

# Permit-by-Rule Landfill for Disposal of Demolition Waste from Abandoned or Nuisance Buildings

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## BACKGROUND

As you may be aware, Texas Senate Bill 1258, Disposal of Demolition Waste from Abandoned or Nuisance Buildings applies to counties and municipalities with a population of 10,000 or less and qualify as arid exempt. The new Texas Commission on Environmental Quality (TCEQ) interpretation of arid exempt is a waste disposal location with the 30-year average annual rainfall of 25 inches or less based on the nearest National Weather Service weather station. The TCEQ has prepared an application form to apply for the permit-by-rule (PBR). Applicable attachments, including site location maps, are required to be submitted along with a Core Data Form (TCEQ-10400). The guidance for the disposal operations is being continuously revised as the new rules to implement Senate Bill 1258 are being developed. Issues for a county or municipality to consider are discussed in the following sections.

## TECHNICAL CONSIDERATIONS

1. A PBR disposal site located at previous landfill sites where no waste was disposed may help ensure that floodplain, critical habitats/endangered species, and wetlands site location restrictions met.

2. The type of waste to be accepted at a PBR disposal needs to be evaluated by a municipality or county. Only waste from properties acquired by the applicant by means of bankruptcy, tax delinquency, or condemnation from a person not capable of paying the cost of disposal at a permitted landfill may be accepted at a PBR disposal site. The applicant should consider how many structures or buildings would potentially qualify for disposal in the PBR disposal site. Once the number of structures is evaluated, then the types of structures need to be evaluated for asbestos rule applicability as summarized below.

3. This new type of PBR disposal site does not allow for circumvention of any other applicable rule regulating the demolition of a structure or transport of the waste to the disposal site. Page 3 of the TCEQ application states, "Abandoned and nuisance structures will be surveyed for asbestos and abated in accordance with Title 25, Part 1, Chapter 295, Subchapter C, if applicable." This portion of the application clearly indicates that appropriate asbestos-related regulations must be followed during the demolition and waste transportation activities. The main environmental concern is ensuring that the applicant is fully aware of the asbestos requirements related to demolition and transport of abandoned and nuisance buildings. The Texas Department of State Health Services (DSHS) web site's Asbestos Home

Page at [www.dshs.state.tx.us/asbestos](http://www.dshs.state.tx.us/asbestos) provides guidance and information related to asbestos regulation. An attempt to summarize the complex asbestos regulations is provided below, with the disclaimer that this is a brief summary and may not fully represent the regulations and a case-by-case assessment of each proposed demolition should be made:

a. All commercial buildings demolished by an applicant must be surveyed for asbestos, or must be treated as containing asbestos with appropriate measures taken during demolition, transport and disposal. However, one small residential building per calendar year may be demolished by an applicant under an exemption such that the residence does not have to be surveyed for or handled as asbestos (certain restrictions apply). For a residence such as this, additional considerations and clarifications are available on the DSHS's web site. eHT strongly recommends that one of the applicant's employees attend an asbestos management class to become trained in asbestos requirements. A recommended course is Asbestos Management for Building Owners Course by GEBCO Associates, LP. This course meets the worker training requirements for a Designated Person and NESHAP-trained person. It is strongly recommended that the applicant complete this training prior to any demolition activities.

b. Applicability of OSHA regulations for worker safety during asbestos-related work must also be considered. TxDOT transported requirements need to be evaluated, as well.

4. Once the PBR Disposal Site is filled or is ready for closure, the applicant must initiate closure activities as specified by 30 TAC Chapter 330 Subchapter K.

It does not appear that there are any penalties or concerns should the applicant submit the TCEQ Application, be granted the PBR, and then not utilize the facility if there are no buildings that meet the disposal criteria.

eHT recommends any interested applicant proceed forward with the TCEQ Application process, but should proceed with caution prior to demolition activities.

If you have any questions, please feel free to contact Luci English, P.E. with PBR disposal facility questions or Mark McHan, P.G. with asbestos questions at (325) 698-5560.



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