

SUBCHAPTER C: PUBLIC NOTICE OF WATER QUALITY APPLICATIONS
§39.151
Effective September 23, 1999

§39.151. Application for Wastewater Discharge Permit, Including Application for the Disposal of Sewage Sludge or Water Treatment Sludge.

(a) Applicability. This subchapter applies to applications for wastewater discharge permits, including sludge disposal applications, that are declared administratively complete before September 1, 1999. Any permit application that is declared administratively complete on or after September 1, 1999 is subject to Subchapter J of this chapter (relating to Public Notice of Water Quality Applications and Water Quality Management Plans).

(b) Notice of receipt of application and administrative completeness. The chief clerk shall mail notice to the School Land Board if the requirements of Texas Water Code, §5.115(c) apply to an application that will affect lands dedicated to the permanent school fund. The notice shall be in the form required by that section. The chief clerk shall also mail notice to the persons listed in §39.13 of this title (relating to Mailed Notice), except that mailed notice to adjacent or downstream landowners is not required for:

(1) an application to renew a permit; or

(2) an application for a new Texas Pollutant Discharge Elimination System (TPDES) permit for a discharge authorized by an existing state permit issued before September 14, 1998 for which the application does not propose any term or condition that would constitute a major amendment to the state permit under §305.62 of this title (relating to Amendment).

(c) Notice of draft permit. For all draft permits except those in subsection (d) of this section, the following provisions apply.

(1) The applicant shall publish notice that the executive director has prepared a draft permit at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge. The executive director shall provide to the chief clerk a list of the appropriate counties, and the chief clerk shall provide the list to the applicant.

(2) The chief clerk shall mail notice to the persons listed in §39.13 of this title, except that mailed notice to adjacent or downstream landowners is not required for an application to renew a permit. For any application involving an average daily discharge of five million gallons or more, in addition to the persons

listed in §39.13 of this title, the chief clerk shall mail notice to each county judge in the county or counties located within 100 statute miles of the point of discharge who has requested in writing that the commission give notice, and through which water into or adjacent to which waste or pollutants are to be discharged under the permit, flows after the discharge.

(3) The notice must set a deadline to file public comment or hearing requests with the chief clerk that is not less than 30 days after newspaper publication. However, the notice may be mailed to the county judges under paragraph (2) of this subsection no later than 20 days before the deadline to file public comment or hearing requests.

(4) For TPDES permits, the text of the notice shall include:

(A) everything that is required by §39.11 of this title (relating to Text of Public Notice); and

(B) a general description of the location of each existing or proposed discharge point and the name of the receiving water; and

(C) for applications concerning the disposal of sludge:

(i) the use and disposal practices;

(ii) the location of the sludge treatment works treating domestic sewage sludge; and

(iii) the use and disposal sites known at the time of permit application.

(d) Notice of certain draft TPDES permits. For a new TPDES permit for which the discharge is authorized by an existing state permit issued before September 14, 1998, the following shall apply.

(1) If the application does not propose any term or condition that would constitute a major amendment to the state permit under §305.62 of this title, the following mailed and published notice is required.

(A) The applicant shall publish notice that the executive director has prepared a draft permit at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge. The executive director shall provide to the chief clerk a list of the appropriate counties, and the chief clerk shall provide the list to the applicant.

(B) The chief clerk shall mail notice of the application and draft permit, providing an opportunity to submit public comments, to request a public meeting, or to request a public hearing to:

(i) the mayor and health authorities of the city or town in which the facility is or will be located or in which pollutants are or will be discharged;

(ii) the county judge and health authorities of the county in which the facility is or will be located or in which pollutant are or will be discharged;

(iii) if applicable, state and federal agencies for which notice is required in 40 Code of Federal Regulations (CFR) §124.10(c);

(iv) if applicable, persons on a mailing list developed and maintained according to 40 CFR §124.10(c)(1)(ix);

(v) the applicant;

(vi) persons on a relevant mailing list kept under §39.7 of this title (relating to Mailing Lists);

(vii) any other person the executive director or chief clerk may elect to include; and

(viii) if applicable, the secretary of the Coastal Coordination Council.

(C) The notice must set a deadline to file public comment, to request a public meeting, or to request a public hearing with the chief clerk that is at least 30 days after newspaper publication.

(D) The text of the notice shall include:

(i) everything that is required by §39.11 of this title;

(ii) a general description of the location of each existing or proposed discharge point and the name of the receiving water; and

(iii) for applications concerning the disposal of sludge:

(I) the use and disposal practices;

(II) the location of the sludge treatment works treating domestic sewage sludge; and

(III) the use and disposal sites known at the time of permit application.

(2) If the application proposes any term or condition that would constitute a major amendment to the state permit under §305.62 of this title, the applicant must follow the notice requirements of subsection (c) of this section.

(e) Notice for other types of applications. Except as required by subsections (b), (c), and (d) of this section, the following notice is required for certain applications.

(1) For an application for a minor amendment to a permit other than a TPDES permit, or for an application for a minor modification of a TPDES permit, under Chapter 305, Subchapter D of this title (relating to Amendments, Modifications, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits), the chief clerk shall mail notice, that the executive director has determined the application is technically complete and has prepared a draft permit, to the mayor and health authorities for the city or town, and to the county judge and health authorities for the county in which the waste will be discharged. The notice shall state the deadline to file public comment, which shall be no earlier than ten days after mailing notice.

(2) For an application for a renewal of a confined animal feeding operation permit which was issued between July 1, 1974, and December 31, 1977, for which the applicant does not propose to discharge into or adjacent to water in the state and does not seek to change materially the pattern or place of disposal, no notice is required.

(3) For an application for a minor amendment to a TPDES permit under Chapter 305, Subchapter D of this title (relating to Amendment, Modifications, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits), the following requirements apply.

(A) The chief clerk shall mail notice of the application and draft permit, providing an opportunity to submit public comments and to request a public meeting to:

(i) the mayor and health authorities of the city or town in which the facility is or will be located or in which pollutants are or will be discharged;

(ii) the county judge and health authorities of the county in which the facility is or will be located or in which pollutants are or will be discharged;

(iii) if applicable, state and federal agencies for which notice is required in 40 CFR §124.10(c);

(iv) if applicable, persons on a mailing list developed and maintained according to 40 CFR §124.10(c)(1)(ix);

(v) the applicant;

(vi) persons on a relevant mailing list kept under §39.7 of this title (relating to Mailing Lists); and

(vii) any other person the executive director or chief clerk may elect to include.

(B) For TPDES major facility permits, notice shall be published in the *Texas Register*.

(C) The text shall meet the requirements in §39.11 of this title and subsection (b)(4) of this section.

(D) The notice shall provide at least a 30-day public comment period.

(E) The executive director shall prepare a response to all significant public comments received by the commission under §55.25 of this title (relating to Public Comment Processing).

(f) Notice of hearing.

(1) This subsection applies if an application is referred to SOAH for a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings).

(2) Not less than 30 days before the hearing, the applicant shall publish notice at least once in a newspaper regularly published or circulated in each county where, by virtue of the county's geographical relation to the subject matter of the hearing, a person may reasonably believe persons reside who may be affected by the action that may be taken as a result of the hearing. The executive director shall provide to the chief clerk a list of the appropriate counties.

(3) Not less than 30 days before the hearing, the chief clerk shall mail notice to the persons listed in §39.13 of this title, except that mailed notice to adjacent or downstream landowners is not required for an application to renew a permit.

(4) For TPDES permits, the text of notice shall include:

(A) everything that is required by §39.11 of this title;

(B) a general description of the location of each existing or proposed discharge point and the name of the receiving water; and

(C) for applications concerning the disposal of sludge:

(i) the use and disposal practices;

(ii) the location of the sludge treatment works treating domestic sewage sludge; and

(iii) the use and disposal sites known at the time of permit application.

(g) Notice for discharges with a thermal component. For requests for a discharge with a thermal component filed pursuant to Clean Water Act, §316(a), 40 CFR Part 124, Subsection D, §124.57(a), public notice, which is in effect as of the date of TPDES program authorization, as amended, is adopted by reference. A copy of 40 CFR Part 124 is available for inspection at the library of the agency, Park 35, 12100 North Interstate 35, Austin.

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Derivation Table
Rule Log No. 96124-039-AD
Public Notice
Adopted December 4, 1996
Effective January 8, 1997

Subchapter C: Public Notice of Water Quality Applications

This table is to be used to track sections after rule revisions. The column on the left should list the sections after the revision. The column on the right should list where the section was before the revision.

New Section	Old Section
§39.151(a)	§305.103(b)
§39.151(b)	§305.101(e), §305.103(b)
§39.151(c)	§§305.101(e), 305.102(c), 305.103(d)
§39.151(d)	§305.100(b)