

Procedure for Conformance Review of Facility Applications

Introduction

The Texas Commission on Environmental Quality (TCEQ) requires that all municipal solid waste (MSW) facilities proposed for siting in the CAPCOG region conform to CAPCOG's Regional Solid Waste Management Plan (RSWMP). (Texas Health and Safety Code §363.066; 30 TAC §330.635.) TCEQ's permitting procedures state that it is the responsibility of the applicant to demonstrate conformance with the RSWMP. (30 TAC §330.61(p)).

CAPCOG, with the assistance of the Solid Waste Advisory Committee (SWAC), will review permit and registration applications filed with the TCEQ to assess their conformance to the RSWMP. All applicants must complete the Solid Waste Plan Conformance Checklist, which CAPCOG will furnish, that contains questions tracking the Regional Goals and Objectives, which includes land use compatibility and local community concerns. The CAPCOG's findings and recommendations will be submitted to the TCEQ to assist it in considering the permit or registration application.

The need for, or lack of need for, a particular facility will not be a factor in the application conformance review. The importation and exportation of waste from one political subdivision into another will not be prohibited. (30 TAC §330.563(a)(4).) If a county or city has a landfill siting ordinance in place, designating the proposed site as suitable for a landfill, the RSWMP will not contradict it.

The SWAC will solicit comments from individuals, organizations, and local governments located within the proposed facility's impact area when considering the application.

The review for conformance with the RSWMP will include the consideration of any applicable local plans.

Voluntary Pre-Application Review

A potential permit or registration applicant may request a meeting with the CAPCOG staff to discuss a proposed application, its conformance with the RSWMP and steps that may be taken to meet the region's solid waste planning goals. Staff will provide a copy of the RSWMP and the Solid Waste Conformance Checklist, review plans submitted by the applicant for a proposed facility and explain the review process. This pre-application meeting is recommended but not required.

Request for Review of MSW Facility Application

Applicants may request a conformance review of their permit or registration application by submitting the following information to the CAPCOG:

1. A copy of the Application submitted to the TCEQ for Permit or Registration, Parts 1 & 2.
2. The completed Solid Waste Plan Conformance Checklist (available upon request from CAPCOG) with attached documentation if required. The applicant must complete the checklist to the best of his or her ability to demonstrate how the proposed facility will help in promoting the goals and objectives of the RSWMP. CAPCOG's Solid Waste Program Coordinator will return an incomplete Checklist to the applicant with a written explanation of its deficiencies. The applicant may resubmit the checklist when all the deficiencies are corrected
3. A cover letter with contact information for the applicant, the applicant's engineer and the TCEQ staff person to whom all review-related correspondence should be sent. Contact information should include name, phone and fax numbers, mailing address and email address if available.
4. Any additional information the applicant wishes to provide to facilitate the SWAC review process.

A request for permit or registration application review must be submitted to:

Capital Area Council of Governments
Attn: Solid Waste Program Coordinator
6800 Burleson Road, Bldg 310, Ste 165
Austin, Texas 78744

Conformance review takes a *minimum* of 60 days from submission of a complete application to CAPCOG.

SWAC Review and Report

The SWAC review will not begin until the Solid Waste Program Coordinator receives the complete application, including the Checklist. Once the complete application has been received, the Solid Waste Program Coordinator will confirm its receipt in writing to the applicant and notify the applicant of the SWAC meeting date to review the application. The applicant is strongly encouraged to attend the SWAC meeting.

The SWAC will consider whether the proposed facility conforms to the RSWMP and submit its findings and recommendations to the CAPCOG Executive Committee.

A SWAC member who has a financial interest in the applicant for a solid waste permit or registration, or who will benefit financially from SWAC's decision on the application, shall disclose the nature of the interest or benefit or both to permit determination of whether the member has a conflict of interest with respect to

voting on the application. (For example, if the SWAC is considering the permit application for a MSW landfill, a SWAC member who represents a MSW landfill has a conflict of interest.) If, following disclosure, a SWAC member is unsure whether the interest or benefit poses a conflict of interest, the SWAC shall determine the issue and the member shall abide by the SWAC's determination. If there is a conflict of interest, the member may participate in discussion of the application, but may not vote on whether or not the application conforms to the RSWMP. The member is counted in determining the existence of a quorum, but a vote cast in violation of this paragraph is not counted.

The SWAC will recommend to CAPCOG's Executive Committee one of the following three conformance determinations:

1. The permit or registration conforms to the RSWMP and either
 - a) CAPCOG recommends approval of the permit or registration.
 - b) CAPCOG recommends approval with specific conditions attached.

2. The permit or registration does not conform to the RSWMP and either
 - a) CAPCOG recommends denial of the permit or registration
 - b) CAPCOG recommends withholding approval until specified deficiencies are corrected.

3. CAPCOG lacks sufficient information to make a qualified conformance determination.

Executive Committee Action on SWAC Report

The CAPCOG Solid Waste Program Coordinator will submit the SWAC's written report to the CAPCOG Executive Director within 15 business days following the meeting at which it was adopted by the SWAC. Upon receipt of the SWAC report, the Executive Director will submit the report for consideration at the next regularly scheduled meeting of the Executive Committee. Within 10 business days following the Executive Committee meeting at which action was taken on the report, the Executive Director will transmit the Executive Committee's findings and recommendations on the report to the TCEQ with a copy to the applicant.

The CAPCOG does not approve or deny applications. Rather, it provides a means for the TCEQ to obtain qualified opinions from local governments in the affected region.