

SUBCHAPTER M: PUBLIC NOTICE FOR RADIOACTIVE MATERIAL LICENSES
§§39.701 - 39.703, 39.705, 39.707, 39.709, 39.711, 39.713
Effective June 24, 2010

§39.701. Applicability

Any license application under Chapter 336 of this title (relating to Radioactive Substance Rules) is subject to this subchapter and applicable requirements under Subchapter H of this chapter (relating to Applicability and General Provisions).

Adopted August 23, 2000

Effective September 14, 2000

§39.702. Notice of Declaration of Administrative Completeness.

When an application for a license, major amendment, or renewal of a license under Chapter 336 of this title (relating to Radioactive Substance Rules) has been declared administratively complete, the chief clerk shall mail notice under this subchapter. The applicant shall publish the notice of declaration of administrative completeness as provided in §39.707 of this title (relating to Published Notice).

Adopted February 11, 2009

Effective March 12, 2009

§39.703. Notice of Completion of Technical Review.

(a) When the executive director has completed the technical review of an application for a license, major amendment, or renewal of a license issued under Chapter 336 of this title (relating to Radioactive Substance Rules), notice must be mailed by the Office of the Chief Clerk and published under this subchapter. The deadline to file public comment, protests, or hearing requests is 30 days after publication.

(b) For application for a minor amendment to a license issued under Chapter 336 of this title notice must be mailed by the Office of the Chief Clerk under this subchapter. The deadline to file public comment is ten days after mailing, or ten days after publication in the *Texas Register* for minor amendments to a license issued under Chapter 336, Subchapter H or M of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste; Licensing of Radioactive Substances Processing and Storage Facilities, respectively).

Adopted February 11, 2009

Effective March 12, 2009

§39.705. Mailed Notice for Radioactive Material Licenses.

When notice by mail is required under this subchapter, the chief clerk shall mail notice under only ' 39.413(2), (3), (8), (9), and (12) of this title (relating to Mailed Notice), and to each owner of property adjacent to the proposed site. For purposes of determining the ownership of property adjacent to the proposed site under this subchapter, the applicant shall provide the chief clerk with the names of the landowners from the county tax rolls that are available no more than 30 days before the date of newspaper publication of the notice.

Adopted September 2, 1999

Effective September 23, 1999

§39.707. Published Notice.

(a) For applications under Chapter 336, Subchapter F of this title (relating to Licensing of Alternative Methods of Disposal of Radioactive Material), Subchapter G of this title (relating to Decommissioning Standards), Subchapter K of this title (relating to Commercial Disposal of Naturally Occurring Radioactive Material Waste From Public Water Systems), Subchapter L of this title (relating to Licensing of Source Material Recovery and By-Product Material Disposal Facilities), or Subchapter M of this title (relating to Licensing of Radioactive Substances Processing and Storage Facilities), when notice is required to be published under this subchapter, the applicant shall publish notice at least once in a newspaper of largest general circulation in the county in which the facility is located.

(b) For applications for a new license, renewal license, or major amendment to a license issued under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste), on completion of technical review and preparation of the draft license, the commission shall publish, at the applicant's expense, notice of the draft license and specify the requirements for requesting a contested case hearing by a person affected. The notice must include a statement that the draft license is available for review on the commission's Web site and that the draft license and application materials are available for review at the offices of the commission and in a public place in the county or counties in which the proposed disposal facility site is located. Notice must be published in a newspaper of general circulation in each county in which the proposed disposal facility site is located.

(c) In addition to published notice requirements in subsection (b) of this section, for an initial notice of draft license and opportunity to comment and for any subsequent license amendment of a license under Chapter 336, Subchapter H of this title or Subchapter M of this title, the chief clerk shall publish notice once in the *Texas Register*.

Adopted February 11, 2009

Effective March 12, 2009

§39.709. Notice of Contested Case Hearing on Application.

(a) The requirements of this section apply when an application is referred to the State Office of Administrative Hearings for a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings).

(b) Except as provided in subsection (d) of this section, for applications under Chapter 336, Subchapter F of this title (relating to Licensing of Alternative Methods of Disposal of Radioactive Material), Subchapter G of this title (relating to Decommissioning Standards), Subchapter K of this title (relating to Commercial Disposal of Naturally Occurring Radioactive Material Waste From Public Water Systems), or Subchapter L of this title (relating to Licensing of Source Material Recovery and By-product Material Disposal Facilities), notice must be mailed no later than 30 days before the hearing. For applications under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste) or Subchapter M of this title (relating to Licensing of Radioactive Substances Processing and Storage Facilities), notice must be mailed no later than 31 days before the hearing.

(c) When notice is required under this section, the text of the notice must include the applicable information specified in §39.411(b)(12) and (d) of this title (relating to Text of Public Notice).

(d) For an application for a new license to dispose of by-product material under Chapter 336, Subchapter L of this title that was filed with the Department of State Health Services on or before January 1, 2007, notice under this section must be provided to the applicant, the office of public interest counsel, the executive director, and any person who timely submitted a request for a contested case hearing by mail at least 10 days in advance of the hearing.

Adopted June 2, 2010

Effective June 24, 2010

§39.711. Proof and Certification of Notice.

(a) Notice shall be mailed by certified mail, return receipt requested. Proof of mailing to the proper address on the return receipt shall be accepted as conclusive evidence of the fact of the mailing.

(b) The applicant shall file proof of publication with the chief clerk within 30 days after publication. Filing an affidavit executed by the publisher accompanied by a printed copy of the notice as published creates a rebuttable presumption of compliance with the requirement to publish notice.

(c) The applicant shall file proof of posting with the chief clerk within 30 days of posting. Proof of posting may be made by the return affidavit of the sheriff, or,

constable or by the affidavit of a credible person made on a copy of the posted notice showing the fact of the posting.

Adopted September 2, 1999

Effective September 23, 1999

§39.713. Public Notification and Public Participation.

Upon the receipt of a license termination plan or decommissioning plan from the licensee, or a proposal by the licensee for release of a site under §336.607 of this title (relating to Criteria for License Termination under Restricted Conditions) or §336.609 of this title (relating to Alternate Criteria for License Termination), or whenever the commission deems notice to be in the public interest, the commission shall:

(1) notify and solicit comments from:

(A) local and state governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning; and

(B) the United States Environmental Protection Agency for cases where the licensee proposes to release a site under §336.609 of this title (relating to Alternate Criteria for License Termination); and

(2) publish a notice in the *Texas Register* and in a forum, such as local newspapers, letters to state or local organizations, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site, and solicit comments from affected parties.

Adopted September 2, 1999

Effective September 23, 1999