill (HB) 2358 of the 69th Legislature in 1985. The HB 2358 amendments, referred to as "one-stop permitting," simplified permitting procedures for municipal solid waste (MSW) facilities by specifying that a permit from the former Texas Air Control Board (TACB) was not required for facilities subject to Texas Department of Health (TDH) permit requirements. In addition, the amendments required the TACB to perform air quality reviews of permit applications submitted to the TDH, but this requirement applied only to MSW facilities that incinerated waste. The intent of one-stop permitting was to consolidate the permitting process and eliminate duplicative requirements and procedures of the individual agencies responsible for permit review.

Senate Bill (SB) 2, enacted by the 72nd Legislature and effective September 1, 1993, created the Texas Natural Resource Conservation Commission (TNRCC) by merging the TACB, TDH MSW Division, and other regulatory entities. As a result, the agency's MSW Division took over the TDH's responsibility for handling MSW facility permits relating to solid waste issues, while the agency's New Source Review Division reviewed and issued permits relating to air quality issues. SB 2 also repealed

the one-stop permitting sections contained in the SWDA, thus making the provisions of Chapter 121 obsolete.

In order to facilitate the issuance of air quality permits for MSW facilities, the commission adopted amendments to Chapter 116, concerning Control of Air Pollution by Permits for New Construction or Modification, on March 29, 1996. The amendments created new §116.621, regarding Municipal Solid Waste Landfills, which specifies criteria for new or modified MSW facilities and MSW landfills to obtain a standard permit. Standard permits offer a simplified, streamlined alternative to the general new source review process by establishing standardized conditions for specific industries or types of facilities. The proposed repeal of Chapter 121 is not directly related to the recent adoption of the standard permit rule for MSW facilities. However, the standard permit provisions help assure expedited permit review and issuance for MSW facilities in the absence of a one-stop permitting process.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the repeals are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Minick also has determined that for each year of the first five years the repeals are in effect, the public benefit anticipated as a result of implementing the repeals will be the elimination of rules that no longer apply. There will be no effect on small businesses. There is no anticipated economic cost to persons who are affected by the repeals as proposed.

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code, §2007.043. The commission has determined that promulgation of the repeals will not affect private real property because the change is only to eliminate obsolete procedures for permitting MSW facilities.

A public hearing on this proposal will be held September 26, 1996, at 10:00 a.m. in Building F, Room 2210 at the TNRCC complex, located at 12100 North IH-35, Park Technology Center, Austin.

Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96144-121-AI. Comments must be received by 5:00 p.m., October 3, 1996. For further information, please contact Mike Magee, Air Policy and Regulations Division, (512) 239-1511.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

The repeals are proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA.

The proposed repeals implement Health and Safety Code, §382.017.

**CHAPTER 121: CONTROL OF AIR POLLUTION FROM
MUNICIPAL SOLID WASTE FACILITIES**

§121.1. Definitions.

§121.3. Applicability.

§121.11. Permit Conditions.

§121.13. Representations in Applications for Permits.

**§121.15. Responsibility for Review of Air Quality Impacts from Municipal Solid Waste Facility
Units Which Burn or Incinerate Solid Waste.**

**§121.21. Air Emissions Requirements for Municipal Solid Waste Facility Units That Burn or
Incinerate Solid Waste.**

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, 1996.