



Texas Commission on Environmental Quality

Instructions for Public Notice: Notice of Application and Preliminary Decision (NAPD) for Industrial and Hazardous Waste Permits

The Executive Director has completed the technical review of your application and issued a preliminary decision. Now you must comply with the following instructions. Please read all instructions carefully. If you have questions, contact the Waste Permits Division at WPD-PNV@tceq.texas.gov or (512) 239-2335. When contacting TCEQ regarding this application, please refer to the permit or compliance plan number at the top of the enclosed Notice of Application and Preliminary Decision.

A. Reviewing the Notices

We have enclosed:

1. Notice of Application and Preliminary Decision (Notice)
2. Radio Broadcast - Notice of Application and Preliminary Decision (Radio Notice), *if applicable*
3. Notice of Application and Preliminary Decision (Spanish Notice), *if applicable*

All necessary information is included in the notices. Please read them carefully and notify us immediately if they contain any errors or omissions. You are responsible for ensuring the accuracy of all information published. However, you may not change the text or formatting of the notices or any affidavit of publication without prior approval from TCEQ. If you have any questions regarding the content of the notices, please contact the administrative reviewer of your application (named in the cover letter).

B. Publishing the Notice

You must follow these instructions when publishing the enclosed Notice.

1. Publish at your expense within **45 calendar days** after the date this information was mailed to you (see the date of the cover letter).
2. Preserve the original text and emphasis. The **bold** text of the enclosed Notice must be printed in the newspaper in a font style or size that distinguishes it from the rest of the notice (**bold** or *italics*). Failure to do so may require re-notice.
3. Publish in a newspaper (or newspapers) meeting these three requirements. One newspaper may be used if it satisfies all three requirements:
 - a. **First Requirement.** You must publish the Notice in either—
 - 1) The newspaper of largest general circulation that is published in the county where the facility is located or is proposed to be located, **or**
 - 2) If a newspaper is not published in the county, any newspaper of general circulation in the county.
 - b. **Second Requirement.** You must publish the Notice at least once in the same newspaper as the Notice of Receipt of Application and Intent to Obtain Permit.
 - c. **Third Requirement.** For all applications *other than Class 3 Modifications*, you must publish in a newspaper of general circulation in each county that is adjacent or contiguous to each county where the facility is located or proposed to be located.

C. Publishing the Alternative Language Notice

If your responses on the permit Application and on the NORI Public Notice Verification form have indicated that a Spanish-language translation of the Notice is required, then we have included it in this package. For further guidance, please review the following requirements.

1. You must publish the public notice in an alternative language if the elementary or middle school nearest to the facility or proposed facility:
 - a. Is required to provide a Bilingual Education Program [as required by Texas Educ. Code, Chapter 29, Subchapter B, and 19 Texas Admin. Code §89.1205(a)]
and
 - b. At least one of the following conditions is met—
 - Students are enrolled in a Bilingual Education Program at that school; or
 - Students from that school attend a Bilingual Education Program at another location; or
 - The school that otherwise would be required to provide a Bilingual Education Program has waived out of the requirement under 19 Texas Admin. Code §89.1207(a).
2. If you are required to publish an Alternative Language Notice, then you must strictly follow these instructions:
 - a. The notice must be written in the alternative language that is taught in the Bilingual Education Program.
 - b. You must publish the Alternative Language Notice in a newspaper or publication that is –
 - Published primarily in that alternative language.
 - Of general circulation in the county in which the facility is located or proposed to be located. (**Exception:** If the facility is located or proposed to be located in a municipality, and there exists a newspaper or publication of general circulation in the municipality, you must publish the notice only in the newspaper or publication in the municipality.)
 - c. The Notice must be translated as follows—
 - ***If translating into Spanish*** – The Spanish Notice is enclosed. You may not change the text or formatting of the Notice without prior approval from TCEQ. If the Notice is missing or insufficient, contact the person reviewing your application (named in the cover letter).
 - ***If translating into a language other than Spanish*** – You must translate the entire Notice at your own expense and submit a copy to TCEQ for posting on the TCEQ website. Before publication, email a copy to the person reviewing your application (named in the cover letter).

You must demonstrate a good faith effort to identify a newspaper or publication in the required language. If there is no general-circulation newspaper or publication printed in such language, then publishing in that language is not required. Publication in an alternative language section or insert within a large publication which is not printed primarily in that alternative language does not satisfy these requirements.

D. Posting the Application in a Public Place

Beginning on the **first day of newspaper publication**, you must post copies of the application documents in a public place for review and copying by the public. In doing so, you must make sure to meet these requirements.

1. The set of copies must include:
 - a. The complete application
 - b. The Executive Director's Preliminary Decision, as contained in the technical summary and fact sheet
 - c. The draft permit
 - d. Any subsequent revisions to these documents
2. The public place must be:
 - a. Located in the county where the facility is located or proposed to be located
 - b. Publicly owned or operated, such as a library, county courthouse, or city hall
3. These copies must be accessible to the public for review and copying and remain in place until TCEQ has either taken action on the application or referred issues to the State Office of Administrative Hearings (SOAH).
4. If the application is submitted to the TCEQ with information marked as **confidential**, you must indicate which specific portions of the application are not being made available to the public. These portions of the application must be accompanied with the following statement:

"Any request for portions of this application that are marked as confidential must be submitted in writing, pursuant to the Public Information Act, to TCEQ Public Information Coordinator, MC 197, P.O. Box 13087, Austin, Texas 78711-3087."

E. Broadcasting the Radio Notice

For hazardous waste new, renewal, and major amendment applications:

1. Select one or more local radio stations to ensure that the broadcast area includes all the county/counties in which the facility is located or proposed to be located.
2. Have the station(s) broadcast the Radio Notice **no later than 15 days from the publication date of** the Notice of Application and Preliminary Decision (see the date of the cover letter).
3. Fill out the Radio Broadcast Verification section of the Public Notice Verification Form.

F. Completing the Public Notice Verification Form

You must fill out and submit the attached Public Notice Verification Form. It is comprised of seven sections that must be complete and accurate:

- Applicant and Facility Information
- Alternative Language Determination – Recording your completion of required steps.
- Publication Availability for Alternative Language Notice – Documenting your good faith effort to publish the Alternative Language Notice (if applicable).
- Proof of Publication – Noting required attachments and previous submissions.
- Proof of Broadcast – Noting the radio stations and counties (if applicable).
- Public Place for Viewing Application – Recording the location's name and address.
- Verification – *Unsigned verification forms will be returned.*

Sections G through I, below, provide instructions and deadlines for preparing and submitting the Public Notice Verification Form and supporting documents.

G. Preparing the Proof of Publication

Check each publication to ensure that the notices were accurately published. If a notice was not published correctly, you may have to republish. For each newspaper in which you published, you must obtain proof of publication (a newspaper clipping or “tear sheet”) that shows all of the following:

1. Entire text of the Notice
2. Date of publication
3. Name of newspaper

H. Preparing the Publisher’s Affidavits

On pages 5-8 of this document, you will find four Affidavit forms—

1. Publisher’s Affidavit #1
2. Publisher’s Affidavit #2
3. Publisher’s Affidavit #3 (to be used only if applicable)
4. Publisher’s Affidavit for Alternative Language (to be used only if applicable)

You are responsible for ensuring that the enclosed Affidavit forms are completed and notarized according to the following requirements—

For each required published notice, you must use the appropriate Publisher’s Affidavit form that is enclosed with these instructions.

Make sure each affidavit clearly identify the applicant's name and permit number.

Even if you are using one newspaper to satisfy more than one publication requirement, you must fill out all affidavits, checking the relevant boxes for the criteria that the newspaper satisfies.

I. Submitting the Forms and Supporting Documents to TCEQ

1. **Within 10 business days** after the date of publication, email copies or scans of the *proof of publication* documents to the Waste Permits Division at WPD-PNV@tceq.texas.gov. (It is recommended that you retain the original newspaper clippings or tear sheets for your records.)
2. **Within 30 calendar days** after the date of publication, email copies or scans of the remaining documents to the Waste Permits Division at WPD-PNV@tceq.texas.gov.
 - a. Public Notice Verification Form for NAPD
 - b. Publisher's affidavits for each publication (You are encouraged to submit the Affidavits earlier, with the *proof of publication* documents, if you are able.)

If you fail to publish the notice or submit proof of publication by the deadlines set forth above, TCEQ may suspend further processing on your application or take other actions.

Applicant Name: _____

Permit Number: _____

Publisher's Affidavit #1

For Industrial and Hazardous Waste Permit Applications

STATE OF TEXAS §

COUNTY OF _____ §

BEFORE ME, the undersigned notary public, on this day personally appeared,

_____ *(name of person representing newspaper),*

who being by me duly sworn, deposes and says that (s)he is the

_____ *(title of person representing newspaper)*

of the _____ *(name of newspaper);* that

this newspaper is—

(Check applicable box)

- ☐ the newspaper of largest circulation that is published in the county in which the facility is located or proposed to be located, or
- ☐ a newspaper generally circulated within the county, and there is no newspaper published in the county;

(If using one newspaper to satisfy all publication requirements, you must still fill out Affidavit #2, checking the boxes indicating the criteria the newspaper satisfies.)

and that the attached notice was published in said newspaper on the following date(s)—

by _____ *(newspaper representative's signature).*

Subscribed and sworn to before me this the _____ day of _____, 20____,

Notary Public in and for the State of Texas

(Personalized Seal)

Print or Type Name of Notary Public

My Commission Expires

Applicant Name: _____

Permit Number: _____

Publisher's Affidavit #2

For Industrial and Hazardous Waste Permit Applications

STATE OF TEXAS §

COUNTY OF _____ §

BEFORE ME, the undersigned notary public, on this day personally appeared,

_____ (*name of person representing newspaper*),

who being by me duly sworn, deposes and says that (s)he is the

_____ (*title of person representing newspaper*)

of the _____ (*name of newspaper*); that

(*Check applicable box*)

- ☐ this newspaper is the newspaper of largest circulation within the county in which the facility is located or is proposed to be located, or
- ☐ the facility is located or is proposed to be located in a municipality, and the newspaper is generally circulated in the municipality;

(*If using one newspaper to satisfy all publication requirements, you must still fill out Affidavit #2, checking the boxes indicating the criteria the newspaper satisfies.*)

and that the attached notice was published in said newspaper on the following date(s)—

by _____ (*newspaper representative's signature*).

Subscribed and sworn to before me this the _____ day of _____, 20____,

Notary Public in and for the State of Texas

(Personalized Seal)

Print or Type Name of Notary Public

My Commission Expires

Applicant Name: _____

Permit Number: _____

Publisher's Affidavit #3

For Industrial and Hazardous Waste Permit Applications

STATE OF TEXAS §

COUNTY OF _____ §

BEFORE ME, the undersigned notary public, on this day personally appeared,

_____ (name of person representing newspaper),

who being by me duly sworn, deposes and says that (s)he is the

_____ (title of person representing newspaper)

of the _____ (name of newspaper); that

this newspaper is of general circulation in _____ (name of

county/counties) county/counties, which is/are adjacent or contiguous to _____

(same county as proposed facility) County, and that the attached notice was published in

said newspaper on the following date(s)—

by _____ (newspaper representative's signature).

Subscribed and sworn to before me this the _____ day of _____, 20____,

Notary Public in and for the State of Texas

(Personalized Seal)

Print or Type Name of Notary Public

My Commission Expires

Applicant Name: _____

Permit Number: _____

Alternative Language Publisher's Affidavit

For Industrial and Hazardous Waste Permit Applications

STATE OF TEXAS §

COUNTY OF _____ §

BEFORE ME, the undersigned notary public, on this day personally appeared,

_____ (*name of person representing newspaper*),

who being by me duly sworn, deposes and says that (s)he is the

_____ (*title of person representing newspaper*)

of the _____ (*name of newspaper*); that this

newspaper is generally circulated in _____ (*same county as proposed*

facility) County, Texas, and is published primarily in _____ (*alternative*

language) language; and that the attached notice was published in said newspaper on the

following date(s)—

by _____ (newspaper representative's signature).

Subscribed and sworn to before me this the _____ day of _____, 20____,

Notary Public in and for the State of Texas

(Personalized Seal)

Print or Type Name of Notary Public

My Commission Expires