

A Win for Wastewater Utility Operators in Indiana *Texas Hopes the Winning Continues*

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Some wastewater utility employees who watched the [movie *Gosnell*](#) probably wonder if they have been unwitting accomplices in the disposal of human body parts. This true story is about a Philadelphia abortion facility managed by Kermit Gosnell. One of the scenes showed an inoperable garbage disposal apparently clogged with aborted babies. The movie later included a courtroom scene with the garbage disposal being used as evidence to [convict](#) Dr. Gosnell. However, the movie didn't reenact the part of the actual trial where an employee [testified](#) that she personally used the garbage disposal to grind the body parts and wash them down the drain into the sewer system. It is illegal in Pennsylvania to dispose of bloody remains in this way.

It is unknown how all the bodies of [60,000,000](#) aborted babies in our country have been disposed of since 1973, but it is suspected that many of them have been discarded with wastewater via the sanitary sewer system. Last year, the Supreme Court decided to allow Indiana's law for the humane disposal of fetal remains from abortion to stand, requiring burial or cremation of aborted infants. This not only treats these tiny humans with dignity, it benefits the environment and protects the workers who handle America's sewer utility systems. During a hearing leading up to the vote on Senate Bill 329, the Indiana legislature heard [testimony](#) from a witness that body parts of aborted babies were poured down the drain into the sewer system.

Texas is hoping for a win as well. In response to the requests from Texas Governor Greg Abbott, the Department of State Health Services (DSHS) published proposed changes to their rules on July 1, 2016 regarding the humane disposition of the bodies of unborn children after elective abortions. The rules changes banned grinding and flushing babies' remains into a sewer system and dumping the remains into a landfill. Other options like cremation or burial in a cemetery would remain.

Feedback was solicited by DSHS on the proposed rule changes. Most comments supporting the rule changes were based on the same moral grounds as those sentiments expressed by the House Republican Caucus in a [letter](#) signed by 90 state representatives. However, comments supporting the rule changes as a practical matter were received from an engineer on behalf of the sewer utility operators. He contends that engineers don't design sewer systems to process fetal remains. State statute governs the design of the sewer system to process "wastewater". The human body doesn't meet the State's statutory definition of wastewater¹.

The Texas Commission on Environmental Quality (TCEQ) would most likely agree that fetal remains don't meet the definition of "wastewater." TCEQ's rule² specifically states that constituents that would cause maintenance and operational problems are not meant to enter the

¹Texas Administrative Code Title 30, Part 1, Chapter 217; Rule 217.2(79) defines wastewater as "A waterborne industrial waste, recreational waste, domestic waste, or combination of these wastes."

²Texas Administrative Code Title 30, Part 1, Chapter 217; Rule 217.2(55) defines preliminary treatment as "Removal of wastewater constituents such as rags, sticks, floating material, and grit that may cause maintenance or operational problems in subsequent treatment units."

wastewater collection system. It is presumed TCEQ's determination would be based upon the fact that triglycerides exist in the human body. It is these insoluble triglyceride molecules which constitute what the utility industry refers to as "FOG" (i.e. fats, oils and grease). According to the Environmental Protection Agency, FOG is a leading cause of blockages in pipelines resulting in sanitary sewer overflows.

State statute³ authorizes only engineers to design sewer systems in the State of Texas. According to Texas rules⁴, engineers have an ethical responsibility to protect the welfare of sewer utility workers who maintain and operate the sewer systems. The engineer who commented on the proposed DSHS rules changes supports the changes on the grounds that maintenance and operational problems – like the [sewer overflow that occurred in Houston](#) where baby body parts were observed mixed in with the sewage – should be avoided so that the welfare of the general population, and particularly the welfare of sewer utility operators, is protected. He emphasized that it is intended for utility workers to process only waterborne wastes deposited in a sewer utility system; therefore, it isn't intended for workers to process fetal remains.

The Texas legislature passed Senate Bill 8 which enacted the DSHS rule changes into law, similar to Indiana's law that the Supreme Court let stand. However, the Texas law was challenged in federal court and the case ([Docket No. 18-50730](#)) currently resides at the 5th Circuit Court of Appeals awaiting deliberations.

Until the Texas law is upheld in the courts, current DSHS rules continue to allow fetal remains to be disposed of by methods that include "grinding and discharging into a sanitary sewer system." Consequently, the current DSHS rules remain in conflict with TCEQ rules.

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³Texas Administrative Code Title 30, Part 1, Chapter 217; Rule 217.5(a) requires a wastewater collection (a.k.a. "sewer") system to be designed by an engineer.

⁴Chapter 137, Sub-chapter C, Section 137.55(a) of the Rules Concerning the Practice of Engineering and Professional Engineering Licensure states,
"Engineers shall be entrusted to protect the health, safety, property, and welfare of the public in the practice of their profession. The public as used in this section and other rules is defined as any individual(s), client(s), business or public entities, or any member of the general population whose normal course of life might reasonably include an interaction of any sort with the

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engineering work of the license holder.”