

9 Keys to a Smooth Medical Waste Registration

With approximately 8.1 million tons of waste processed at Type V facilities (waste treatment, storage, and disposal [TSD], including medical waste) in Texas in 2018, the Texas Commission on Environmental Quality (TCEQ) has its hands full ensuring that these facilities received the appropriate authorizations and operated in accordance with Texas environmental rules. (TCEQ, 2018)

In Texas, waste is typically categorized as non-hazardous or hazardous and industrial or municipal. Prior to May 2016, Texas regulated non-hazardous medical waste under the Municipal Solid Waste (MSW) rules (30 Texas Administrative Code [TAC] §330). As of May 2016, Texas joined many other states in regulating medical waste TSD activities under a separate set of rules - 30 TAC §326 that covered medical waste generators (i.e. hospitals, clinics, veterinarian clinics, etc.), transporters, processors (may be the waste generator or an unaffiliated party), and the disposal of medical waste.

Three years later, approximately twenty-one medical waste TSD applications have been processed and approved by TCEQ, and medical waste TSD facility owners, operators, and consultants have become versed in the new rules. However, in keeping with the TCEQ mission statement "... to protect our state's public health and natural resources consistent with sustainable economic development. Our goal is clean air, clean water, and the safe management of waste," not every facility or activity gets approved!

Here are **9 key factors** that industry professionals often **overlook, forget, or misunderstand** and which can lead to your application being delayed or denied.

1. Form TCEQ-20788

Are you storing and processing medical waste from "on-site?" The medical waste rules define "on-site" as, "Medical waste managed on property that is owned or effectively controlled by one entity and that is within 75 miles of the point of generation or generated at an affiliated facility." Simply put, if your medical waste TSD facility is considered to be "on-site," TCEQ-20788 (Notification of On-Site Treatment of Medical Waste) is the correct application to complete; rather than the much more exhaustive Form TCEQ-20789 (Application for a Medical Waste Registration). These forms and additional information can be found on the "[Managing and Disposing of Medical Waste](#)" page on the TCEQ website.

2. Financial Assurance - Timing and Variables

For a medical waste TSD facility, financial assurance is submitted to the TCEQ through a mechanism of the applicant's choice (e.g., irrevocable letter of credit, surety bond, or trust fund) and reflects the estimated amount of money, in current dollars, to completely close the facility. Closure of a facility includes, but is not limited to, treatment and disposal of all waste on-site (disposal only for treated waste); dismantling, decontaminating, and hauling all equipment off-site; posting appropriate signage; and site evaluation and engineering review – all based on third-party cost estimates. The TCEQ assumes that you might not be there to do the work, so outside entities must be hired. Flexibility in an application is desired, but

requesting too much flexibility, such as excessive waste storage volumes, can lead to costly financial assurance.

By rule, financial assurance "...shall be submitted 60 days prior to the initial receipt of waste." This means that whichever mechanism of financial assurance the applicant chooses must be submitted to the TCEQ 60 days before the facility receives any waste. This action item often gets put on the back burner as an applicant is coordinating logistics for upcoming operations, addressing a Notice of Deficiency, addressing public comment, or simply forgets to start the process with the bank. Failure to post adequate financial assurance may lead to a notice of violation (NOV), possibly resulting in fines and penalties.

Financial assurance is also required to be updated annually to reflect the original closure cost estimate in current dollars. Banks often charge a premium to update the various financial assurance mechanisms, sometimes a percentage of the total amount. These annual updates can become unforeseen expenses.

3. Meet your neighbors

The required public notice/comment period for medical waste registration applications provides the public with an opportunity to submit comments on the application and/or request a public meeting about the application. This period also provides a good reason to meet and speak with the community and inform them of



the proposed operations. Unfortunately, those interactions may happen after a community member or interested third party has filed a negative comment and requested a public meeting. Educating and informing your neighbors and local representatives about the proposed operations can eliminate many fears and misconceptions, allowing the public notice/comment period and application approval to go much more smoothly and quickly.

4. Buffer Zones and Easements

30 TAC §326(h)(3) states, “No solid waste unloading, storage, or processing operations shall occur within any easement, buffer zone, or right-of-way that crosses the facility. Processing equipment and storage areas shall maintain a minimum separating distance of 25 feet between the facility boundary and processing equipment, loading, unloading and storage areas.” In many urban environments, a 25-foot buffer is not feasible and a request for an alternative buffer distance may be necessary. For such a request, applicants must provide TCEQ with adequate justification. Buffer zone infringements may result in an NOV, fines, and penalties.

5. Publicly-Owned Treatment Works (POTWs) – Wastewater treatment or disposal facility requirements

Depending on your facility design, wastewater must be managed, whether produced from autoclaves or other treatment equipment, bin or cart washout stations, or other activities. Applicants must obtain authorization or permission from the treatment facility at which the wastewater will be disposed, including clearly stating the applicable water-quality standards the applicant must meet.

For example, if you plan to divert wastewater from an autoclave to the city sewer, you must obtain a permit from the POTW receiving the wastewater in the sewer. This permit will outline the acceptable limits of constituents such as total dissolved solids (TDS), metals, biological oxygen demand (BOD5), pH, etc. To adhere to these standards, testing of the wastewater is performed at the medical waste TSD facility. If results indicate that any standard was exceeded, wastewater treatment is required at the medical waste TSD facility before the wastewater can be discharged into the sewer.

POTWs and other wastewater disposal facilities are obligated to enforce against any person discharging to their facility, which could result in fines, penalties, and even permit revocation.

For medical waste TSD facility owners and/or operators that containerize and off-site dispose of wastewater due to lack of sewer service, be sure to check the standards at disposal facilities before hauling your wastewater there. Audit your waste transporter to verify credentials, insurance and permits. You are liable for whatever they do with your waste.

6. Pre-Application Meeting Arrangement

A pre-application meeting with TCEQ MSW staff is a good way to start off the medical waste registration application process. Briefing the TCEQ on your proposed operations allows them to ask and answer questions and provide input, ultimately leading to a smoother application process and likely a faster issuance of the registration.

7. Public Notice Updates

The public notice/comment period accrues expenses that no one wants to pay twice. Applicants should ensure that the most current version of the registration application is posted on a website of their choice (specified in the application) and a current copy is maintained at the public viewing location, also specified in the application. Failure to do so can lead to re-noticing the public (additional expenses), opening the application for additional comments, delays in the application process, and possibly lead to a public meeting and more.

Ensure completion of the Alternative Language Checklist and Verification form to determine whether notice in alternative language is required. This helps to avoid re-noticing due to failure to notice in an alternative language.

8. Owner and/or Operator Review

Most facility owners and operators hire consultants to prepare the application in accordance with the rules, and they rightfully expect a smooth and timely process. The primary contributor to a delayed and expensive application process is incomplete or incorrect information. By allotting time for the owner and operator to review the application before it is submitted to the TCEQ, questions may be asked, errors corrected, and writing revised for better reading. All of this allows for an easier review by the TCEQ, ultimately resulting in a smooth, affordable, and timely application process.

9. Know where to find the rules

Although Texas environmental rules (30 TAC) may be published on multiple websites, be sure that you are reviewing the most up-to-date rules when preparing any documentation for the TCEQ! Outdated rules and forms are still out there and will result in delays and expensive corrections.

Choose your partner carefully. GDS Associates is privileged to have been the consultant of choice for many of the 21 successful medical waste facility authorizations in Texas, as of 2018.

The GDS environmental team specializes in permitting of all environmental media (waste, air, and water) and has extensive experience with Phase I, Phase II, and Phase III environmental site assessments as well as litigation support, emergency response planning, and graphic design (GIS and CAD). ■



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