

Application Procedures for Permit or Registration for Development of Land Over a Closed Municipal Solid Waste Landfill

Permit Application for New Structures or Alterations

Step 1. Applicant Submits Application.

Permit applicants must submit three copies of the permit application and an application fee. The completed application form must include a list of adjacent landowners, as well as identify the location at which a copy of the application is available for review and copying, the location where a public hearing can be conducted, and the name and telephone number of a contact person for the applicant. Submit the application to:

U.S. Mail: Municipal Solid Waste Permits Section - MC 124
Texas Commission on Environmental Quality
PO Box 13087
Austin, Texas 78711-3087

Express Mail: Municipal Solid Waste Permits Section - MC 124
Texas Commission on Environmental Quality
Building A, Room 122
12100 Park 35 Circle
Austin, Texas 78753-1808

The permit application must be received at least 45 days prior to the proposed commencement of construction. The application will not be considered received until the application fee is received.

The Texas Commission on Environmental Quality (TCEQ) has a maximum of 30 days to review an application for a new structure or alteration of an existing structure over a closed Municipal Solid Waste (MSW) landfill and to hold a public hearing. If the application is deficient, the application will be returned because the short review period does not allow enough time for a Notice of Deficiency to be issued and deficiencies to be resolved before the public hearing. Applicants should therefore contact the TCEQ MSW Permits Section to address potential deficiencies before officially submitting an application.

Contact Information:

Telephone: 512/239-2334
Fax: 512/239-6000
E-mail: mswper@tceq.state.tx.us

Step 2. TCEQ Reviews Application.

The TCEQ will have 30 days from the date of receipt of a permit application to complete its review.

Step 3. TCEQ Schedules Public Hearing.

Ten (10) days after the application is received, the TCEQ will set the date and time of the public hearing.

Step 4. TCEQ Mails Notice of Public Hearing.

Not later than 15 days after the application is received, the TCEQ will notify the applicant and adjacent landowners of the date, time, and location of the public hearing.

Step 5. TCEQ Publishes Notice of Public Hearing.

The TCEQ will submit a notice to a local newspaper in the county in which the development is planned. The notice will state the date, time, and location of the public hearing and location of the public building where the permit application can be viewed. The notice will be published once a week for the two weeks preceding the public hearing.

Step 6. TCEQ Conducts Public Hearing.

TCEQ staff will conduct the public hearing. The applicant will make a presentation of the application, TCEQ staff will describe the permit, and public comment will be accepted. The hearing must occur within 30 days of receipt of the application.

Additional information:

- The public hearing is not an evidentiary hearing. In most cases, public hearings will be limited to three hours; however, if circumstances warrant, the TCEQ may extend the public hearing.
- The hearing will be limited to the items addressed by the permit application. It is not intended to be a general hearing to discuss broad issues related to the development (such as traffic, land use compatibility, density, etc.). Those issues are the jurisdiction of local planning authorities and are typically addressed in their permitting processes.

Step 7. Staff Submits Written Recommendation to the Executive Director.

Staff will submit a written recommendation to the executive director of the TCEQ, including a summary of the public hearing.

Step 8. Executive Director Issues Decision to Grant, or to Deny the Permit.

Within 35 days of the receipt of the application, the executive director will issue a decision to grant, or to deny the permit. The chief clerk of the TCEQ shall notify by mail the applicant, adjacent landowners, and all parties requesting notification.

Step 9. TCEQ Determines Actual Cost of Reviewing the Permit Application.

TCEQ staff will count the hours spent on review and determine the actual cost of reviewing the permit application. The TCEQ will reimburse to the applicant any overcharges, and will submit an invoice for any undercharges. **In situations where the applicant has been undercharged, the applicant will not receive the permit until the invoice is paid.**

Step 10. Petition for Review.

The applicant and interested parties will have 10 days following the decision of the executive director to file a Petition for Review with the chief clerk.

If no petitions are filed within 10 days, the decision of the executive director is final.

The commission shall act on the petitions within 35 days of the decision by the executive director, or at the next available commission meeting. A commission order ruling on a Petition for Review is final and effective on the date issued.

- The applicant and affected persons should make every reasonable attempt to appear at the commission meeting to argue their cases, regardless of who submitted the motion.

The chief clerk will notify by mail the applicant, the adjacent landowners, and any parties requesting notification, of the commission's action on the permit application.

Registration Application for Existing Structures and Certain New Structures

Step 1. Applicant Submits Application.

A registration application must be submitted not later than 180 days after discovering that an existing enclosed structure overlies a closed landfill. Only one copy of the application is required and there is no registration fee. **Note: Owners of existing enclosed structures are not required to actively investigate a site to determine whether a closed landfill exists on their property.**

Step 2. TCEQ Reviews Application.

The registration application will be reviewed. Processing times are not specified in the rule, however, the TCEQ will attempt to complete the review in a timely manner.

Step 3. TCEQ Notifies Applicant of any Deficiencies.

Upon review of the application, the TCEQ will send a letter to the registrant identifying any deficiencies in the application.

Step 4. Applicant Corrects Deficiencies.

The registrant must correct any deficiencies in the registration application and submit the revisions to the TCEQ.

Step 5. TCEQ Grants Registration.

Upon approval of the application, the executive director will grant a registration number and notify the applicant.

Step 6. Registrant (Applicant) Implements Requirements of the Registration.

The registrant must implement the requirements of the registration (notice to occupants, implementation of the gas monitoring plan for structures, etc.).