



August, 2003

FY 2004/2005 REGIONAL SOLID WASTE GRANTS PROGRAM

Closed Municipal Solid Waste Landfill Inventory Recommended Procedures and Forms

Strategic Assessment Division

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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1.0 INTRODUCTION

The procedures and forms presented in this document are provided to the councils of governments (COGs) as recommendations for fulfilling the FY 2004/2005 regional solid waste grant contract requirements for work to complete the statewide inventory of municipal solid waste landfills.

2.0 LEGISLATIVE REQUIREMENTS

An inventory of closed municipal solid waste landfill units is required to be compiled by each COG under §363.064(a)(10) of the Texas Health & Safety Code, as amended by Senate Bill 1447, 76th Texas Legislature. Per the statutory provisions, the inventory is to include:

- a. *landfill units no longer in operation;*
- b. *the exact boundaries of each former landfill unit or, if the exact boundaries are not known, the best approximation of each unit's boundaries;*
- c. *a map showing the approximate boundaries of each former landfill unit, if the exact boundaries are not known;*
- d. *the current owners of the land on which the former landfill units were located; and,*
- e. *the current use of the land.*

In addition to the requirements for compiling the inventory, §363.064(b) includes requirements for the COG to notify landowners and the county clerk of the location of the landfills. It is recommended that a notification and deed recordation process not be conducted until the regional inventory is completed and incorporated into the regional solid waste management plan, through the plan amendment and approval process.

3.0 WHAT IS A CLOSED MUNICIPAL SOLID WASTE LANDFILL?

TCEQ's MSW regulations (30 TAC §330.951) include the following definition of a "closed municipal solid waste landfill":

A discrete area of land or an excavation that has received only municipal solid waste or municipal solid waste combined with other solid wastes, including but not limited to construction/demolition waste, commercial solid waste, nonhazardous sludge, conditionally exempt small-quantity generator hazardous waste, and industrial solid waste, and that is not a land application unit, surface impoundment, injection well, or waste pit as those terms are defined by 40 CFR §257.2 (EPA Regulations).

Under this definition, both permitted and unpermitted landfills are to be included in the inventory, with no specific minimum size limit. There is no additional definition of a closed municipal solid waste landfill beyond that provided above. TCEQ offers the following guidance in determining whether a site should be considered as a closed municipal solid waste landfill:

! Permitted Landfill Facilities

The statewide inventory includes those sites recognized as a municipal solid waste landfill facility and assigned a number by the state, including: landfills that operated under a state permit; landfills that were in operation prior to the permitting requirements and were assigned a number under grandfather provisions; and other closed or abandoned landfills that were identified and assigned a number by the state.

Subsequent to development of the statewide inventory, TCEQ has further defined the status of permitted landfill facilities, to more clearly identify when a facility can be considered closed, with no possibility of reopening. Under these new definitions, the permit for a facility will be expired once all landfill units at the facility complete the required post-closure care period. The expiration of a permit is subject to a request from the permit holder to retain the permit in an inactive status. Permits may also be revoked by TCEQ, either voluntarily or for cause.

Based on these new policies established by TCEQ, it has been determined that it would be most appropriate for the regional inventories to include the entire permitted landfill facility, rather than each individual landfill unit at the facility that may close during the life of the permit. Permitted landfill facilities to be included on the regional inventories should be those for which the permit has expired or been revoked. In most cases, the permit will be expired at the end of the post-closure care period (5 years or 30 years) for the last landfill unit closed at the facility. The TCEQ Permits Division maintains an updated database listing the status of all permitted MSW facilities.

! Other Sites with a Permit Number

The statewide inventory also includes some sites that were assigned a permit number, but which may not have operated as a permitted municipal solid waste landfill. In general, these sites may include: (1) sites where a facility other than a landfill was permitted to operate (i.e., transfer station, waste processing facility, etc.), but where the records indicate waste may have also been land disposed; (2) sites where a landfill permit was applied for and assigned a permit number, but where the permit was never granted, even though the records indicate that waste was landfilled at the site; (3) other sites that for some reason were assigned a state permit number, but did not operate as an authorized permitted landfill, even though the records indicate that waste may have been landfilled at the site. In these cases, while the site may not have operated as an authorized permitted landfill, the available records indicated that waste may have been landfilled at the site. The statewide inventory includes information on why the site may have been included on the inventory. These sites should still be included on the regional inventories, unless the COG determines that the records are incorrect, and waste was not landfilled at the site.

! Unpermitted Sites

The statewide inventory includes other sites that were recognized by individuals, local officials, private companies, state inspectors, and/or others as a landfill. These sites may have been publicly or privately operated. In addition, the statewide inventory was limited to unpermitted sites greater than 1/4 acre in size. For additional unpermitted sites which

may be identified, the COG will need to determine whether the 1/4 acre criterion is applicable, depending on the particular situation.

Each COG will need to conduct further research into the sites listed on the statewide inventory, to determine which sites should be included on the regional inventories. For the most part, uncovered illegal waste piles probably do not need to be included in the inventory. However, if a waste pile has been covered, such that development can occur over it without removal of the waste, it should probably be included. In addition, the waste at some of the sites listed on the statewide inventory may have been removed, the site may have never actually contained any solid waste, or the site location is erroneous.

4.0 DETAILED WORK PROGRAM

The following guidance should be considered in developing various tasks to be included in the detailed work program to be submitted to TCEQ for inclusion in the COG grant contract for FY 2004/2005. These main topics are intended as general examples, and each COG must determine the more detailed activities that will be necessary to complete the inventory, and those activities should be included in the work program.

4.1 SWAC and Local Review

- ! Determine the extent to which data and information for the inventory will need to be reviewed by the Solid Waste Advisory Committee (SWAC) and other entities and the public, before it is finalized
- ! As appropriate, include activities to provide copies of draft material to the SWAC, local governments, and the TCEQ for review and comment as those materials are developed
- ! The COG may want to hold public meetings in each county to present and discuss the inventory data and information, and to obtain input on the accuracy of the data
- ! Provide a timeframe and deliverables for the review and input process

4.2 Approval and Amendment of the Regional Solid Waste Management Plan

- ! If the inventory will be completed within the FY 2004/2005 grant term, the work program can include the steps necessary to approve the inventory and incorporate the inventory into the regional solid waste management plan (see Section 9.0)
- ! Determine the final public review process, to include the public hearing(s) required on the amendment to the regional plan
- ! Identify the steps to obtain input from TCEQ on the draft inventory before the COG approval process
- ! Identify the COG process for approving and adopting the amendment to the regional plan to incorporate the completed inventory
- ! Identify the process for submission of the approved plan to TCEQ for final review and adoption
- ! Provide a timeframe and deliverables for the plan amendment process

5.0 ADOPTION AND SUBMISSION OF THE INVENTORY

The completed regional inventory must be incorporated into the regional solid waste management plan. The plan adoption process is set forth in Subchapter O of the MSW Regulations. If the inventory is completed during the FY 2004/2005 grant term, the following steps will need to be followed for incorporation of the inventory into the regional solid waste management plan.

- 5.1 Draft Inventory.** The COG should keep its solid waste advisory committee (SWAC) informed of the progress of the inventory, and the SWAC should have a role in guiding the development of the inventory. The COG should also provide interim copies to TCEQ for review and comment as the work progresses.
- 5.2 Public Meetings and Input.** It is recommended, but not required, that the COG conduct public meetings and provide other opportunities for public input during the development of the inventory. The COG should consider holding public meetings in each county to review the draft inventory.
- 5.3 Public Hearing.** In accordance with the requirements for adoption and amendments to the regional solid waste management plan, the final draft inventory will need to be presented and discussed in a public hearing. This public review and comment process will be important to ensure that local officials, landowners, and the general public have an opportunity to review and comment on the inventory before it is finalized. Along with the completed inventory, the COG should also present the list of sites from the original statewide inventory that were excluded from the regional inventory, and accept public comment on the decision to exclude those sites from the inventory.
- 5.4 Formal Adoption by the COG.** Following the public comment period, the final proposed inventory will need to be approved by the SWAC and adopted by the governing body of the COG, as an amendment to the regional solid waste management plan.
- 5.5 TCEQ Review and Adoption.** The final inventory will then need to be submitted to TCEQ for review, approval, and adoption. In addition, the COG should submit a list of the sites from the original statewide inventory that were excluded from the regional inventory, along with the Database Revision Forms for those sites. TCEQ staff will review the inventory and recommend to the Executive Director whether the inventory should be approved. Once the inventory is tentatively approved by the Executive Director, notice will be published in the Texas Register and public comment accepted on the inventory. The final inventory will then be presented to the Commissioners for adoption. If approved and adopted by the Commission, the inventory becomes part of the regional solid waste management plan.

- 5.6 Distribution of the Approved Inventory.** In accordance with the statutory requirements, once the inventory is approved and adopted as an amendment to the regional solid waste management plan, the completed inventory must be provided to TCEQ and to the chief planning official of each municipality and county in which a landfill unit is located. TCEQ and the planning officials are to then make the inventory available for public inspection.
- 5.7 Updates to the Inventory.** Once the regional inventory is completed and approved, it is expected that the inventory will need to be updated periodically, to add any newly discovered unpermitted sites and to list permitted sites that close after the inventory is completed. TCEQ is considering options for an ongoing planning cycle that would include a schedule for periodic amendments to the regional solid waste management plans, possibly on a four-year cycle. In considering these options, TCEQ will work with the COGs to establish a procedure for updating the inventory as part of the regular amendments to the regional plans.

6.0 PUBLIC INQUIRIES

Once the inventory is completed and incorporated into the regional solid waste management plan, TCEQ and local planning officials are to make that information available to the public. In addition, because the inventory will be incorporated into the regional solid waste management plan, the COG will have an obligation to provide copies of the inventory to the public.

However, prior to completion of the regional inventories, it is likely that both TCEQ and the COGs will receive an increasing number of public inquiries concerning the inventory information. As has been TCEQ's current procedure, basic information from the statewide inventory database will continue to be made available to the public, with appropriate qualifiers concerning the accuracy of the data. It is recommended that during the development of the regional inventory, each COG also establish a procedure for dealing with requests for information.

7.0 NOTIFICATION OF LANDOWNERS AND COUNTY CLERKS

In accordance with the statutory provisions, once the inventory is completed and incorporated into the regional solid waste management plan, the COG is required to notify landowners and county clerks of those landfills where the exact boundaries are known and which are located wholly on an identifiable tract of land.

The procedures for fulfilling this requirement were set by Texas Association of Regional Council. It is recommended that the 24 COGs be consistent with the process and use the same standard notification documents to comply with this requirement.

8.0 MINIMUM REQUIREMENTS FOR MAINTAINING THE INVENTORY

COG's may become aware of additional closed landfill sites through its own research or investigation, the COG must determine the validity of the information and include such additional sites as appropriate in the regional inventory.

The grant contract specifies the mandatory components that must be included in the inventory to satisfy the statutory requirements. These components are outlined below, and explained further in the following subsections.

- ! Where known, a description of the exact boundaries of former landfill units
- ! If exact boundaries are not known, a description of the approximate boundaries of the former landfill units
- ! Where the exact boundaries are not known, include a map of the approximate boundaries of the former landfill units
- ! If known, the current owners of the land on which the former landfill unit is located
- ! If known, the current use of the land

Forms attached to help maintain the Inventory include:

Attachment 1: Recommended Inventory Format, Basic Identifying Information

Attachment 2: Example Map

Attachment 3: Database Revision Form

ATTACHMENT 1
Recommended Inventory Format

BASIC IDENTIFYING INFORMATION

A. COG Name:

B. County Name:

C. Site Number: Permitted Site Unpermitted Site

SITE HISTORY AND CURRENT STATUS

LOCATION AND BOUNDARY DESCRIPTION

A. Confidence Level

B. Geographic Location (latitude and longitude in decimal degrees)

C. Location Description

D. Boundary Description

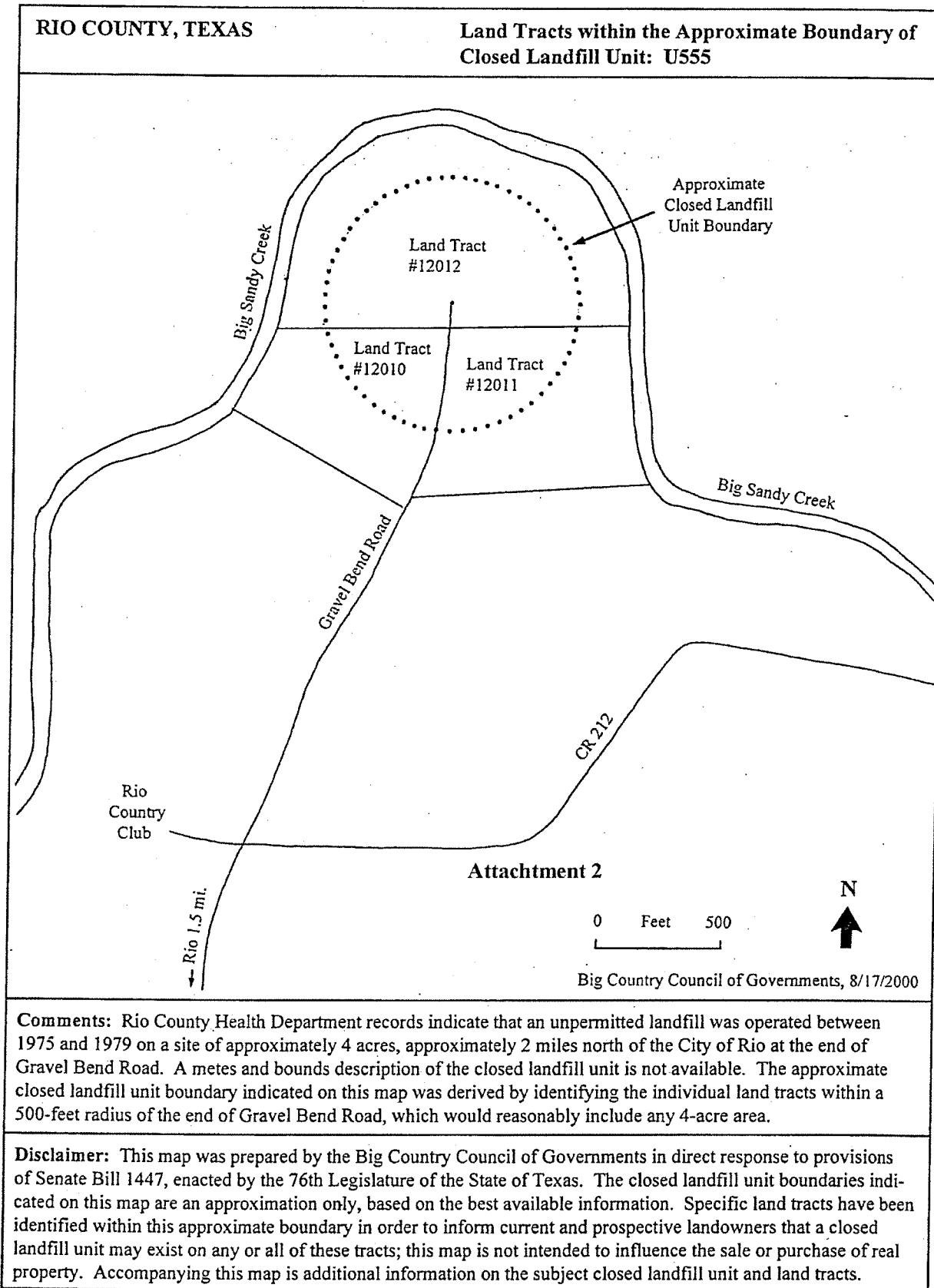
ATTACHMENTS

A. Map(s)

B. Table Showing Land Use, Ownership, and Land Unit Information (*current as of a specific date*)

C. Documents

ATTACHMENT 2
Example Map



ATTACHMENT 3
Closed Municipal Solid Waste Landfill Inventory
Database Revision Form

COG Name:

Date:

Site Number*	Type of Revision (Check One)		Field Name	Data	Reason for Revision
	Data Change	New Data			

* *This form may be modified as long as all of the basic information is still provided. For previously unidentified sites, please assign temporary site numbers in the form of: COG code/T (for temporary)/three-digit unit number (beginning with 001). For example, 18T001, 18T002, 18T003, etc. In administering the statewide database, TCEQ will subsequently assign permanent tracking numbers.*