

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



INSTRUCTIONS FOR PUBLIC NOTICE For Industrial and Hazardous Waste Permits

NOTICE OF APPLICATION AND PRELIMINARY DECISION

The Executive Director has completed the technical review of your application and issued a preliminary decision. You must comply with the following instructions:

Please Review Notice

We have included in the notice all of the information that we believe is necessary. Please read it carefully and notify us immediately if it contains any errors or omissions. You are responsible for ensuring the accuracy of all information published. You may not change the text or formatting of the notice or affidavit of publication without prior approval from the TCEQ.

Newspaper Notice

- You must publish the enclosed Notice of Application and Preliminary Decision within **45 calendar days** after the date this information was mailed to you (see date of cover letter).
- You must publish the enclosed Notice of Application and Preliminary Decision at your expense, in a newspaper(s) that meets the following requirements:
 - First. You must publish notice either 1) in the newspaper of largest general circulation *that is published in the county* in which the facility is located or is proposed to be located, or 2) if a newspaper is not published in the county, the notice must be published in any newspaper of general circulation in the county;
 - Second. You must publish the enclosed Notice of Application and Preliminary Decision at least once in the same newspaper as the Notice of Receipt of Application and Intent to Obtain Permit; and
 - Third. For all applications other than Class 3 Modifications, you must publish in a newspaper of general circulation in each county which is adjacent or contiguous to each county in which the facility is located or proposed to be located.
 - These requirements may be satisfied by one publication if the newspaper meets **all** of these requirements.
 - 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 (i.e., **bold, italics**). **Failure to do so may require to re-publish the notice.**

Radio Broadcast

For hazardous waste applications other than Class 3 Modifications, no later than 15 days from the publication date of the Notice of Application and Preliminary Decision, you must broadcast the enclosed Radio Broadcast for Notice of Application and Preliminary Decision on one or more local radio stations that broadcast to an area that includes all of the counties in which the facility is located or proposed to be located. You must fill out the Radio Broadcast Verification section of the Public Notice Verification Form and submit it to the Waste Permits Division when you submit the Public Notice Verification Form.

Alternative Language Notice

If your application was received on or after November 30, 2005, you must publish notice in an alternative language if the following criteria are met.

- You must publish the public notice in an alternative language if either the elementary or middle school nearest to the facility or proposed facility is required to provide a bilingual education program as required by Tex. Educ. Code, Chapter 29, Subchapter B, and 19 Tex. Admin. Code § 89.1205(a) and one of the following conditions is met:
 - students are enrolled in a program at that school;
 - 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 waives out of this requirement under 19 Tex. Admin. Code § 89.1205(g).
- If triggered, you must publish the notice in the alternative language taught in the bilingual education program. You must publish this notice in a newspaper or publication primarily published in that alternative language. The newspaper or publication must be of general circulation in the county in which the facility is located or proposed to be located. 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.
- 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.
- You have the burden to demonstrate compliance with these requirements. To assist you in meeting these requirements, the TCEQ has provided a Public Notice Verification Form (enclosed). You must fill out the attached Public Notice Verification Form indicating your compliance with the requirements regarding publication in an alternative language.
- If you are required to publish notice in Spanish, you must translate the site-specific information in the notice that is specific to your application, at your own expense. You may then insert the Spanish translation of your site-specific information into a Spanish template developed by the TCEQ. You may obtain the electronic version of the [Spanish template](https://www.tceq.texas.gov/permitting/waste_permits/ihw_permits/bilingualnotices.html) from the TCEQ website at https://www.tceq.texas.gov/permitting/waste_permits/ihw_permits/bilingualnotices.html.
- If you are required to publish notice in a language other than Spanish, you must translate the entire public notice, at your own expense.

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 submit ***proof of publication*** that shows the notice, the date of publication, and the name of the newspaper to the Waste Permits Division within **10 business days** after the date of publication. It is recommended that you maintain the original newspaper clipping or tear sheet of the notice for your records.
- For each newspaper notice, you must submit an **original publisher's affidavit** to the Waste Permits Division within **30 calendar days** after the date of publication. **For each required published notice, you must use the appropriate Publisher's Affidavit form that is enclosed with these instructions.** The affidavit must clearly identify the applicant's name and permit number. **If you are using one newspaper to satisfy all publication requirements, you must still fill out all affidavits checking the relevant boxes for the criteria that the newspaper satisfies.**
- You are encouraged to submit the Publisher's Affidavits with the proof of publication described above. However, the affidavits must be submitted no later than **30 calendar days** after publication of the notice.
- You must fill out the attached Public Notice Verification form. On this Form, you must verify that you submitted the notices and the original Publisher's Affidavits as required by the TCEQ's regulations and instructions. This form must be submitted with the Publisher's Affidavit within **30 calendar days** after publication of the notice.
- The **original Publisher's Affidavits, the Public Notice Verification Form, and the proof of publication of the published notices** must be emailed to WPD-PNV@tceq.texas.gov.

Failure to Publish and Submit Proof of Publication

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

Application in a Public Place

- You must put a copy of the complete application, the Executive Director's Preliminary Decision as contained in the technical summary and fact sheet, the draft permit, and any subsequent revisions to these documents, in a public place for review and copying by the public. This public place must be located in the county where the facility is located or proposed to be located.
- A public place is one that is publicly owned or operated (ex: libraries, county courthouses, or city halls).
- This copy must be accessible to the public for review and copying beginning on the first day of newspaper publication and remain in place until the commission has taken action on the application or the commission refers issues to the State Office of Administrative Hearings.
- If the application is submitted to the TCEQ with information marked as confidential, you are required to 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 the TCEQ Public Information Coordinator, MC 197, P.O. Box 13087, Austin, Texas 78711-3087.”

- You must fill out the attached Public Notice Verification form. On this Form, you must verify that a complete application and all subsequent revisions are available for review and copying in a public place as required by the TCEQ’s regulations and instructions. This Form must be submitted with the Publisher’s Affidavits within **30 calendar days** after publication of the notice.

General Information

When contacting the Commission regarding this application, please refer to the permit/compliance plan number at the top of the Notice of Application and Preliminary Decision.

If you have any questions regarding publication requirements, please contact the Waste Permits Division at 512-239-2335. If you have any questions regarding the content of the notice, please contact the individual in the permitting area assigned to your application.

**PUBLISHER'S AFFIDAVIT #1
FOR INDUSTRIAL & HAZARDOUS WASTE PERMIT APPLICATIONS**

STATE OF TEXAS §
COUNTY OF _____ §

BEFORE ME, the undersigned notary public, on this day personally appeared,
_____, who being by me duly
(name of person representing newspaper)

sworn, deposes and says that (s)he is the _____
(title of person representing newspaper)

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

(Check applicable box)

- the newspaper of largest general circulation that is published in the county in which the facility is located or proposed to be located, or
- the newspaper is 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 all affidavits 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

**PUBLISHER'S AFFIDAVIT #2
FOR INDUSTRIAL & HAZARDOUS WASTE PERMIT APPLICATIONS**

STATE OF TEXAS §
COUNTY OF _____ §

BEFORE ME, the undersigned notary public, on this day personally appeared,
_____, who being by me duly
(name of person representing newspaper)

sworn, deposes and says that (s)he is the _____
(title of person representing newspaper)

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

(Check applicable box)

- the newspaper of largest general circulation that is published in the county in which the facility is located or proposed to be located, or
- the newspaper is generally circulated in the county in which the facility is located or 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 all affidavits 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

TCEQ-WASTE PERMITS DIVISION
MC-126
PO Box 13087
Austin, TX 78711-3087

Applicant Name: _____
Permit No. _____
NOTICE OF APPLICATION AND PRELIMINARY
DECISION

**PUBLISHER'S AFFIDAVIT #3
FOR INDUSTRIAL & HAZARDOUS WASTE PERMIT APPLICATIONS**

STATE OF TEXAS §
COUNTY OF _____ §

BEFORE ME, the undersigned notary public, on this day personally appeared,
_____, who being by me duly
(name of person representing newspaper)

sworn, deposes and says that (s)he is the _____
(title of person representing newspaper)

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

of general circulation in _____ County/Countries which is/are adjacent or
contiguous to _____ 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

*** RADIO BROADCAST ***
FOR NOTICE OF APPLICATION AND PRELIMINARY DECISION

Frisco Community Development Corporation, a former oxide manufacturing, battery recycling, and secondary lead smelting facility which ceased operations in 2012, located in Frisco, in Collin County, Texas, has applied for a permit renewal with compliance plan and major amendment to authorize on-site storage, processing, and disposal associated with corrective action activities. The application was submitted to the Texas Commission on Environmental Quality (TCEQ) on September 30, 2010, October 27, 2016, August 2, 2017, May 29, 2019, November 18, 2019, October 7, 2022, May 11, 2023, and August 11, 2023.

TCEQ's Executive Director has completed technical review of the application and prepared a draft permit. The Executive Director has made a preliminary decision that this permit meets all legal requirements. If issued, the permit would establish operating conditions for the facility. The permit application, Technical Summary and Executive Director's Preliminary Decision, and draft permit are available for viewing and copying at Frisco Public Library, 8000 Dallas Parkway, Frisco, Texas 75034. The public can also access these documents at <https://www.friscotexas.gov/459/Exide-Technologies-Related-Information>

You may submit public comments or request a public meeting about this application through *[*date]*. Please address written public comments and requests for a public meeting to Office of the Chief Clerk, Mail Code 105, TCEQ, P.O. Box 13087, Austin Texas 78711-3087.

For information about this application, TCEQ's permitting process, and public participation you may contact TCEQ's Public Education Program, Toll Free, at 1 800 687-4040. More information is also available online at TCEQ.texas.gov.

* Insert date = newspaper publication date + 45 days

**PUBLISHER'S AFFIDAVIT
FOR ALTERNATIVE LANGUAGE**

STATE OF TEXAS §
COUNTY OF _____ §

BEFORE ME, the undersigned notary public, on this day personally appeared,
_____, who being by me duly
(name of person representing newspaper)

sworn, deposes and says that (s)he is the _____
(title of person representing newspaper)

of the _____; that this newspaper is generally
(name of newspaper)

circulated in _____ County, Texas, and is published primarily
(same county as proposed facility)

in _____ language; that the attached
(alternative language)

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