

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## INSTRUCTIONS FOR FILING AN APPLICATION FOR A PERMIT TO BENEFICIALLY LAND APPLY CLASS B SEWAGE SLUDGE

The following instructions apply to completing an application for a 1) a new permit, 2) an amended permit or 3) a renewal permit, for a Beneficial Land Use Permit.

### WHEN APPLYING FOR A BENEFICIAL LAND USE PERMIT YOU MUST COMPLETE THE FOLLOWING REPORT:

1. ADMINISTRATIVE REPORT FOR PERMIT APPLICATION
2. SEWAGE SLUDGE BENEFICIAL USE TECHNICAL REPORT

Please make certain that you have the correct form(s).

To obtain application forms, you may contact the Municipal Permits Team at (512) 239-4671 or may be obtained at the address given below.

The mailing address for submitting an application is:

Executive Director  
Texas Commission on Environmental Quality  
Attn: Customer Information and Applications Processing Section  
Applications Review and Processing Team (MC 148)  
P.O. Box 13087  
Austin, Texas 78711-3087

For Express Mail or Hand Delivery, the physical address is:

Executive Director  
Texas Commission on Environmental Quality  
Attn: Customer Information and Applications Processing Section  
Applications Review and Processing Team (MC 148)  
Building F, Room 2101  
12100 Park 35 Circle  
Austin, Texas 78753

### Telephone Inquiries

- |                |                                                  |
|----------------|--------------------------------------------------|
| (512) 239-4671 | General Permit Information and Application Forms |
| (512) 239-4671 | Municipal Permits Team, Technical Information    |
| (512) 239-0600 | Environmental Law Division                       |

Copies of records and/or permits on file with the Texas Commission on Environmental Quality (TCEQ), Records Management Office may be obtained for a minimal fee, by calling (512) 239-0900.

## **GENERAL FILING REQUIREMENTS AND INFORMATION**

### Who Must Obtain a Permit

A responsible person who land applies Class B sludge on a land application unit shall obtain a permit issued by the commission. A "responsible person" is the person with ultimate responsibility for the land application of the Class B sludge at a land application unit. The responsible person is (A) the owner of the land application unit if the sludge being land applied was generated outside this state; or (B) the person who is land applying the sludge if the sludge being land applied was generated in this state. "Class B sludge" is sewage sludge that meets one of the pathogen reduction requirements of 30 Texas Administrative Code (TAC) Section 312.82(b). "Land application unit" means an area where wastes are applied onto or incorporated into the soil surface for agricultural purposes or for treatment and disposal. The term does not include manure.

TCEQ CANNOT ISSUE A CLASS B BENEFICIAL LAND USE PERMIT FOR A LAND APPLICATION UNIT THAT IS LOCATED BOTH: (1) IN A COUNTY THAT BORDERS THE GULF OF MEXICO (Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, San Patricio, and Willacy Counties); AND (2) 500 FEET OR LESS FROM ANY WATER WELL OR SURFACE WATER.

### Instructions for Filing an Application

1. Please read the application form carefully. It has been designed to obtain specific information and anything that is missing or unclear will cause delays in the review process. If a particular item on the form does not apply to your situation mark it "NA" or "not applicable." If necessary explain why it does not apply. Falsification of any information is justification for denial of the application, fine or imprisonment (30 TAC, Section 305.44).
2. The completed application should be submitted as one original set and four complete copies. Renewal applications should be sent in 180 days prior to the expiration date of the permit. The original application set and two copies should not be bound or submitted in notebooks, spirals or binders. One copy only may be submitted in binder. The additional copies of the application must also include all attachments and cover letter, as included with the original application.
3. Please cross reference all attachments to the corresponding item in the application form. For instance, when attaching a supplemental report indicate next to the appropriate question(s) on the application form where the information is to be found. Also mark the supplemental report with the application item number and page number that relates to the report. Application processing may be delayed if the reviewer cannot locate the necessary information. If utilizing an application which was obtained on disk or electronically, the application must remain in the same format and page numbering sequence as provided on hard copy by the TCEQ.
4. All reports and supplementary information should be attached to the application form. Technical reports should be prepared either by a Texas Registered Professional Engineer, or by a qualified person who is competent and experienced in the field to which the application relates and who is thoroughly familiar with the operation or project for which the application is made.

Each application is an independent document that must be evaluated on its merits and cannot reference previously submitted information and/or data. All information requested in the application must be supplied, if applicable. Failure to do so shall result in the return of the application (30 TAC, Section 281.18). This information is considered the minimum information needed to process the application. Submittal of additional reports, maps, drawings, photographs, or other information to support the application is encouraged.

5. Application fees must be paid by check or money order made payable to the Texas Commission on Environmental Quality. Fees are to be sent under separate cover making reference to the type of application, name of applicant, and permit number of existing permit, and mailed to:

TCEQ  
Revenues Section (MC 214)  
P.O. Box 13088  
Austin, Texas 78711-3088

To verify receipt of payment or any other questions you may have regarding payment of fees to the TCEQ, you may call the Revenues Section, Cashiers Office at (512) 239-0357.

6. The application fee for filing a Class B Beneficial Land Use Permit Application is **\$1,000 TO \$5,000** based on the quantity of sewage sludge to be applied annually. See the fee schedule in 30 TAC 312.9 (g)(4) to determine the appropriate fee.
7. The applicant is also required to bear the cost of newspaper publication of the public notice concerning the application for a permit. The applicant will be provided the information to publish including instructions, by the TCEQ, Office of Chief Clerk.
8. If at anytime during the application process there is a change of ownership, name or mailing address change, or a change in contact person listed on the application, the applicant will be responsible for contacting the Water Quality Applications Team in writing, indicating such change. If a change of ownership occurs prior to final action on an application to amend or renew an existing permit, the new owner must submit a Request for Transfer of Ownership Form concurrently with an updated application. Also, if an applicant decides to withdraw their application and/or cancel their permit, it is the responsibility of the applicant and/or permittee to contact the Applications Review and Processing Team in writing, indicating such request. You may send your request by fax to (512) 239-0884. For further instructions and/or appropriate TCEQ forms, you may call (512) 239-4710.

## THE PERMITTING PROCESS

### Application Review

All applications undergo a review process by the staff of the Executive Director. A thorough administrative review is made to ensure that all requested information has been provided. For new, major amendment and renewal applications, a Notice of Receipt of Application and Intent to Obtain Permit is filed with the Office of Chief Clerk for mailing to the applicant, potentially affected landowners given in the application, and governmental agencies. After it is declared administratively complete, the application is subjected to an in-depth technical evaluation. The applicant may be asked to supply additional information to clarify or substantiate any part of the application. A copy of the application may also be provided to other state or local governmental agencies for their review. After the review is complete and a draft permit prepared, the Executive Director will forward the proposed permit to the applicant for consideration, allowing a two (2) week comment period.

The applicant may request to have the draft permit mailed via other than regular US mail at the applicant's expense. When the application has been declared administratively complete, it is the responsibility of the applicant to notify the Municipal Permits Team in writing regarding the appropriate charge number for Federal Express, Express Mail or other carrier.

### Public Notice Requirements for New (unpermitted), Amendment or Renewal Permit

For New, Major Amendment, and Renewal Permit, the Commission will prepare a Notice of Receipt of Application and Intent to Obtain a Permit. This notice is sent to the applicant for publishing in a newspaper with the largest circulation in the county where the project is located. The Commission will also mail the notice to the potentially affected landowners given in the application, and governmental agencies for all permit applications. This mailing will occur after the application has been declared administratively complete. The applicant shall publish the Notice of Receipt of Application and Intent to Obtain Permit no later than 30 days after the Executive Director declares the application administratively complete.

After the draft permit has been mailed to the applicant for comment and the application is filed with the Commission, the applicant will also be required to publish Notice of Application and Preliminary Decision in a newspaper regularly published and generally circulated within the county and area wherein the proposed or existing land application unit is to be located and within each county and area wherein persons reside who would be affected by the facility or proposed disposal. The Commission will provide the applicant with instructions for publishing the notice.

The Commission will also mail the same Notice of Application and Preliminary Decision to the potentially affected landowners given in the application and governmental agencies. This mailing will occur at the same time the applicant is mailed instructions for publishing the notice.

Bilingual notice may be required for new permit applications, major amendment applications and renewal applications, (not applicable for minor amendment or minor modification applications). 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, triggers 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-speaking 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 the school either has students enrolled at such a program on-site, 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.

If it is determined that a bilingual notice is required, the applicant is responsible for ensuring that the publication in the alternate language is complete and accurate in that language.

### Public Hearing

TCEQ regulations (30 TAC Chapter 39) allow members of the public an opportunity to submit comments regarding an application and draft permit. If no comments are received, the Executive Director will issue the permit. If comments are received, the Executive Director will file a response to those comments which will be mailed to the applicant and persons on the mailing list. Members of the public will be notified that they may file a Motion for Reconsideration and/or a Request for Hearing. A member of the public may request a contested case hearing only on disputed factual issues that are relevant and material to the commission's decision that are raised during the comment period. Afterwards, the Commissioners will consider any requests during an agenda meeting, then may (1) grant the request and remand to the Executive Director, (2) deny the request and issue the permit, or (3) grant the hearing request and refer the matter to the State Office of Administrative Hearings.

The Commission has established an alternative dispute resolution procedure in order to encourage the resolution and early settlement of all contested matters through voluntary settlement procedures. The alternative dispute resolution procedure is a nonjudicial and informally conducted forum for the voluntary settlement of contested matters through the intervention of an impartial third party.

The Commission may act on an application without a public hearing if all public mailings and notifications have been carried out in accordance with requirements and no requests for a public hearing have been received. If a hearing request is granted, all concerned parties should be prepared to participate in the process. This participation may include representation by technical experts and legal counsel. The Commission encourages the permittee to contact interested parties and the public prior to filing of the application to initiate a pre-application meeting where controversial areas or concerns may be resolved.

#### Permit Characteristics

All applicants should be aware that a permit does not become a vested right in the permittee and does not convey any property rights in any real or personal property. A permit does not authorize the invasion of any property rights, or the infringement of Federal, State, or local laws or regulations. Therefore, the applicant is responsible for acquiring all easements that may be necessary for the disposal operations. Acquiring easement may include obtaining approval from local or state authorities if use of a public right-of-way is necessary.

## GENERAL APPLICATION REQUIREMENTS

#### Sampling and Testing

All sampling and laboratory analyses required by the application must be performed in accordance with the specifications established by Title 30 of the Texas Administrative Code, Chapter 312 (Sludge Use, Disposal and Transportation) unless otherwise specified in the application.

**The applicant is responsible for instructing laboratories about minimally acceptable testing levels.** Analytical results may not be acceptable if the test method is not sensitive enough to quantify concentrations as low as the minimum analytical levels (MALs) specified in the application.

#### Confidentiality

30 TAC, Section 305.46, Designation of Material as Confidential.

The Commission recognizes that trade secrecy and other related legal concepts give a business the right to preserve the confidentiality of certain information. The Commission is required to review each item that has been designated as confidential and to protect this information from becoming public knowledge. However, the Commission also has an obligation to provide copies of the application to other agencies and interested parties upon request. Therefore, it is requested that the applicant:

- 1) Exercise prudence in the designation of confidential material.
- 2) Not submit any confidential materials that are not absolutely necessary to the Executive Director's review of the application.

- 3) Submit designated confidential materials in a separate report from the application which is clearly identified as confidential. (Do not include such information as an attachment to the application and do not include copies with the required copies of the application.)

**THE FOLLOWING QUESTION ONLY APPLIES TO NEW PERMIT APPLICATIONS AND MAJOR AMENDMENT PERMIT APPLICATIONS. (This item is not applicable for a Renewal permit application.)**

The buffer zone map shall clearly show the entire property boundaries of the property owned or under the control of the applicant; show each treatment unit; and specify the distance from each treatment unit to the applicant's property line. Identify on the map, the uses of the adjacent property.

1. Please include on the topographic map the buffer zones that are required by 312.44(d).

Buffer Zone Requirements:

1. Private water supply well, 150 feet.
2. Public water supply well, intake, public water supply spring or similar source, public water supply treatment plant, or public water supply elevated or ground storage tank, 500 feet.
3. Solution channel, sinkhole, or other conduit to groundwater, 200 feet.
4. Established school, institution business, or occupied residential structure, 750 feet.
5. Public right of way, 50 feet.
6. Irrigation conveyance canal, 10 feet.
7. Property boundary, 50 feet.

**THE FOLLOWING SECTION ON POTENTIALLY AFFECTED LANDOWNER INFORMATION IS REQUIRED FOR NEW PERMIT APPLICATIONS, AMENDMENTS AND RENEWAL OF PERMIT APPLICATIONS.**

Potentially Affected Landowner Information

Each application for a new (original, unpermitted) permit, major amendment or renewal of an existing permit requires that the applicant identify all potentially affected landowners and other interested parties. These persons are subsequently notified by mail of the application. Please provide the following:

1. AFFECTED LANDOWNER MAP - Submit a map, with scale, that clearly shows the following:  
  
(A) the approximate property boundaries where the application area is (to be) located including boundaries of contiguous property owned or under the control of the applicant; and (B) the approximate property boundaries of all landowners located within 1/4 mile of the applicant's property boundaries where the beneficial land area is/will be located. (See Landowner Map - Example A).

The properties of all such landowners should be clearly delineated on a map and should be labeled in a consecutive numeric order. Please do not use TRACT/LOT numbers.

2. **AFFECTED LANDOWNER LIST** - Submit a list, cross-referenced in consecutive numeric order to the affected landowner map, of the names and mailing addresses of the potentially-affected landowners. At a minimum, the list must include **all landowners adjacent to the application site property boundaries** and **all landowners who live on land** located within 1/4 mile of the property boundaries where the beneficial land area is/will be located. **Alternatively**, the list can consist of all landowners located within 1/4 mile of the property boundaries where the beneficial land area is/will be located. Please provide the list of landowners and their mailing addresses on a separate sheet of 8 1/2" x 11" paper.
3. **Affected Landowner Mailing Labels** - In an effort to help expedite the permitting process, the TCEQ is requiring permit applicants to provide the potentially affected landowner mailing list in one of two formats. Either submit the mailing list on a 3.5" computer disk using software compatible with WordPerfect as allowed by 30 Texas Administrative Code, Subchapter 39.5(b), or if more convenient, four sets of printed labels of the list may be provided in lieu of a computer disk. One of these two methods of providing the affected landowners mailing addresses must be used. The application cannot be declared administratively complete until one of the two is received.

Please label the disk with the applicant's name and permit number. Within the file stored on the disk, type the permit number and applicant's name on the top line before typing the addresses. Names and addresses must be typed in the format indicated below. This format is required by the U.S. Postal Service for machine readability. **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 as shown below.**

Example:

Permit No. XXXXX-XXX, Texas Chemical Plant

TERRY M JENKINS  
RR 1 BOX 34  
WACO TX 76724

MR AND MRS EDWARD PEABODY  
1405 MONTAGUE LN  
WACO TX 76710-1234

**A list submitted on a computer disk should be the only item on that disk.** Please do not submit the list on a disk that includes maps or other materials submitted with your application.

If you wish to provide the list on printed labels, please use sheets of labels that have 30 labels per page. Please provide **four complete sets of labels** of the landowner list.

Each name and corresponding address must appear only once on the mailing labels or computer disk even if the entity owns more than one tract of land identified on the landowners map. Please eliminate duplicate names and addresses. The labels or disk will not be accepted if not provided in the required format.









