



Texas Commission on Environmental Quality

Instructions for Registration for Existing Enclosed Structures Constructed Over Closed MSW Landfills

Form Availability

These instructions describe how to prepare an application to register an existing enclosed structure constructed over a closed municipal solid waste (MSW) landfill. Download a copy of the form—[TCEQ 20786](#)¹—from the TCEQ website. 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.

Rules cited on the form and in these instructions are in Title 30 of the Texas Administrative Code (30 TAC) and may be viewed online at www.tceq.texas.gov/goto/view-30tac.

Preparing an Application

Page Numbers, Dates, and Divider Tabs

All pages of an application must include a page number and date. Revised pages must include the revision date in the header or footer of each sheet and indicate that the sheet is revised. Use labeled divider tabs to aid in locating the beginning of each part, attachment, and appendix. [30 TAC 330.57(g)]

Seals

Title pages, tables of contents, and any individual engineering drawings and plans shall be signed and sealed in accordance with 30 TAC 330.57(g) and 330.57(h).

Initial Application

The application package for registering an existing enclosed structure consists of the application form and attachments. Prepare the application in accordance with 30 TAC 330.57, and include:

- Correspondence Cover Sheet (Form [TCEQ-20714](#)²);
- Dated cover letter; and
- TCEQ Core Data Form(s) ([TCEQ 10400](#))³.

Submit a paper original, one paper duplicate, and an electronic duplicate of the application to the MSW Permits Section ([Instructions for Submitting Documents Electronically](#))⁴:

MUNICIPAL SOLID WASTE PERMITS SECTION MC 124
WASTE PERMITS DIVISION
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
PO BOX 13087
AUSTIN TX 78711-3087

Also submit a duplicate directly to the [TCEQ Region Office](#)⁵ for the area.

¹ www.tceq.texas.gov/downloads/permitting/waste-permits/msw/forms/20786.pdf

² www.tceq.texas.gov/downloads/permitting/waste-permits/forms/20714.docx

³ www.tceq.texas.gov/goto/coredata

⁴ www.tceq.texas.gov/downloads/permitting/waste-permits/msw/docs/msw-submit-electr.pdf

⁵ www.tceq.texas.gov/agency/directory/region

Response to a Notice of Deficiency (NOD)

For responses to administrative or technical notices of deficiency (NODs), submit a paper original, one paper duplicate, and an electronic duplicate to the MSW Permits Section ([Instructions for Submitting Documents Electronically](#)⁶), and a duplicate directly to the [TCEQ Region Office](#)⁷ for the area. Each paper copy and the electronic copy of the response package should include:

- Correspondence Cover Sheet (Form [TCEQ-20714](#)⁸);
- Dated cover letter, listing each of the review comments, and the response immediately following the comment, including the location of each revision by reference to part, section, and page number;
- Page 1 of the application form to indicate that the submission is for "Notice of Deficiency Response";
- All other revised pages of the form;
- A new Signature Page; and
- Marked (redline/strikeout) and unmarked versions of revised pages.

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

⁶ www.tceq.texas.gov/downloads/permitting/waste-permits/msw/docs/msw-submit-electr.pdf

⁷ www.tceq.texas.gov/agency/directory/region

⁸ www.tceq.texas.gov/downloads/permitting/waste-permits/forms/20714.docx

4. Enrollment in Other TCEQ Programs

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

5. Enclosed Structure Construction Date

Provide the date when owner determined that the enclosed structure overlies a closed MSW Landfill. The owner shall submit the registration application within 180 days from the determination that the structure overlies a closed MSW landfill.

Select **ONE** box that indicates whether the structure was built prior to September 1, 1993.

- If the construction of the enclosed structure began after September 1, 1993, an application for a development permit shall be submitted in accordance with 30 TAC 330.954(a). Please use form TCEQ-20785 for Development Permit Application for Proposed Enclosed Structures over Closed MSW Landfills.
- 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 construction activities shall be ceased pending registration's approval. The application for a registration of an existing enclosed structure shall be submitted to TCEQ in accordance with 30 TAC 330.954(7). Logs of the soil borings performed by a licensed professional engineer in accordance with 30 TAC 330.953 supporting engineer's determination, as well as a discussion explaining the subsequent landfill discovery shall be submitted with this application.

6. Enclosed Structure Description

Provide a brief description of the existing enclosed structure for which the registration is being requested including the year when it was built, the size of the structure, and the destination for usage.

7. Notification of MSW Landfill Determination

The engineer who performed the soil tests and determined the existence of the closed MSW landfill shall notify each of the persons listed within 30 days from the determination of landfill existence, in accordance with 30 TAC 330.953(d).

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).

8. Landfill Permit Status

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

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, *Request for Voluntary Revocation of Permit* can be found on the TCEQ website at www.tceq.texas.gov/search_forms.html.

9. 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.

10. Contact Information

Applicant Name

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 Name

Enter Property Owner contact information.

Consultant Name

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

11. Confidential Documents

The Commission has a responsibility to provide a copy of each application to other review 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 conspicuously 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 or registration cannot be modified if the application is incomplete.

12. 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 Registration for an Existing Enclosed Structure does not exempt the applicant from the requirement to comply with all City codes and zoning requirements.

13. 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 also be included in this application in accordance with 30 TAC 330.957(p).

14. Notice to Buyers, Lessees, and Occupants

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 the box verifying that the property owner provided written notice to all prospective buyers, lessees and occupants of the structure.

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

15. 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

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 property, etc.

Existing Enclosed Structure Description/Assessment

Provide enclosed structure's location related to the waste disposal area, the year when it was built and date when it was discovered that it overlays a closed MSW landfill, a detailed description of the enclosed structure including but not limited to the type, usage and occupancy of, any existing methane monitoring or methane control systems, equipment, or practices, measures to protect the final cover and the environment.

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.

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.

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.

General Location Map

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 1/2 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.

Site Layout Plan

Provide a site layout plan that indicates property boundaries, limits of waste disposal area, the location of the enclosed structure 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 330.959(5)(B)(ii).

Structures Layout Plan

Provide 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 330.959(5).

Methane Monitoring Equipment Location Plan

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 330.959(5) and 30 TAC 330.957(t).

Methane Monitoring Equipment Specifications

Provide manufacturer's specification sheets for the methane monitoring equipment, in accordance with 30 TAC 330.959(5)(B)(iii)(IV).

Construction Details and Engineering Drawings

Provide engineering plans of the structure indicating foundation penetrations and methane sensors locations, and plans of construction details.

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 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.

Notice to Buyers, and Lessees

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 any development permit issued for development of the property under 30 TAC Chapter 330, Subchapter T. For notice of lease restrictions requirements, refer to 30 TAC 330.964.

TCEQ Core Data Form(s)

If the Site Operator (Registrant) 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 Site Operator (Registrant) 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.

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

Under the following circumstances a TCEQ Core Data Form should 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/.

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.

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 Report

If methane was detected during structure's assessment, provide a report indicating the control methods and a log of methane readings.

Methane Monitoring Equipment Specifications

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