

RIGHTS TO ENTER PROPERTY

A. Solid Waste Cases

TEXAS HEALTH & SAFETY CODE § 361.032. INSPECTIONS; RIGHT OF ENTRY.

- (a) The commission may inspect and approve solid waste facilities used or proposed to be used to store, process, or dispose of solid waste.
- (b) Agents or employees of the commission or local governments have the right to enter at any reasonable time public or private property in the governmental entity's jurisdiction, including a municipality's extraterritorial jurisdiction, to inspect and investigate conditions concerning solid waste management and control.
- (c) Agents or employees of the commission or commission contractors have the right to enter at any reasonable time public or private property to investigate or monitor the release or threatened release of a hazardous substance.
- (d) Agents or employees of the commission or commission contractors may not enter private property with management in residence without notifying the management, or the person in charge at the time, of their presence and presenting proper credentials.
- (e) Agents or employees of the commission or commission contractors acting under this section shall observe the establishment's rules on safety, internal security, and fire protection.

B. Water Cases

TEXAS WATER CODE § 26.173. POWER TO ENTER PROPERTY.

- (a) A local government has the same power as the commission has under Section 26.014 of this code to enter public and private property within its territorial jurisdiction to make inspections and investigations of conditions relating to water quality. The local government in exercising this power is subject to the same provisions and restrictions as the commission.
- (b) When requested by the executive director, the result of any inspection or investigation made by the local government shall be transmitted to the commission for its consideration.

TEXAS WATER CODE § 26.014. POWER TO ENTER PROPERTY.

The members of the commission and employees and agents of the commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state. Members, employees, or agents of the commission and commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the executive director may invoke the remedies authorized in Section 26.123 of this code.

TEXAS WATER CODE § 26.123. POWER TO ENTER PROPERTY

No longer law.

C. Air Cases

TEXAS HEALTH & SAFETY CODE § 382.111. INSPECTIONS; POWER TO ENTER PROPERTY.

- (a) A local government has the same power and is subject to the same restrictions as the commission under Section 382.015 to inspect the air and to enter public or private property in its territorial jurisdiction to determine if:
 - (1) the level of air contaminants in an area in its territorial jurisdiction and the emissions from a source meet the levels set by:
 - (A) the commission; or
 - (B) a municipality's governing body under Section 382.113; or (2) a person is complying with this chapter or a rule, variance, or order issued by the commission.

- (b) A local government shall send the results of its inspections to the commission when requested by the commission.

TEXAS HEALTH & SAFETY CODE § 382.015. POWER TO ENTER PROPERTY.

- (a) A member, employee, or agent of the commission may enter public or private property, other than property designed for and used exclusively as a private residence housing not more than three families, at a reasonable time to inspect and investigate conditions relating to emissions of air contaminants to or the concentration of air contaminants in the atmosphere.
- (b) A member, employee, or agent who enters private property that has management in residence shall:
 - (1) notify the management, or the person then in charge, of the member's, employee's, or agent's presence; and
 - (2) show proper credentials.
- (c) A member, employee, or agent who enters private property shall observe that establishment's rules concerning safety, internal security, and fire protection.
- (d) The commission is entitled to the remedies provided by Sections 382.082-382.085 if a member, employee, or agent is refused the right to enter public or private property as provided by this section.

D. Nuisances in Unincorporated Areas of County

TEXAS HEALTH & SAFETY CODE § 343.024. AUTHORITY TO ENTER PREMISES.

- (a) A county official, agent, or employee charged with the enforcement of health, environmental, safety, or fire laws may enter any premises in the unincorporated area of the county at a reasonable time to inspect, investigate, or abate a nuisance or to enforce this chapter.
- (b) Before entering the premises, the official, agent, or employee must exhibit proper identification to the occupant, manager, or other appropriate person.