



Texas Commission on Environmental Quality

Instructions for Application for Development Permit Form for Proposed Enclosed Structures over Closed Municipal Solid Waste Landfills

Form Availability

These instructions describe how to prepare an application for a development permit for an enclosed structure over a closed municipal solid waste (MSW) landfill. The form—TCEQ-20785—is available on the TCEQ website site at www.tceq.texas.gov/publications. If you have questions, contact the Municipal Solid Waste Permits Section by email to mswper@tceq.texas.gov, or by phone at 512-239-2335.

Preparing an Application

Initial Application

The application package for development permit consists of this application form and attachments. Any revised title pages, table of contents, and any individual engineering drawings and plans shall be signed and sealed in accordance with 30 TAC 330.57(g)(2) & (3) and 330.57(h)(4)(D).

Submit an original of the application and two copies.

- Submit the original application and one copy to:
MUNICIPAL SOLID WASTE PERMITS SECTION MC 124
WASTE PERMITS DIVISION
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
PO BOX 13087
AUSTIN TX 78711-3087
- Submit the second copy directly to the appropriate TCEQ Regional Office. A list of TCEQ regional offices and mailing addresses is available at www.tceq.texas.gov/goto/region.

Response to a Notice of Deficiency (NOD)

For all notice of deficiency (NOD) responses (administrative and technical), submit the revised original application plus two copies that include:

- Page 1 of the application form to indicate that the submission is for "Notice of Deficiency Response";
- All other revised pages of the form and attachments;
- A new Signature Page; and
- Marked (redline/strikeout) and unmarked (revised) pages, with one full copy sent to the appropriate commission regional office.

Application Data

1. Application Type

Select **ONE** box that indicates the application type for the submittal.

2. Submission Type

Select the box indicating the reason for submittal.

3. Application Fee

For development permits or registrations the application fee is \$2,500. Check **ONE** box that indicates the method of payment of application fee for the submittal.

Payment may be made online by electronic funds transfer using TCEQ ePay at www3.tceq.texas.gov/epay/. If payment is made online, enter the ePay confirmation number.

If fee is paid by check, send a check for payment of application fees directly to the following address and include a photocopy of the check in the original application submitted to the MSW Permits Section.

FINANCIAL ADMINISTRATION DIVISION MC 214
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
PO BOX 13087
AUSTIN TX 78711-3087

4. Enrollment in Other TCEQ Programs

If the site is enrolled in other TCEQ programs, indicate the program name and program authorization number.

5. Development Type

Select the box indicating the type of development.

6. Enclosed Structure Description

Provide a brief description of the proposed enclosed structure for which the development permit is being requested including but not limited to the size of the structure, the type, the occupancy, and the destination for usage.

7. Soil Tests

The soil tests are intended to determine if a landfill exists on the property planned for development. In accordance with 30 TAC 330.953(a) a soil test shall be conducted prior to or during development of a tract of land that is greater than one acre.

Please indicate the size of the property in acres.

The soil tests shall be conducted by a professional engineer who will choose one of the following tests:

(1) Test I. Visual investigation. The licensed engineer shall observe all subsurface disturbances, undertaken for whatever reason, prior to or during development through

the completion of the foundation. A subsurface investigation prior to construction is not required by Test I.

(2) Test II. A subsurface investigation undertaken for the purpose of finding a closed municipal solid waste landfill unit. The investigation must incorporate a sufficient number of borings or excavations, the number of which shall be determined on a site-specific basis by the licensed professional engineer. Each boring or excavation shall be to a minimum depth of ten feet.

(3) Test III. A subsurface investigation conducted at the development site for geotechnical or environmental purposes, or a housing and urban development test for a homeowner's warranty.

The existence of the MSW landfill may be determined through other investigation procedures, like search of legal records and documents, historical data, aerial photos, and maps research, etc.

Select the box that applies for landfill determination procedure.

If soil tests I were conducted at the property and the closed MSW unit was not detected, but the landfill was discovered during construction, the construction activities shall be ceased immediately, a permit application shall be submitted to TCEQ in accordance with 30 TAC 330.954(a)(5). The construction of the enclosed structure over the waste area unit cannot resume until the development permit has been issued.

If soil tests II or III were conducted at the property and the closed MSW unit was not detected, but the landfill was discovered during construction, the person is not required to submit a permit application, but an application for a registration of an existing enclosed structure shall be submitted to TCEQ instead, in accordance with 30 TAC 330.954(a)(7). Please use TCEQ Form 20786 for Application for Registration of Existing Enclosed Structures Constructed over Closed Municipal Solid Waste Landfills.

8. Notification of MSW Landfill Determination

In accordance with 30 TAC 330.953(d), the engineer who determined the existence of the closed MSW landfill shall notify each of the persons listed in the above mentioned paragraph within 30 days from the determination of landfill existence.

Select the box verifying that the listed person has been notified about the existence of the closed MSW landfill.

Also, copies of such notifications should be included in the application as required by 30 TAC 330.957(p).

9. Landfill's Permitting Status

Select **ONE** box that indicates the landfill permitting status.

If the landfill is still in post-closure care period subject to an active MSW Permit, this development permit application for proposed enclosed structures over a closed MSW landfill shall be accompanied by a Permit Modification application prepared in accordance with 30 TAC 305.70. The permit modification application form, TCEQ-20650 (Form): Permit/Registration Modification and Temporary Authorization Application Form for an MSW Facility, can be found on the TCEQ website at www.tceq.texas.gov/search_forms.html.

If the landfill completed the post-closure care period, but the MSW permit has not been revoked (site affected by an active MSW Permit), a Voluntary Revocation application of the MSW Permit should be prepared in accordance with 30 TAC 330.465 prior to this development permit application for proposed enclosed structures over a closed MSW landfill. The voluntary revocation form, TCEQ-10359 (Form): Request for Voluntary Revocation of Permit can be found on the TCEQ website at www.tceq.texas.gov/search_forms.html.

10. Application URL

Provide the URL address of a publicly accessible internet website where the application and all revisions to that application will be posted.

11. Public Place Location of Application:

Identify a public place in the county in which the facility is located or proposed to be located, at which a copy of the application will be available for review and copying (e.g., Public Library, Courthouse, City Hall).

12. Application Publishing

Select **ONE** box that indicates the party responsible for publishing all public notices for this application.

13. Alternative Language Notice

For certain permit, registration and amendment applications, public notice in an alternate language is required. If an elementary school or middle school nearest to the facility offers a bilingual program, notice may be required to be published in an alternative language. The Texas Education Code, upon which the TCEQ alternative language notice requirements are based, trigger a bilingual education program to apply to an entire school district should the requisite alternative language speaking student population exist. However, there may not exist any bilingual students at a particular school within a district which is required to offer the bilingual education program. For this reason, the requirement to publish notice in an alternative language is triggered if the nearest elementary or middle school, as a part of a larger school district, is required to make a bilingual education program available to qualifying students and either the school has students enrolled at such a program onsite, or has students who attend such a program at another location in satisfaction of the school's obligation to provide such a program as a member of a triggered district.

It is the burden of the applicant to demonstrate compliance with alternative language notice requirements. To assist you in meeting these requirements, the TCEQ Office of Chief Clerk will provide a Public Notice Verification Form (TCEQ-20244-Waste). You must follow instructions provided by the Office of Chief Clerk regarding completion and submittal of the Public Notice Verification Form indicating your compliance with the requirements regarding publication in an alternative language.

If it is determined that an alternative language notice is required, the applicant is responsible for ensuring that the publication in the alternate language is complete and accurate in that language. Electronic versions of the Spanish template examples are available from the TCEQ to help the applicant complete the publication in the alternative language.

More information about the Alternative Language Notice requirement and the Public Notice Verification Form are available at:
www.tceq.texas.gov/permitting/waste_permits/msw_permits/msw_notice.html.

14. Confidential Documents

The Commission has a responsibility to provide a copy of each application to other agencies and to interested persons upon request and to safeguard confidential material from becoming public knowledge. Thus, the Commission requests that the applicant (1) be prudent in the designation of material as confidential and (2) submit such material only when it might be essential to the staff in their development of a recommendation.

The Commission suggests that the applicant **NOT** submit confidential information as part of the permit or registration application. However, if this cannot be avoided, the confidential information should be described in non-confidential terms throughout the application, cross-referenced, and submitted as a separate document or binder, and clearly marked "CONFIDENTIAL."

Reasons of confidentiality include the concept of trade secrecy and other related legal concepts which give a business the right to preserve confidentiality of business information to obtain or retain advantages from its right in the information. This includes authorizations under, 18 U.S.C. 1905 and special rules cited in 40 CFR Chapter I, Part 2, Subpart B.

The applicant may elect to withdraw any confidential material submitted with the application. However, the permit cannot be issued, amended, or modified if the application is incomplete.

15. Permits and Construction Approvals

Select permits or construction approvals received or applied for under any of the programs listed in this section.

16. General Project Information

Provide general facility information as listed under this Section. Facility name provided in this Section should match the Regulated Entity Name in the TCEQ Core Data Form.

If the Regulated Entity Reference Number has not been issued for the facility, complete a TCEQ Core Data Form and submit it with this application.

17. Contact Information

Applicant (Lessee/Project Owner)

Enter Applicant information.

The applicant may be the property owner, a lessee or occupant of the property, an easement holder, the owner or constructor of the project, or the person responsible for the final cover disturbance, that has property owner's agreement to perform the activities represented in the application.

Applicant name provided in this Section should match the Customer Legal Name in the TCEQ Core Data Form.

If the Customer Reference Number has not been issued for the facility, complete a TCEQ Core Data Form and submit it with this application.

Note: If application is for an existing development permit for an enclosed structure over a closed MSW landfill, a TCEQ Core Data Form only needs to be submitted if there are administrative changes to the Regulated Entity information or Customer information.

Property Owner

Enter Property Owner contact information.

Consultant

Enter the contact information of the consultant company responsible for the preparation of the application on behalf of the applicant.

Engineer Who Performed Soil Tests

Enter the contact information of the consultant engineer responsible for performing soil tests to determine whether the property overlays a closed MSW landfill.

18. Other Governmental Entities Information

Fire Chief, Fire Marshal or Fire Inspector Information

Enter the Fire Chief, Fire Marshal or Fire Inspector's name and contact information for the city in which the development will be located.

Local Floodplain Authority (if applicable)

Enter the name and contact information of the local authority responsible for floodplain review if applicable.

City Mayor Information

Enter the Mayor's name and contact information for the city in which the facility is/will be located.

City Health Authority

Enter the Health Authority's name and contact information for the city in which the facility is/will be located.

Director of Public Works

Enter the Director's name and contact information for the city in which the facility is/will be located.

Director of Utilities

Enter the Director's name and contact information for the city in which the facility is/will be located.

Director of Planning

Enter the Director's name and contact information for the city in which the facility is/will be located.

Building Inspector

Enter the inspector's name and contact information for the city in which the facility is/will be located City Mayor Information.

County Judge Information

Enter the Judge's name and contact information for the county in which the facility is/will be located.

County Engineer Information

Enter the engineer's name and contact information for the county in which the facility is/will be located.

County Health Authority

Enter the Health Authority's name and contact information for the county in which the facility is/will be located.

State Representative Information

Enter the District Number, State Representative's name and District Office information for the district in which the facility is/will be located. State Representative's information can be found at: wrm.capitol.texas.gov/home.

State Senator Information

Enter District Number, State Senator's name and District Office information for the district in which the facility is/will be located. State Senator's information can be found at: wrm.capitol.texas.gov/home.

Council of Government (COG)

Enter the COG name and COG Office information for the COG area in which the facility is or will be located. COG information can be found at: txregionalcouncil.org/regional-councils/.

Local Government Jurisdiction

Select **ONE** box that applies. If the property is located within the limits or in the ETJ of any City, City regulations or ordinances may apply. Please note that issuance of the TCEQ's Development Permit for an Enclosed Structure does not exempt the applicant from the requirement to comply with all City codes and zoning requirements.

19. Deed Recordation

Prior to submitting this application the property owner shall file a written notice for record in the real property records in the county where the land is located in accordance with 30 TAC 330.962 stating: (a) the former use of the land; (b) the legal description of the tract of land that contains the closed MSW landfill; (c) notice that restrictions on the development or lease of the land exist in the Texas Health and Safety Code and in MSW rules; and (d) the name of the owner.

Select the box verifying that the property owner filed the written notice for record in the county real property records.

A certified copy of the Notice to Real Property Records shall be included in this application in accordance with 30 TAC 330.957(p).

20. Notice to Buyers, Lessees, and Occupants of the Structure

For an enclosed structure built over a closed MSW landfill the property owner shall give written notice to all prospective buyers, lessees and occupants of the structure in accordance with 30 TAC 330.963 stating the land's former use as a landfill, and the structural controls in place to minimize potential future danger posed by the closed MSW landfill.

Select **ONE** box that applies.

If the property owner provided written notice to all prospective buyers, lessees and occupants of the structure, a certified copy of the Notice shall be included in this application in accordance with 30 TAC 330.957(p).

If the enclosed building hasn't been built a draft notice to all prospective buyers, lessees and occupants of the proposed structure, shall be included in this application in accordance with 30 TAC 330.957(p), as well as procedures for its implementation upon structure's construction.

21. Notice of Lease Restrictions on the Property

Select **ONE** box indicating whether the property is leased.

If the property is leased, in accordance with 30 TAC 330.964, select the box verifying that the property owner filed the written notice to all prospective lessees of the property concerning what is required to bring the property into compliance with 30 TAC Chapter 330, Subchapter T; and the requirements for future disturbance of the final cover.

A certified copy of the Notice to Lessees shall be included in this application in accordance with 30 TAC 330.957(p).

Attachments

Proposed Project Description

Provide project location related to the waste disposal area, purpose of the final cover disturbance, and a description of the proposed enclosed structure for which the development permit is being requested including but not limited to the size of the structure, the type, the occupancy, and the destination for usage. For requirements regarding disturbance or alteration of final cover, refer to 30 TAC 330.955. For requirements regarding conduits design, ponded water and surface drainage, refer to 30 TAC 330.961(d) to (g).

Existing Conditions Summary

Provide a description of the land use, conditions of the final cover, waste characterization, age of the landfill, permitting status, methane production, potential environmental impacts, special issues that affect the facility, etc.

Legal Authority

Provide verification of applicant's legal status. Normally, this is a one-page certificate of incorporation issued by the Texas Secretary of State.

Evidence of Competency

Provide the names of the principals and supervisors of the applicant's organization relative to the development.

Notice of Engineer Appointment

Provide a notice of appointment identifying the applicant's engineer.

Notice of Coordination

Provide notice of coordination with all local, state, and federal government officials and agencies.

General Geology and Soils Statement

Provide a discussion in general terms of the geology and soils of the proposed facility, including any known pathways for leachate and landfill gas migration.

Groundwater and Surface Water Statement

Provide a description of the groundwater and surface water resources at or near the facility and how they will be impacted by the development.

Foundation Plans

Provide foundation plans, including geotechnical soil investigation and design reports. In order to prevent gas migration into buildings and other structures, structures shall be designed and constructed in accordance with the criteria indicated in 30 TAC 330.957(m).

Soil Tests

Provide all soil tests and other information relied upon to make the determination that the facility was used as an MSW disposal area as required by 30 TAC 330.953 (relating to Soil Test Required before Development), including procedures performed to identify the limits of the waste disposal area.

Closure Plan.

Provide a closure plan for any part of the waste disposal area that will not have a structure built over it, including placement of the final cover.

Structures Gas Monitoring Plan

The owner or lessee of an existing structure built over a closed MSW landfill unit shall ensure that the concentration of methane gas generated by the landfill does not exceed 20% of the lower explosive limit for methane (1.0% by volume methane in air) in facility structures. Any enclosed structures shall contain automatic methane gas sensors approved by the executive director and designed to trigger an audible alarm if the volumetric concentration of methane in the air is greater than 1.0%.

Provide a Structures Gas Monitoring Plan (SGMP) designed by a licensed professional engineer in accordance with 30 TAC 330.959(5) and 330.957(t). The SGMP shall include facility characteristics and potential methane migration pathways; a facility drawing indicating the location of all waste disposal areas, existing structures, creeks, and ponds; a narrative describing structural, electrical, and mechanical modifications to the existing structures, as well as methane monitoring equipment including

manufacturer's specification sheets and any gas ventilation or active gas extraction systems; a detailed implementation schedule for the installation of landfill gas monitoring equipment; a sampling and analysis plan; and a landfill gas analysis.

Site Operating Plan

Provide a Site Operating Plan (SOP) in accordance with 30 TAC 330.959(4), 330.957(s), and 330.961. The SOP shall include specific procedures that the operating personnel shall follow, instructions for the equipment to be utilized at the structure, other than methane monitoring equipment, and schedules for the implementation of the operational requirements included in 30 TAC 330.961 regarding record keeping, landfill gas control, monitoring, and reporting, air criteria, ponded water and conduits restrictions, water pollution control, and groundwater monitoring.

Safety and Evacuation Plan

Provide a Safety and Evacuation Plan in accordance with 30 TAC 330.959(6), describing evacuation procedures and safety measures in the event the methane gas sensors sound the audible alarms.

Land Ownership Map

Provide a map that locates the properties owned by adjacent landowners that share a property line with the subject property, as well as those properties across a public right-of-way. The maps should show all property ownership adjacent to the facility, on-site facility easement holders, and all mineral interest ownership under the facility.

Land Ownership List

Provide the adjacent landowners' list, keyed to the land ownership map with each property owner's name and mailing address. The list shall include all property owners adjacent to the facility, easement holders, and all mineral interest ownership under the facility. Provide the property, easement holders', and mineral interest owners' names and mailing addresses derived from the real property appraisal records as listed on the date that the application is filed.

Do not include elected officials and other interested parties that are not adjacent landowners on the landownership map, list and labels.

In accordance with 30 TAC 39.5(b), submit this mailing list electronically. The electronic list must contain only the name, mailing address, city, state, and zip code with no reference to the lot number or lot location.

As an alternative to an electronic list, the applicant may elect to submit pre-printed mailing labels of this mailing list with the application. If you elect to provide the pre-printed mailing labels, use a label format that has 30 labels to a page (e.g., AVERY 5160). Each letter in the name and address must be capitalized, contain no punctuation, and the appropriate two-character abbreviation must be used for the state. Each entity listed must be blocked and spaced consecutively. Provide four complete sets of labels of the landowner list.

Do not include elected officials and other interested parties that are not adjacent landowners on the landownership map, list and labels.

General Location Maps

These maps shall be all or a portion of county maps prepared by the Texas Department of Transportation (TxDOT). At least one general location map shall be at a

scale of ½ inch equals one mile. If the TxDOT publishes more detailed maps of the proposed site area, the more detailed maps shall also be included. The latest published revision of all maps shall be used. In addition, the applicant shall provide maps as necessary to accurately show proximity of the site to surrounding features and structures, in accordance with 30 TAC 330.957(j)(1).

General Topographic Map

Provide United States Geological Survey maps, in accordance with 30 TAC 330.957(j)(2).

Site Layout Plan

Provide a site layout plan that indicates property boundaries, limits of waste disposal area, the location of the proposed project related to the waste disposal area, existing and proposed enclosed and non-enclosed structures at the site, any creeks and ponds, in accordance with 30 TAC 330.957(i).

Foundation and Structures Layout Plan

Provide foundation plans and drawings, and a structures layout plan that indicates any existing partitions of the structure, and any potential methane migration pathways, barriers, or foundation penetrations, in accordance with 30 TAC 330.957(m).

Methane Monitoring Equipment Location Plans

Provide a structure layout plan indicating the location of all methane monitoring sensors, ventilation systems, and active gas extraction and collection systems, in accordance with 30 TAC 330.957(t).

Other Plans

Provide a grading and drainage plan, irrigation systems plans, if available, and a dimensional control plan, in accordance with 30 TAC 330.957(n).

Property Legal Description

Provide a legal description of the facility including the following information, as required by 30 TAC 330.59(d)(1).

- The abstract number, as maintained by the Texas General Land Office, for the surveyed tract of land.
- A legal description of the property and the county, book, and page number or other generally accepted identifying reference of the current ownership record.
- For property that is platted, the county, book, and page number or other generally accepted identifying reference of the final plat record that includes the acreage encompassed in the application and a copy of the Final Plat Record of Property.
- A boundary metes and bounds description of the property signed and sealed by a registered professional land surveyor.
- A boundary metes and bounds description and drawing for the facility signed and sealed by a registered professional land surveyor.
- A drawing showing any on-site easements at the facility.

Notice of Landfill Determination

Provide certified copies of all notices having been made by the licensed professional engineer who conducted a soil test and determined that part of the tract overlies a closed municipal solid waste landfill, in accordance with 330.953. The following persons shall be notified of that determination within 30 days of the completion of the test: each owner and each lessee of the tract; the executive director; local government officials with the authority to disapprove the application for development; and the regional council of governments. The responsible engineer shall affix his seal, signature, and date of execution to the soil test results as required by the Texas Engineering Practice Act.

Notice to Real Property Records

Provide evidence that the property owner filed a notice to real property records in the county where the land is located. The written notice shall state the former use of the land, the legal description of property, notice of the restrictions on the development or lease of the land imposed by 30 TAC Chapter 330, Subchapter T and Texas Health and Safety Code, Chapter 361, Subchapter R, and the name of the owner. For deed recordation requirements, refer to 30 TAC 330.962.

Notice to Buyers, Lessees, and Occupants of the Structure

Provide evidence that the property owner gave written notice to all prospective buyers, lessees and occupants of the structure in accordance with 30 TAC 330.963 stating the land's former use as a landfill, and the structural controls in place to minimize potential future danger posed by the closed MSW landfill.

If the enclosed building hasn't been built provide a draft notice that will be given to all prospective buyers, lessees and occupants of the proposed structure upon structure's construction, as well as procedures for its implementation.

Notice of Lease Restrictions on the Property

Provide evidence that the property owner gave written notice to all prospective lessees of the property of what is required to bring the property into compliance with this subchapter and the prohibitions or requirements for future disturbance of the final cover imposed by 30 TAC Chapter 330, Subchapter T and by Texas Health and Safety Code, Chapter 361, Subchapter R. For notice to lessees requirements, refer to 30 TAC 330.963.

Additional Attachments as Applicable

TCEQ Core Data Form(s)

If the Applicant does not have a Customer Reference Number (CN Number), complete a TCEQ Core Data Form (TCEQ-10400) and submit it with this application. List the Applicant as the customer.

If Regulated Entity Reference Number (RN Number) has not been issued for the facility, complete a TCEQ Core Data Form (TCEQ-10400) and submit it with this application. List the Facility as the Regulated Entity.

Only under the following circumstances should a TCEQ Core Data Form be submitted:

- Your information is not yet in the Central Registry database or is incomplete

- Your information has changed from what is currently in the Central Registry database
- It is requested by the agency. You can check the status of your information in Central Registry on-line at www.tceq.texas.gov/goto/centralregistry/.

Confidential Documents

The confidential information should be described in non-confidential terms throughout the application, cross-referenced, and submitted as a separate document or binder, and clearly marked "CONFIDENTIAL." Refer to Instructions, Section "Confidential Documents" for further detail.

Soil Tests Boring Logs

If soil tests were performed to determine the existence of the landfill on the property, provide the boring logs, any available geotechnical report, and licensed professional engineer's determination regarding the existence of the landfill. (30 TAC 330.953).

Other Maps, Plans, and Engineering Drawings

Provide any maps, plans and engineering drawings requested by the Executive Director, or considered important for the structure characterization.

Methane Monitoring Equipment Specifications

Provide manufacturer's specification sheets for the methane monitoring equipment.

Methane/Water Monitoring Report

If methane was detected during construction, provide a report indicating the control methods and a log of methane readings. If water came into contact with waste, provide a report indicating the control and discharge procedures.

Waste Disposal Manifests

If waste were removed provide manifests showing the quantity and evidence that they were disposed to a permitted facility.