

- SUBJECT:** Collection and management of used oil filters
- COMMITTEE:** Environmental Regulation — committee substitute recommended
- VOTE:** 7 ayes — Chisum, Allen, Culberson, Dukes, Kuempel, Palmer, Zbranek  
1 nay — Howard  
1 absent — Talton
- WITNESSES:** (*On original version:*)  
For — Brad Gahm, Pro Cycle Oil and Metals; Ken Ramirez, U.S. Filter; Jim Nickerson  
  
Against — Nancy Sauer, Pennzoil-Quaker State  
  
On — Leigh Ing, Texas Natural Resource Conservation Commission
- BACKGROUND:** Health and Safety Code, sec. 361.432 provides that a person may not knowingly or intentionally place a used oil filter in a landfill or accept such a filter for disposal in a landfill.  
  
Texas Natural Resource Conservation Commission (TNRCC) rules concerning used oil filters require certain measures to prevent leakage and to absorb oil in case of a spill. Rules also require the registration of oil-filter handlers, including transporters, storage sites, and processors. Collection centers, storage sites, transporters, and processors must register with TNRCC biennially and report annually.
- DIGEST:** CSHB 2619 would add provisions to the Health and Safety Code concerning the collection, storage, and processing of used oil filters. These provisions would apply to a used oil filter only if the filter had not been separated into component parts or burned for steel or energy recovery. They also would not apply to a “do-it-yourselfer,” whom the bill would define as an individual who removed a used oil filter in the process of an oil change or automotive repair from the engine of a vehicle owned by that individual.

The bill would define a number of terms related to oil filters and those who generate, process, and store them. The definition of “used oil filter” would continue to apply regardless of prior processing until, but not after, the filter had been burned for steel recovery or energy recovery or had been separated into its component parts. The bill would define “bulk filter container” as a portable device that was part of an integrated delivery and retrieval system and had a capacity greater than 330 gallons.

A person could not store, process, or dispose of a used oil filter in a manner that resulted in the discharge of oil into soil or water, nor could a person knowingly place a used oil filter containing oil on land unless it were in a container. A bulk filter container used to store used oil filters could not leak and would have to be securely closed, waterproof, and in good condition.

A transporter, storage facility, or processor could not store, process, recycle, or dispose of used oil filters without registering with TNRCC. The agency would have to adopt rules requiring those registering to demonstrate adequate financial responsibility. Only a registered storage facility could store used oil filters that had a volume greater than six 55-gallon drums or that were in more than one bulk filter container. Registered transporters, storage facilities, or processors would have to renew their registration and report to TNRCC biennially. The report would have to contain the number of used oil filters the person transported, stored, or processed in the two years preceding the date of the report.

Each shipment of used oil filters would have to be accompanied by a bill of lading that conformed to TNRCC rules. Generators, transporters, and those who stored and processed used oil filters would have to maintain a copy of the bill of lading for each shipment of used oil filters for at least three years. Copies of bills of lading would have to be available for TNRCC inspection at any time.

A storage facility could not store used oil filters for more than 120 days, a transporter could not store them for more than 10 days, and a processor could not store them for more than 30 days before they were processed. TNRCC could grant individual variances to allow generators and others to store used oil filters for longer periods of time, although not for more than two years.

Registered storage and processing facilities would have to develop plans to prevent and respond to spills. The plan would have to meet requirements equivalent to federal spill prevention, control, and countermeasure requirements of the Environmental Protection Agency (EPA) under the Code of Federal Regulations, Title 40, Part 112, as amended.

A person who violated the requirements of CSHB 2619 would be liable for a civil penalty of not less than \$100 or not more than \$500 for each violation and for each day of continuing violation. TNRCC or the attorney general could bring suit to recover the penalty, as could a local government with jurisdiction over the area in which the violation occurred.

The violation also would be subject to an administrative penalty under Water Code, chapter 7, subchapter C, which provides that a penalty for violating chapter 371 of the Health and Safety Code, governing used oil collection and management, may not exceed \$2,500 a day for each violation.

The provisions of CSHB 2619 would not apply to an industrial generator that was registered with TNRCC as an industrial or hazardous waste facility or that was under the waste management authority of a state agency other than the commission.

The bill would take effect September 1, 1999, except for the provisions concerning registration and reporting, shipment records, limitations on storage, and civil and administrative penalties, which would take effect January 1, 2000. Storage-time limitations would begin January 1, 2000, regardless of the date the storage of the oil filters began.

**SUPPORTERS  
SAY:**

CSHB 2619 would reinforce the statutory ban against putting used oil filters in landfills and would streamline the regulation of generators and processors of used oil filters. It would encourage a much broader range of recycling options for used oil filters while maintaining a regulatory structure that would ensure the protection of Texas' land and water resources.

This bill would not limit entry into the used oil filter recycling market. In fact, streamlining the regulatory framework would encourage steel mills, scrap metal dealers, and anyone else who wanted to get into the business of processing used oil filters.

The bill would codify minimum standards required to promote the safe handling of used oil filters but would eliminate onerous and unnecessary reporting requirements, reduce paperwork, and eliminate unnecessary containment and spill-reduction requirements. The bill also would exempt do-it-yourselfers who change their own oil from the requirements imposed on generators. Since the current landfill ban applies to all used oil filters, a do-it-yourselfer theoretically could be subject to a misdemeanor offense for throwing away a used oil filter. Since the state does not have enough collection sites, it would be unfair to penalize a car owner for this offense.

CSHB 2619 would help ensure that no oil would reach the environment by requiring storage and processing facilities to have a spill prevention, control, and countermeasure plan in place that would meet EPA standards. TNRCC would continue to register transporters, storage facilities, and processors, and those registered would have to report to TNRCC every two years. Generators, transporters, storage facilities, and processors would have to keep bills of lading documenting each transfer of used oil filters.

Although in 1995 Texas banned the placing of used oil filters in a landfill to encourage recycling of these filters, no statutory provisions exist to clarify what is expected of generators and processors. Instead, TNRCC promulgated rules before there was a used oil filter recycling market in place. As a result, some of the regulations are overly restrictive and do not reflect current industry standards or practices. This is hindering the growth of the used oil filter recycling market.

Some of TNRCC's current rules and reporting requirements actually discourage compliance rather than protect the public. Unlike used oil, which has a market, used oil filters are a liability and therefore should be subject to minimum management standards until they become a commodity. Only then will there be full compliance with the landfill ban.

The landfill ban should remain in place. Otherwise, oil can leak into underground water sources. A small amount of oil can contaminate millions of gallons of water in an underground aquifer. Many filters that supposedly are crushed and drained of oil actually contain much left-over oil. It is far safer ecologically to recycle these filters into their component parts, including used oil, to make sure they never reach a landfill. The definition of used oil

filters in CSHB 2619 would ensure that the landfill ban was still enforceable, even for filters that had been drained but still might be leaking.

OPPONENTS  
SAY:

CSHB 2619 would create a regulatory program that would limit rather than expand used oil filter recycling options in Texas. The bill primarily would benefit businesses that process used oil filters by separating them into their component parts, but it would discourage others from gaining a foothold in the used oil filter market. The bill also would include a definition of used oil filters and a statutory framework that would be more stringent than federal law. Most states have adopted EPA's flexible rules used for oil filters that allow various recycling options and disposal.

There is no reason for Texas to adopt regulations that are more stringent than federal requirements. In a June 1998 letter, the acting director of EPA's Office of Solid Waste stated that used oil filters that have been drained in a way that meets certain federal standards may be considered scrap metal and exempt from regulation as a hazardous waste when recycled. This raises questions as to whether Texas' ban on placing filters in a landfill could be enforced in certain cases.

The bill's definition of used oil filter would ensure that generators would not crush and drain the filters themselves and sell them to scrap metal dealers, thus circumventing the processors, since the regulations proposed in CSHB 2619 would make this difficult or impossible. This would benefit processors who shred or separate filters into their component parts.

Once an oil filter is drained and crushed properly, almost no oil remains, and the filter poses no danger to the environment. Drained and crushed filters could be sent directly to scrap metal yards or steel mills to be burned and the metal recovered. California, for example, has approved the burning of used oil filters for metal reclamation as an acceptable recycling option.

The definition of used oil filters in CSHB 2619 would stipulate that the term would apply regardless of prior processing *until but not after* the filter was burned for steel or energy recovery or was separated into its component parts. This would make oil filters subject to regulation until they either were burned or separated, but afterwards their components would not be subject to regulations.

A processor would benefit from the bill's provisions limiting storage time for filters, as this would encourage generators to deliver used filters quickly to processors to avoid running up against storage-time limits. However, as soon as the processor broke the filter down into component parts of metal, paper, and rubber, it no longer would be considered a used oil filter and would not be subject to regulation under CSHB 2619. The processor, therefore, could dispose of the remaining paper fluff from the filters in a landfill if the processor chose to do so.

OTHER  
OPPONENTS  
SAY:

Not only is it unnecessary to enact additional regulations governing filters, but Texas should adopt the EPA view that once filters are crushed and drained properly, they should be considered scrap metal. This could cause certain processors to suffer, but others, including transporters, generators, scrap metal dealers, and steel mills, could benefit from this action. The fact that filters contain valuable high-grade steel ensures that a market for them will arise. The fewer regulations Texas has regarding these filters, the more competitive the market will be. Generators would begin to see the filters as an asset rather than a liability and would be much more willing to collect the filters voluntarily from do-it-yourselfers.

The statutory ban on placing used oil filters in landfills should be moved from chapter 361 of the Health and Safety Code to the new subchapter E in chapter 371 that the bill would create. This would ensure that all regulations governing used oil filters were in the same place in the code and would clarify that do-it-yourselfers would not be guilty of a misdemeanor for disposing of a used oil filter.

NOTES:

The original bill differed substantially from the committee substitute. The original bill's definition of used oil filter, for example, was simply an oil filter that has been removed from service, and it did not include a filter attached to an engine block. The original bill contained no references to do-it-yourselfers and would not have allowed a person to place a used oil filter on land "unless the used oil filters were in a container."

The original version did not prohibit storage facilities from recycling, storing, processing, or disposing of used oil filters unless they were registered. Those required to report to TNRCC under the original bill also would have had to

report “any other information commission rules required” rather than reporting only the number of used oil filters handled.