

HEALTH AND SAFETY CODE CHAPTER 371. USED OIL COLLECTION,
MANAGEMENT, AND RECYCLING

HEALTH AND SAFETY CODE

TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY

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

CHAPTER 371. USED OIL COLLECTION, MANAGEMENT, AND RECYCLING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 371.001. SHORT TITLE. This chapter may be cited as the Texas Used Oil Collection, Management, and Recycling Act.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 887, Sec. 1, eff. Sept. 1, 1995.

Sec. 371.002. FINDINGS. The legislature finds that:

(1) when properly managed and recycled, used oil is a valuable energy resource;

(2) used oil can be recycled into a number of different products;

(3) improper disposal of used oil is a significant environmental problem and a waste of a potentially valuable energy resource;

(4) there is a need for an expanded statewide network of used oil collection sites for private citizens who change their own motor oil;

(5) the private sector, with incentives, is best equipped to establish and operate used oil collection centers that are convenient for the public;

(6) the need for publicly operated used oil collection centers is greatest in more sparsely populated areas of the state and should diminish over time;

(7) the United States Environmental Protection Agency has issued final regulations that properly classify and regulate used oil and used oil filters in accordance with the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.);

(8) the current used oil and used oil filter program in

this state imposes more stringent management requirements than the regulations of the United States Environmental Protection Agency;

(9) limited public money is needed to finance public and private infrastructure investments to collect, manage, and recycle used motor oil;

(10) the used oil management standards under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.) establish a balanced approach to the objectives of preserving a valuable resource and protecting the natural environment; and

(11) recycling, reuse, treatment, or proper disposal of used oil produces a more advantageous cost-benefit ratio in accomplishing the goals of state law, and these considerations should be included in the source reduction and waste minimization plans adopted under Section 361.505 to the extent applicable.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. Sept. 1, 1991.
Amended by Acts 1995, 74th Leg., ch. 887, Sec. 1, eff. Sept. 1, 1995.

Sec. 371.0025. PURPOSE AND SCOPE. (a) The purposes of this chapter are to:

(1) ensure that this state's used oil program is consistent with and not more stringent than the federal program for the management of used oil under 40 C.F.R. Part 279 unless otherwise required by state or federal law; and

(2) establish a program to promote public and private do-it-yourselfer used oil collection centers and used oil collection centers.

(b) This chapter does not apply to used oil:

(1) generated in connection with activities regulated by the Railroad Commission of Texas under Chapter 91 or 141, Natural Resources Code, or Chapter 27, Water Code;

(2) exempted under 40 C.F.R. Section 279.10(g) because the oil has been introduced into a crude oil pipeline or is being processed at a petroleum refining facility; or

(3) generated through other activities exempted under 40 C.F.R. Part 271 or 279.

(c) This chapter does not apply to a used oil filter generated in connection with activities regulated by the Railroad Commission of Texas under Chapter 91 or 141, Natural Resources Code, or Chapter 27, Water Code.

Added by Acts 1995, 74th Leg., ch. 887, Sec. 2, eff. Sept. 1, 1995.

Sec. 371.003. DEFINITIONS. In this chapter:

(1) "Aboveground tank" means a tank used to store or process oil that is not an underground storage tank as defined by 40 C.F.R. Section 280.12.

(2) "Automotive oil" means any lubricating oils intended for use in an internal combustion engine, crankcase, transmission, gear box, or differential for an automobile, bus, or truck. The term includes oil that is not labeled specifically for that use but is suitable for that use according to generally accepted industry specifications.

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

(4) "Container" means a portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

(5) "Do-it-yourselfer used oil collection center" means a site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers. A registered do-it-yourselfer used oil collection center that is also a used oil generator may commingle household do-it-yourselfer used oil with the used oil it generates.

(6) "Existing tank" means a tank that is used for the storage or processing of used oil and that as of September 1, 1995, is in operation or is being installed. A tank is being installed if the owner or operator has obtained all necessary federal, state, and local approvals or permits and:

(A) a continuous on-site installation program has begun; or

(B) the owner or operator has entered into contractual obligations for installation of the tank that cannot be cancelled or modified without substantial loss.

(7) "Household do-it-yourselfer used oil" means oil that is derived from a household, including used oil generated by an individual through the maintenance of the individual's personal vehicle or equipment.

(8) "Household do-it-yourselfer used oil generator" means an individual who generates household do-it-yourselfer used oil.

(9) "New tank" means a tank for the storage or processing of used oil the installation of which begins on or after September 1, 1995.

(10) "Petroleum refining facility" means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes.

(11) "Processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used-oil-derived products, including blending used oil with virgin petroleum products, blending used oils to meet fuel specifications, filtration, simple distillation, chemical or physical separation, and rerefining.

(12) "Reclaiming" means processing material to recover a usable product or regenerating material, including recovering lead from a spent battery and regenerating spent solvents.

(13) "Recycling" means:

(A) preparing used oil for reuse as a petroleum product by rerefining, reclaiming, or other means;

(B) using used oil as a lubricant or petroleum product instead of using a petroleum product made from new oil; or

(C) burning used oil for energy recovery.

(14) "Rerefining" means applying processes to material composed primarily of used oil to produce high-quality base stocks for lubricants or other petroleum products, including settling, filtering, catalytic conversion, fractional/vacuum distillation, hydrotreating, or polishing.

(15) "Rerefining distillation bottoms" means the heavy fraction of filtered and dehydrated used oil produced by vacuum distillation. The composition of still bottoms varies with column operation and feedstock.

(16) "Tank" means a stationary device designed to contain an accumulation of used oil that is constructed primarily of nonearthen materials that provide structural support, including wood, concrete, steel, and plastic.

(17) "Used oil" means oil that has been refined from crude oil, or synthetic oil, that as a result of use has been contaminated by physical or chemical impurities.

(18) "Used oil aggregation point" means a site or facility that accepts, aggregates, or stores used oil collected from:

(A) used oil generation sites owned or operated by the owner or operator of the used oil aggregation point and transported to the used oil aggregation point in shipments of not more than 55 gallons; or

(B) household do-it-yourselfers.

(19) "Used oil burner" means a facility in which used oil not meeting the specifications in 40 C.F.R. Section 279.11 is burned for energy recovery in a device listed in 40 C.F.R. Section 279.61(a).

(20) "Used oil collection center" means a site or facility that is registered by the commission to manage used oil and accepts, aggregates, or stores used oil collected from:

(A) used oil generators regulated under 40 C.F.R. Part 279, Subpart C, who transport used oil to the used oil collection center in shipments of not more than 55 gallons under 40 C.F.R. Section 279.24; or

(B) household do-it-yourselfers.

(21) "Used oil fuel marketer" means a person who:

(A) directs a shipment of used oil not meeting the specifications in 40 C.F.R. Section 279.11 from the person's facility to a used oil burner; or

(B) first claims that used oil to be burned for energy recovery meets the used oil specifications in 40 C.F.R.

Section 279.11.

(22) "Used oil generator" means a person, by site, whose act or process:

(A) produces used oil; or

(B) first causes used oil to become subject to regulation.

(23) "Used oil processor or rerefiner" means a facility that processes used oil.

(24) "Used oil transfer facility" means a transportation-related facility, including a loading dock, parking area, storage area, or other area, where shipments of used oil are held for more than 24 hours and not more than 35 days during the normal course of transportation. A transfer facility that stores used oil for more than 35 days is subject to 40 C.F.R. Part 279, Subpart F.

(25) "Used oil transporter" means a person who:

(A) transports used oil; or

(B) owns or operates a used oil transfer facility.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. Sept. 1, 1991.

Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.045, eff.

Aug. 12, 1991; Acts 1993, 73rd Leg., ch. 899, Sec. 4.05, eff. Oct.

1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 11.122, eff. Sept. 1,

1995; Acts 1995, 74th Leg., ch. 887, Sec. 3, eff. Sept. 1, 1995.

SUBCHAPTER B. USED OIL RECYCLING PROGRAM

Sec. 371.021. PUBLIC EDUCATION. The commission shall conduct an education program to inform the public of the need for and benefits of the collection and recycling of used oil and used oil filters. The program shall:

(1) establish, maintain, and publicize a used oil information center that prepares and disperses materials and information explaining laws and rules regulating used oil and informing the public of places and methods for proper recycling of used oil;

(2) encourage the voluntary establishment of used oil collection and recycling programs by private businesses and

organizations and by local governments and provide technical assistance to persons who organize those programs; and

(3) encourage local governments to procure recycled automotive and industrial oils and oils blended with recycled oils, if those oils meet equipment manufacturer's specifications.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.123, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, Sec. 4, eff. Sept. 1, 1995.

Sec. 371.022. NOTICE BY RETAIL DEALER. A retail dealer who annually sells directly to the public more than 500 gallons of oil in containers for use off-premises shall post in a prominent place a sign provided by the commission:

(1) informing the public that improper disposal of used oil is prohibited by law;

(2) containing instructions for disposal of used oil filters; and

(3) prominently displaying the toll-free telephone number of the state used oil information center established under Section 371.021.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.123, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, Sec. 4, eff. Sept. 1, 1995.

Sec. 371.023. GRANTS TO LOCAL GOVERNMENTS AND PRIVATE ENTITIES. (a) The commission shall develop a grant program for local governments and private entities that encourages the collection, reuse, and recycling of household do-it-yourselfer used oil.

(b) The commission may approve a grant for any project that uses one or more of the following programs:

(1) curbside pickup of containers of household do-it-yourselfer used oil by a local government or its representative;

(2) retrofitting of municipal solid waste equipment to facilitate curbside pickup of household do-it-yourselfer used oil;

(3) establishment of do-it-yourselfer used oil

collection centers and used oil collection centers at locations accessible to the public, including landfills, fire stations, retail stores, quick lubrication centers, and automobile repair shops;

(4) provision of containers and other materials and supplies that can be used to store household do-it-yourselfer used oil for pickup or delivery to a do-it-yourselfer used oil collection center in an environmentally sound manner; and

(5) any other activity the advisory committee established under Subsection (c) determines will encourage the proper recycling of household do-it-yourselfer used oil.

(c) The commission shall appoint an advisory committee for the used oil grant program. The advisory committee consists of seven members who serve at the pleasure of the commission and represent oil manufacturers as defined by Section 371.062, operators of used oil collection centers, and local governments. The advisory committee members serve without compensation and are not entitled to reimbursement for expenses incurred in the performance of their duties. The advisory committee shall:

(1) recommend criteria for grants;

(2) establish guidelines for allowable administrative expenses; and

(3) recommend grant recipients to the commission based on the used oil collection needs of this state.

(d) The commission by rule shall:

(1) establish procedures for the application for and criteria for the award of grants under this section; and

(2) adopt guidelines for allowable administrative expenses in accordance with guidelines established by the advisory committee.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.123, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, Sec. 4, eff. Sept. 1, 1995.

Sec. 371.024. COLLECTION FACILITIES. (a) All appropriate businesses and government agencies are encouraged to serve as do-it-yourselfer used oil collection centers or used oil collection

centers.

(b) A do-it-yourselfer used oil collection center and a used oil collection center shall:

(1) register biennially with the commission; and

(2) report annually to the commission the amounts of used oil collected by the center from the public.

(c) The commission shall adopt rules governing the registration of and reporting by do-it-yourselfer used oil collection centers and used oil collection centers.

(d) The commission by rule shall adopt standards for managing and operating a do-it-yourselfer used oil collection center or a used oil collection center.

(e) The commission may impose a registration fee in an amount sufficient to cover the actual cost of registering do-it-yourselfer used oil collection centers and used oil collection centers. A private entity that serves voluntarily as a do-it-yourselfer used oil collection center or a used oil collection center is exempt from the registration fee.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.124, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, Sec. 4, eff. Sept. 1, 1995.

Sec. 371.0245. REIMBURSEMENT OF USED OIL COLLECTION CENTER'S HAZARDOUS WASTE EXPENSE. (a) The commission, on proper application, shall reimburse the owner or operator of an eligible registered do-it-yourselfer used oil collection center or a used oil collection center for costs associated with the collection center's disposal of:

(1) household do-it-yourselfer used oil collected by the collection center that, unknown to the center at the time of collection, contains hazardous wastes or is unfit for recycling;

(2) household do-it-yourselfer used oil collected by the collection center that has been commingled with oils described in Subdivision (1) and is unsuitable for recycling; or

(3) contaminated used oil left at the collection center as used oil after posted business hours and without the knowledge of the collection center.

(b) A registered do-it-yourselfer used oil collection center or used oil collection center is eligible for reimbursement if it demonstrates to the satisfaction of the commission that:

(1) the center has established procedures to minimize the risk that the center will mix the used oil the center generates or collects from the public with hazardous wastes, especially halogenated wastes;

(2) the center accepts not more than:

(A) five gallons of used oil from any person at any one time if the center is a registered do-it-yourselfer used oil collection center; or

(B) 55 gallons of used oil from any person at one time if the center is a registered used oil collection center; and

(3) the center can document to the satisfaction of the commission the volume of used oil the center collects from the public during any period under review by:

(A) providing a process by which all individuals leaving household do-it-yourselfer used oil at the center are required to provide their names, addresses, and the approximate amounts of used oil brought to the collection center; or

(B) another method approved by the commission.

(c) For the purpose of Subsection (b)(2), the owner or operator of a registered do-it-yourselfer used oil collection center or used oil collection center may presume that a quantity of used oil collected from a member of the public that does not exceed the applicable collection limit established by that subsection is not mixed with a hazardous substance if the owner or operator acts in good faith in the belief the oil is generated from the individual's personal activity.

(d) In any state fiscal year, a registered do-it-yourselfer used oil collection center or used oil collection center may not be reimbursed for more than \$7,500 in total eligible disposal costs, subject to Section 371.0246(d).

(e) Reimbursements made under this section shall be paid out of the used oil recycling account and may not exceed an aggregate amount of \$500,000 each fiscal year.

Added by Acts 1993, 73rd Leg., ch. 899, Sec. 4.07, eff. Sept. 1,

1993. Amended by Acts 1995, 74th Leg., ch. 887, Sec. 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 333, Sec. 65, eff. Sept. 1, 1997.

Sec. 371.0246. PROCEDURES FOR REIMBURSEMENT. (a) An owner or operator of a registered do-it-yourselfer used oil collection center or used oil collection center may apply for reimbursement from the commission.

(b) An application for reimbursement shall be submitted on a form approved or provided by the commission.

(c) An application must contain:

(1) the name, address, and telephone number of the applicant;

(2) the name, mailing address, location address, and commission registration number of the registered do-it-yourselfer used oil collection center or used oil collection center from which the contaminated oil was removed;

(3) the name, address, telephone number, and commission registration number of the hazardous waste transporter used to dispose of the contaminated used oil;

(4) a copy of any shipping documents that accompanied the transportation of the shipment of used oil;

(5) a copy of each invoice for which reimbursement is requested and evidence that the amount shown on the invoice has been paid in full in the form of:

(A) canceled checks;

(B) business receipts from the person who performed the work; or

(C) other documentation approved by the commission;

(6) a waste-characterization or similar documentation required before acceptance of a hazardous waste by the disposal facility that accepted the contaminated used oil for treatment or disposal; and

(7) any other information that the executive director may reasonably require.

(d) All claims for reimbursement filed under this section and Section 371.0245 are subject to funds available for

disbursement in the used oil recycling account and to Section 371.0245(e). This subchapter does not create an entitlement to money in the used oil recycling account or any other fund.

Added by Acts 1993, 73rd Leg., ch. 899, Sec. 4.07, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 887, Sec. 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 333, Sec. 66, eff. Sept. 1, 1997.

Sec. 371.025. LIMITATION OF LIABILITY. (a) A person may not recover from the owner, operator, or lessor of a registered do-it-yourselfer used oil collection center or used oil collection center any damages or costs of response actions at another location resulting from a release or threatened release of used oil collected at the center if:

(1) the owner, operator, or lessor of the collection center does not mix the used oil collected with any hazardous waste or polychlorinated biphenyls (PCBs);

(2) the owner, operator, or lessor of the collection center does not accept used oil that the owner, operator, or lessor knows contains hazardous waste or PCBs; and

(3) the collection center is in compliance with management standards adopted by the commission.

(b) For purposes of this section, the owner, operator, or lessor of a do-it-yourselfer used oil collection center or a used oil collection center may presume that a quantity of less than five gallons of used oil accepted at any one time from any member of the public is not mixed with a hazardous waste or PCBs, provided that the owner, operator, or lessor acts in good faith.

(c) This section applies only to activities directly related to the collection of used oil by a do-it-yourselfer used oil collection center or a used oil collection center. This section does not apply to grossly negligent activities related to the operation of a do-it-yourselfer used oil collection center or a used oil collection center.

(d) This section does not affect or modify the obligations or liability of any person other than the owner, operator, or lessor of the collection center under any other provisions of state or federal law, including common law, for injury or damage resulting

from a release of used oil or hazardous substances.

(e) This section does not affect or modify the obligations or liability of any owner, operator, or lessor of a collection center with regard to services other than accepting used oil from the public.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.125, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, Sec. 4, eff. Sept. 1, 1995.

Sec. 371.026. REGISTRATION AND REPORTING REQUIREMENTS OF USED OIL HANDLERS OTHER THAN GENERATORS. (a) The commission shall adopt rules governing registration and reporting of used oil handlers other than generators. The rules shall require that:

(1) a used oil handler other than a generator:

(A) register with the commission;

(B) provide evidence of familiarity with applicable state laws and rules and management procedures applicable to used oil handling; and

(C) provide proof of liability insurance or other evidence of financial responsibility for any liability that may be incurred in handling used oil, except that this provision does not apply to a used oil handler which is owned or otherwise effectively controlled by the owners or operators where the used oil is generated; and

(2) a used oil processor or rerefiner must report to the commission, in the form of a letter on a biennial basis by December 1 of each odd-numbered year, the calendar year covered by the report and the quantities of used oil accepted for processing or rerefining and the manner in which the used oil is processed or rerefined, including the specific processes employed.

(b) The commission by rule shall adopt reasonable management and safety standards for the handling of used oil.

(c) The commission may impose a registration fee in an amount sufficient to cover the actual cost of registering used oil handlers other than generators.

(d) A used oil transporter may consolidate or aggregate loads of used oil for purposes of transportation but may not process

used oil, except that a used oil transporter may conduct incidental processing operations, including settling and water separation, that occur in the normal course of the transportation of used oil but that are not designed to produce, or make more amenable for the production of, used-oil-derived products or used oil fuel.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.126, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, Sec. 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 389, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.027. GIFTS AND GRANTS. The commission may apply for, request, solicit, contract for, receive, and accept gifts, grants, donations, and other assistance from any source to carry out its powers and duties under this chapter.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.127, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, Sec. 4, eff. Sept. 1, 1995.

Sec. 371.028. RULES. Not later than January 1, 1996, the commission shall adopt rules, standards, and procedures necessary to implement the used oil recycling program established by this chapter. Unless otherwise required by federal or state law, the rules, standards, and procedures must be consistent with and not more stringent than the used oil management standards under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.).

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.127, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, Sec. 4, eff. Sept. 1, 1995.

SUBCHAPTER C. CERTAIN ACTIONS PROHIBITED; PENALTIES

Sec. 371.041. ACTIONS PROHIBITED. A person may not collect, transport, store, recycle, use, discharge, or dispose of used oil in any manner that endangers the public health or welfare or endangers or damages the environment.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. April 1, 1992.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.128, eff. Sept. 1,

1995; Acts 1995, 74th Leg., ch. 887, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1072, Sec. 40, eff. Sept. 1, 1997.

SUBCHAPTER D. USED OIL RECYCLING ACCOUNT; FEES

Sec. 371.061. USED OIL RECYCLING ACCOUNT. (a) The used oil recycling account is in the state treasury.

(b) The account consists of:

(1) fees collected under Sections 371.024, 371.026, and 371.062;

(2) interest and penalties imposed under this chapter for late payment of fees, failure to file a report, or other violations of this chapter; and

(3) gifts, grants, donations, or other financial assistance the commission is authorized to receive under Section 371.027.

(c) The commission may use money in the account only for purposes authorized by this chapter, including:

(1) public education;

(2) grants to public and private do-it-yourselfer used oil collection centers and used oil collection centers;

(3) registration of do-it-yourselfer used oil collection centers, used oil collection centers, and used oil handlers other than generators; and

(4) administrative costs of implementing this chapter.

(d) The account is exempt from the application of Section 403.095, Government Code.

(e) For the purpose of consolidating appropriations, the commission may transfer any amount authorized under Subsection (c)(4) or by legislative appropriation to the waste management account subject to the limitations and requirements of this chapter.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 899, Sec. 4.06, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 11.131, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, Sec. 8, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 333, Sec. 68, eff. Sept. 1, 1997.

Sec. 371.062. FEE ON SALE OF AUTOMOTIVE OIL. (a) In this section:

(1) "Distributor" means a person who maintains a distribution center or warehouse in this state and annually sells more than 25,000 gallons of automotive oil.

(2) "First sale" means the first actual sale of automotive oil delivered to a location in this state and sold to a purchaser who is not an automotive oil manufacturer or distributor. The term does not include the sale of automotive oil:

(A) exported from this state to a location outside this state for the purpose of sale or use outside this state;

(B) for resale to or use by vessels exclusively engaged in foreign or interstate commerce;

(C) to a subsequent purchaser who maintains a do-it-yourselfer used oil collection center or used oil collection center registered by the commission at the location where the automotive oil is changed, used, consumed, or resold to do-it-yourselfers; or

(D) to the United States.

(3) "Importer" means any person who imports or causes to be imported automotive oil into this state for sale, use, or consumption.

(4) "Oil manufacturer" means any person or entity that formulates automotive oil and packages, distributes, or sells that automotive oil. The term includes any person packaging or repackaging automotive oil.

(b) An oil manufacturer or distributor who makes a first sale of automotive oil is liable for a fee.

(c) An oil importer who imports or causes to be imported automotive oil is liable for the fee at the time the oil is received.

(d) An oil distributor or retailer who exports from this state to a location outside this state oil on which the automotive oil fee has been paid may request from his supplier a refund or credit of the fee paid on the exported oil. The supplier or oil

manufacturer and the importer may in turn request a refund of the fee paid to the comptroller. The amount of refund that may be claimed under this section may equal but not exceed the amount of the fee paid on the automotive oil.

(e) An oil manufacturer, importer, distributor, or retailer who makes a sale to a vessel or a sale for resale to a vessel of automotive oil on which the automotive oil fee has been paid may file with the comptroller a request for refund of the fee paid on the oil or, where applicable, may request a refund or credit from the supplier to whom the fee was paid. The supplier may in turn request a refund from the comptroller. The amount of refund that may be claimed under this section may equal but not exceed the amount of the fee paid on the automotive oil.

(f) Each oil manufacturer, distributor, or importer required to pay a fee under this section shall:

(1) prepare and maintain, on a form provided or approved by the comptroller, a report of each first sale or, in the case of an importer, the first receipt in Texas of automotive oil by the person and the price received;

(2) retain the invoice or a copy of the invoice or other appropriate record of the sale or receipt for four years from the date of sale or receipt; and

(3) on or before the 25th day of the month following the end of each calendar quarter, file a report with the comptroller and remit to the comptroller the amount of fees required to be paid for the preceding quarter.

(g) Records required to be maintained under Subsection (f) shall be available for inspection by the comptroller at all reasonable times.

(h) The comptroller shall adopt rules necessary for the administration, collection, reporting, and payment of the fees payable or collected under this section.

(i) Except as provided by this section, Chapters 101 and 111 through 113, Tax Code, apply to the administration, payment, collection, and enforcement of fees under this section in the same manner that those chapters apply to the administration, payment, collection, and enforcement of taxes under Title 2, Tax Code.

(j) The fee imposed under this section is one cent per quart or four cents per gallon of automotive oil.

(k) A person required to pay a fee under this section may retain one percent of the amount of the fees due from each quarterly payment as reimbursement for administrative costs.

(l) The comptroller may deduct a percentage of the fees collected under this section in an amount sufficient to pay the reasonable and necessary costs of administering and enforcing this section. The comptroller shall credit the amount deducted to the general revenue fund. The balance of fees and all penalties and interest collected under this section shall be deposited to the credit of the used oil recycling account.

(m) A distributor must obtain a permit from the comptroller. The comptroller shall adopt an application form for the permit, which must include:

(1) the name under which the applicant transacts or intends to transact business;

(2) the location of the applicant's distribution center or warehouse in this state;

(3) if the applicant is a corporation or partnership, the names of the principal officers of the corporation or of the members of the partnership and the address of each officer or member; and

(4) any other information required by the comptroller.

(n) The comptroller may deny or revoke a permit under Subsection (m) if false information is submitted on the application or on a required fuels tax report or supplement.

(o) A permit under Subsection (m) may not be assigned.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 8, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 899, Sec. 4.09, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 11.132, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, Sec. 9; Acts 1997, 75th Leg., ch. 333, Sec. 69, eff. Sept. 1, 1997.

SUBCHAPTER E. FILTER STORAGE, TRANSPORTATION, OR PROCESSING

Sec. 371.101. DEFINITIONS. In this subchapter:

(1) "Bill of lading" means a shipping document that

confirms the receipt of a shipment.

(2) "Bulk filter container" means a portable device that:

(A) is part of an integrated delivery and retrieval system; and

(B) has a capacity greater than 330 gallons.

(3) "Component parts" means the severable parts of an oil filter and includes oil present in an oil filter.

(4) "Do-it-yourselfer" means an individual who removes a used oil filter in the process of an oil change or automotive repair from the engine of a light duty motor vehicle, small utility engine, noncommercial motor vehicle, or farm equipment owned or operated by the individual.

(5) "Generator" means a person whose activities produce used oil filters. The term does not include a do-it-yourselfer.

(6) "Process" means to prepare a used oil filter for recycling, steel recovery, energy recovery, or proper disposal.

(7) "Processor" means a person that processes used oil filters generated by another person. The term does not include a generator that consolidates, drains, or crushes used oil filters for off-site recycling or disposal.

(8) "Store" means to hold in a location for any period.

(9) "Storage facility" means a location that stores used oil filters before transportation, processing, recycling, or disposal of the filters. The term does not include the location of a generator.

(10) "Transporter" means a person that transports used oil filters to a location for storage, processing, recycling, or disposal.

(11) "Used oil filter" means any device that is an integral part of an oil flow system, the primary purpose of which is to remove contaminants from flowing oil contained in the system, and that, as a result of use, has become contaminated and unsuitable for its original purpose, is removed from service, and contains entrapped used oil. The term does not include a filter attached to the equipment containing the oil flow system. This term continues

to apply regardless of prior processing until but not after the filter has been burned for steel recovery or energy recovery or it is separated into its component parts.

Added by Acts 1999, 76th Leg., ch. 366, Sec. 1, eff. Sept. 1, 1999.

Sec. 371.102. APPLICABILITY. (a) This subchapter applies to a used oil filter only if the filter has not been:

- (1) separated into its component parts; or
- (2) burned for:
 - (A) steel recovery; or
 - (B) energy recovery.

(b) This subchapter does not apply to:

- (1) an industrial generator that is:
 - (A) registered with the commission as an industrial or hazardous waste facility; or
 - (B) under the waste management authority of a state agency other than the commission; or
- (2) a do-it-yourselfer.

Added by Acts 1999, 76th Leg., ch. 366, Sec. 1, eff. Sept. 1, 1999.

Sec. 371.103. GENERAL REQUIREMENTS. (a) A person may not store, process, or dispose of a used oil filter in a manner that results in the discharge of oil into soil or water.

(b) A person may not knowingly place on land a used oil filter that contains oil unless the used oil filter is in a container.

(c) A bulk filter container used to store used oil filters:

- (1) must not leak; and
- (2) must be securely closed, waterproof, and in good condition.

(d) A used oil filter may not be intentionally or knowingly placed in or accepted for disposal in a landfill permitted by the commission.

Added by Acts 1999, 76th Leg., ch. 366, Sec. 1, eff. Sept. 1, 1999.

Sec. 371.104. REGISTRATION AND REPORTING. (a) A transporter, storage facility, or processor may not store, process,

recycle, or dispose of used oil filters unless the person is registered with the commission.

(b) Unless the person is registered with the commission as a storage facility, a person may not store used oil filters:

(1) that in the aggregate have a volume greater than six 55-gallon drums; or

(2) in more than one bulk filter container.

(c) A registered transporter, storage facility, or processor shall:

(1) renew the registration biennially; and

(2) report to the commission biennially the number of used oil filters the person transported, stored, or processed in the two years preceding the date of the report.

Added by Acts 1999, 76th Leg., ch. 366, Sec. 1, eff. Jan. 1, 2000.

Sec. 371.105. SHIPMENT RECORDS. (a) Each shipment of used oil filters must be accompanied by a bill of lading that conforms to commission rules.

(b) In accordance with commission rules, a copy of the bill of lading for each shipment of used oil filters must be maintained by the generator of the filters, transporter of the filters, storage facility at which the filters were stored, and processor of the filters for at least three years after the date the filters were transported, stored, or processed.

(c) The copies of the bills of lading must be made available for the commission to inspect at any reasonable time.

Added by Acts 1999, 76th Leg., ch. 366, Sec. 1, eff. Jan. 1, 2000.

Sec. 371.106. LIMITATIONS ON STORAGE. (a) A storage facility may not store a used oil filter for more than 120 days.

(b) A transporter may not store a used oil filter for more than 10 days.

(c) A processor may not store a used oil filter for more than 30 days before it is processed.

(d) A processor that stores used oil filters in a container shall label each container clearly with the phrase "Used Oil Filters."

Added by Acts 1999, 76th Leg., ch. 366, Sec. 1, eff. Jan. 1, 2000.

Sec. 371.107. VARIANCES. (a) The commission may grant an individual variance to allow:

(1) a generator to store used oil filters in a greater aggregate volume than the volume prescribed by Section 371.104(b);
or

(2) a person to store used oil filters for a period longer than the period prescribed for that person by Section 371.106.

(b) The commission may not grant a variance under this section for a period of longer than two years.

Added by Acts 1999, 76th Leg., ch. 366, Sec. 1, eff. Sept. 1, 1999.

Sec. 371.108. SPILL PREVENTION AND CONTROL. Each registered storage facility and each facility of a registered processor shall develop a plan to prevent spills and respond to spills in accordance with the federal spill prevention, control, and countermeasure requirements provided by Title 40, Code of Federal Regulations, Part 112, as amended.

Added by Acts 1999, 76th Leg., ch. 366, Sec. 1, eff. Sept. 1, 1999.

Sec. 371.109. FINANCIAL RESPONSIBILITY. The commission shall adopt rules requiring a person required to register under Section 371.104 to demonstrate adequate financial responsibility.

Added by Acts 1999, 76th Leg., ch. 366, Sec. 1, eff. Sept. 1, 1999.

Sec. 371.110. CIVIL AND ADMINISTRATIVE PENALTIES.

(a) Notwithstanding Sections 7.052 and 7.102, Water Code, a person that violates this subchapter or a rule adopted under this subchapter is liable for a civil penalty of not less than \$100 or more than \$500 for each violation and for each day of a continuing violation.

(b) The commission or the attorney general at the request of the commission may bring a suit under Subchapter D, Chapter 7, Water Code, to recover the penalty.

(c) A local government with jurisdiction over the area in

which the violation occurred may bring suit to recover the penalty.

(d) The violation described by Subsection (a) also is subject to an administrative penalty. The commission may recover the administrative penalty in a proceeding conducted as provided by Subchapter C, Chapter 7, Water Code.

Added by Acts 1999, 76th Leg., ch. 366, Sec. 1, eff. Jan. 1, 2000.