



# QUALIFYING FOR AN ARID EXEMPTION AT A MUNICIPAL SOLID WASTE LANDFILL

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Texas Commission on Environmental Quality  
Waste Permits Division  
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## Purpose of this Document

This document provides information for owners and operators of municipal solid waste (MSW) landfills seeking to qualify for an arid exemption.

## What is an Arid Exemption?

MSW landfills that qualify for an arid exemption are exempt from liner requirements (see MSW rules in Title 30 Texas Administrative Code (30 TAC), Chapter 330, [Subchapter H](#)) and exempt from groundwater monitoring requirements ([Subchapter J](#)).

## Classification of Municipal Solid Waste Landfills

MSW landfills in Texas are classified into two types according to the wastes they may accept: Type I landfills may accept all types of municipal solid waste; Type IV landfills may only accept brush, construction and demolition waste, and rubbish. Type IV landfills may not accept putrescible wastes, household wastes, or hazardous waste from conditionally-exempt small quantity generators. The classification of MSW landfills and other facilities is detailed in 30 TAC Chapter 330, Section (§) [330.5](#).

MSW Type I landfills that qualify for an arid exemption are designated Type IAE; MSW Type IV landfills that qualify for an arid exemption are designated Type IVAE. A Type IAE landfill permit may include additional authorization for a separate Type IVAE landfill unit.

## What Are the Qualifications for an Arid Exemption?

The qualifications for an arid exemption are:

- The facility disposes:
  - less than 20 tons per day (TPD) of authorized waste in a Type IAE landfill unit or a Type IVAE landfill unit by itself, or
  - less than 20 TPD of authorized waste in a Type IAE unit and less than 20 TPD in a Type IVAE unit at the same facility (for a total waste acceptance rate of less than 40 tons per day for the facility);
- There is no evidence of existing groundwater contamination from the facility;
- The facility serves a community that has no practicable waste management alternative (*see additional information below regarding alternatives*); and
- The facility is in an area with average annual precipitation less than or equal to 25 inches, based on data from the nearest official recording station, for the most recent 30-year reporting period.

The qualifications for an arid exemption are detailed in 30 TAC [§330.5\(b\)\(1\)](#). All of the conditions must be met.

A facility that meets these requirements must maintain the integrity of any existing on-site groundwater monitor wells and make them available for the collection of samples ([§330.5\(b\)\(7\)](#)).

The TCEQ may deny an exemption request if the available information indicates that granting the exemption could result in a substantial threat of groundwater contamination ([§330.5\(b\)\(2\)](#)). In addition, if any of the following occurs at an arid exempt facility, the facility will no longer qualify for the arid exemption and will thereafter need to comply with the full requirements for an MSW Type I or Type IV facility, including establishing a groundwater monitoring system, on a schedule specified by the executive director ([§330.5\(b\)\(4\)](#)):

- The owner or operator has knowledge or becomes aware of groundwater contamination from the facility within a one-mile radius of the unit;
- The facility no longer meets the definition of a Type IAE or Type IVAE landfill facility;
- The waste reduction program is ineffective; or
- A practicable alternative becomes available.

#### *Demonstration of No Practicable Waste Management Alternative*

“Practicable waste management alternative” means another disposal facility (landfill), a transfer station (where waste is loaded into larger containers for hauling to a disposal facility), or a materials or resource recovery facility. A community may demonstrate that it has no practicable waste management alternative in one of three ways, according to 30 TAC [§330.63\(d\)\(5\)\(C\)](#):

- By documenting that the additional costs of alternatives are estimated to exceed 1 percent of the community's budget for all public services; or
- By documenting that haul distances to alternative sites are unreasonably long (document the anticipated haul distance and the economic implications to the community served); or
- By documenting that no other alternative is feasible to implement, given the community location and economic condition (include a statement on what alternatives have been considered and why they are not feasible to implement).

#### **Authorization for a Separate Type IVAE Landfill Unit at a Type IAE Landfill Facility**

A separate Type IVAE unit may be authorized at a Type IAE landfill facility according to the provisions of 30 TAC [§330.5\(b\)\(2\)](#):

- Existing Type IAE landfill permits that specify the less than 20 TPD waste disposal limit may be revised via a major amendment to allow disposal of an additional less than 20 TPD of authorized waste in a separate Type IVAE landfill unit at the same facility.
- Existing Type IAE landfill permits that do not specify a waste disposal limit or that specify a waste disposal limit in excess of the arid exemption limit may be revised via a permit modification to include a separate Type IVAE unit (*see important information below regarding these permits*).
- Type IAE and Type IVAE landfill units at a facility must be in separate excavations. The minimum recommended separation between the excavations is 50 feet.

## **Additional Information for Existing Type IAE Facilities with Permits that Do Not Specify a Waste Disposal Limit, or Specify a Limit that Exceeds the Arid Exemption Limit**

Owners or operators of existing Type IAE facilities with permits that do not specify a waste disposal limit or that specify a waste disposal limit in excess of the arid exemption limit, must comply with the restrictions for arid exempt landfills, according to the provisions of 30 TAC [§330.5\(b\)\(2\)](#):

- By September 25, 2006 (the first business day following the 180<sup>th</sup> day after March 27, 2006, the effective date of the comprehensive MSW rule revisions adopted in 2006), comply with the waste acceptance rate limit for a Type IAE landfill unit (less than 20 TPD); or
- If the waste accepted in excess of the limit is Type IV waste, submit an application to modify the permit to include a separate Type IVAE landfill unit at the facility. The application must also revise the estimated waste acceptance rate required by [§330.125\(h\)](#) to be consistent with the arid exemption provisions, and will require public notice in accordance with 30 TAC Chapter 305, [§305.70\(l\)](#). The existing permit will remain valid until a final decision is made on the application. If the application is not received by September 25, 2006, the permit and facility will be considered to have the limit of less than 20 TPD, and will require a permit amendment to add a separate Type IVAE unit after that date.

### **Limitations on Waste Acceptance**

Owners or operators of MSW facilities must establish a waste acceptance plan in accordance with 30 TAC [§330.61\(b\)](#) that identifies the sources and characteristics of the wastes to be received. The waste acceptance plan must specify limitations for each type of waste that may have a constituent or characteristic that may impact or influence the design and operation of the facility. MSW facilities may not receive regulated hazardous waste ([§330.15\(e\)\(7\)](#)).

Type IAE landfill units may be authorized to accept the same types of waste as Type I landfill units except Class 1 industrial solid waste, which is prohibited by [§330.173\(a\)](#). However, wastes that are Class 1 industrial solid waste only because of asbestos content may be accepted at a Type IAE landfill that is authorized to accept regulated asbestos-containing material (RACM) in accordance with [§330.171\(c\)\(3\)\(I\)](#) and [§330.173\(c\)](#), unless acceptance of industrial waste is prohibited by the permit. All Class 1 industrial asbestos wastes must be manifested and reported as required by [§330.173 \(g\) and \(h\)](#). Unless specifically authorized by the facility permit, Type IAE landfill facilities permitted after October 9, 1993, that are authorized to accept RACM may not accept RACM from industrial sources in excess of 20 percent of the total amount of all other waste accepted during the current or previous year ([§330.173\(e\)](#)).

Type IVAE landfill units may be authorized to accept the same types of waste as Type IV landfill units.

### **Application Procedures**

An application for an AE facility must include a certification of eligibility as required by 30 TAC [§330.63\(d\)\(5\)](#), and a certification that there is no evidence of groundwater contamination, following the procedures in [§330.63\(e\)\(6\)](#). The applicant is exempt from [§330.57\(i\)](#) (regarding posting of the application on the Internet).

#### *Applying to Modify an Existing Permit*

An application to modify an existing permit must be submitted following the requirements of 30 TAC [§305.70](#), and will require public notice. The application must include appropriate revisions to all applicable narrative pages and drawings in the permit (for example, in the site development plan, site operating plan, engineering report, or any other approved plan attached to the permit that will be changed by the modification).

### *Applying for a New Permit or a Permit Amendment*

An application for a new MSW permit or permit amendment for an arid exempt landfill facility must be prepared according to the procedures in 30 TAC Chapter 330, [Subchapter B](#), with the following exceptions:

- The application parts pertaining to 30 TAC, Chapter 330, [Subchapter H](#) (relating to liner design) and [Subchapter J](#) (relating to groundwater monitoring and corrective action) are not required.
- As noted in [§330.57\(a\)](#), the geology report described in [§330.63\(e\)](#) is not required, however, applicants are required to submit a soil boring plan in accordance with [§330.63\(e\)\(4\)](#), and the information requested in [§330.63\(e\)\(6\)](#).

### **For More Information**

If you have questions about municipal solid waste management, please contact the MSW Permits Section by telephone at (512) 239-2334, by E-mail to [MSWPER@tceq.state.tx.us](mailto:MSWPER@tceq.state.tx.us), or in writing to MC 124 – Municipal Solid Waste Permits Section, Waste Permits Division, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.