

Signature Requirements in 30 TAC §305.44

The purpose of this document is to clarify the signature requirements for water quality permit applications subject to 30 Texas Administrative Code (TAC) section (§)305.44. This includes most applications relating to authorizations issued under 30 TAC Chapter 305 (relating to Consolidated Permits), Chapter 205 (relating to General Permits for Waste Discharges), 30 TAC Chapter 312 (relating to Sludge Use, Disposal and Transportation), and 30 TAC Chapter 321 (relating to Control of Certain Activities By Rule).

TCEQ is currently updating the signatory instructions in its application forms. You may have recently received a notice of deficiency (NOD) letter indicating failure to meet the signatory requirements. Please review the information provided below concerning signatory requirements and have a person authorized to sign under §305.44 and submit the enclosed certification. The certification must clearly indicate the applicant and the original application form subject to the NOD. Upon satisfactory review of your signed certification, your submission will no longer be deficient for failing to meet the signatory requirements.

You are encouraged to use the attached certification page for water quality permit and registration applications, and other authorization forms subject to §305.44, until the forms have been updated.

IF YOU ARE A CORPORATION:

The regulation governing who may sign an application form is 30 TAC §305.44(a)(1) (see attached). According to this provision, any corporate representative may sign an application form so long as the authority to sign such a document has been delegated to that person in accordance with corporate procedures. By signing the application form, you are certifying that such authority has been delegated to you. The TCEQ may request documentation evidencing such authority.

IF YOU ARE A MUNICIPALITY OR OTHER GOVERNMENT ENTITY:

The regulation governing who may sign an application form is 30 Texas Administrative Code §305.44(a)(3) (see attached). According to this provision, only a ranking elected official or principal executive officer may sign an application form. Persons such as the City Mayor or County Commissioner are ranking elected officials. The principal executive officer may be identified in your city charter, county or city ordinances, or the Texas statute(s) under which your governmental entity was formed. An application form that is signed by a governmental official who is not a ranking elected official or principal executive officer does not conform to §305.44(a)(3). The signatory requirement may not be delegated to a government representative other than those identified in the regulation. By signing the application, you are certifying that you are either a ranking elected official or principal executive officer. Documentation demonstrating your position as a ranking elected official or principal executive officer may be requested by the TCEQ.

If you have questions or need additional information concerning the signatory requirements discussed above, please contact either Matt Beeter at (512) 239-1406 or Carol Lear at (512) 239-1025, of the Texas Commission on Environmental Quality's Environmental Law Division.

30 Texas Administrative Code
§305.44. Signatories to Applications.

(a) All applications shall be signed as follows.

(1) For a corporation, the application shall be signed by a responsible corporate officer. For purposes of this paragraph, a responsible corporate officer means a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. Corporate procedures governing authority to sign permit or post-closure order applications may provide for assignment or delegation to applicable corporate positions rather than to specific individuals.

(2) For a partnership or sole proprietorship, the application shall be signed by a general partner or the proprietor, respectively.

(3) For a municipality, state, federal, or other public agency, the application shall be signed by either a principal executive officer or a ranking elected official. For purposes of this paragraph, a principal executive officer of a federal agency includes the chief executive officer of the agency, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., regional administrator of the EPA).

CERTIFICATION

Permit/Registration No. _____

Applicant: _____

I, _____
Typed or printed name *Title*

certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I further certify that I am authorized under 30 Texas Administrative Code §305.44 to sign this document and can provide documentation in proof of such authorization upon request.

Signature: _____ Date: _____