



TNRCC Regulatory Guidance

Remediation

RG-366/TRRP-17 February 2001

SUBJECT: Notification Requirements

Objectives: This guidance describes the process to provide notification as required by the TRRP.

Audience: Regulated Community and Environmental Professionals

References: The regulatory citation for Texas Risk Reduction Program (TRRP) rule for notification is 30 TAC §350.55 and §350.31(i).

The TRRP Rule and Preamble are on-line at
<http://www.tnrcc.state.tx.us/oprd/rules/indxpdf5.html> .

The TRRP rule, together with conforming changes to related rules, is contained in 30 Texas Administrative Code Chapter 350, and was published in the September 17, 1999 Texas Register (24 TexReg 7413-7944). Download Tier 1 PCL Tables, toxicity factors and other TRRP information at <http://www.tnrcc.state.tx.us/permitting/trrp.htm> .

Contact: Technical Support Section at 512/239-0310; Corrective Action Section 512/239-2343; Site Assessment & Management Section 512/239-2509; Superfund Cleanup Section 512/239-2425; Voluntary Cleanup Program Section 512/239-5891

For mailing addresses, see TNRCC's web page at www.tnrcc.state.tx.us .

Overview of Notification Requirements

During the course of an affected property assessment, environmental samples will be collected for chemicals of concern (COCs). TRRP contains provisions that may require the person who had the samples collected to provide a notice to certain parties that the results of those sample analyses are available. Therefore, the person should ask the following six questions, where applicable, to determine if there is a requirement for notification:

1. Does the evaluation of the sample analytical result indicate an "actual or probable human exposure" to a COC at a concentration in excess of a Tier 1 human health protective concentration level (PCL) applicable for the land use?;
2. Am I submitting a sample analysis result to the TNRCC for a sample collected from property that I do not own?;
3. Am I submitting information to the TNRCC that indicates that property that I do not own and have not sampled more likely than not contains a COC originating from on-site activities that is in excess of a residential assessment level?;
4. Was the sample collected from within an easement and if so, is a Tier 1 human health PCL for the applicable land use exceeded?; or
5. Have I received TNRCC approval of a final ecological PCL that is a critical PCL for a specific property that I do not own?; or
6. Am I submitting a TRRP plan or report that contains information that was originally submitted to the TNRCC before TRRP was applied (i.e., historical information) and does that historical information meet the conditions of any of questions 2-5 above?

As shown in Figure 1, answering any of the six preceding questions in the affirmative will require persons conducting an affected property assessment to provide one of two basic types of notification to certain groups of third parties:

- Notice to people who are “actually or probably” exposed to COCs above certain defined levels of the possible exposure and availability of additional information, and/or
- Notification of the availability of sample analysis results to various types of people whose land may potentially be affected by COCs (e.g., nearby property owners, tenants, holders of utility easements, and other people set forth in the rule and discussed below).

Figure 1 depicts the notification requirements. The notification “trigger” presented in each diamond in Figure 1 should be considered for applicability. If a notification trigger is applicable, then notification must be completed in accordance with the specific requirements for that trigger. The different triggers do not have the same notification requirements. Note that more than one trigger can apply to a given sample analysis result. When such is the case, and more than one notification would be required to be given to the same person, then all notification requirements must be met. However, the requirements can be combined into a single notice provided all requirements and time frames are met.

The party required to make the notification is the “person” as defined in §350.4(a)(62) and who is subject to the applicability provisions of TRRP at §350.2. As indicated by the definition, a person can be either an individual or a business entity such as a corporation, partnership, or other business form. In most cases the person will be the same entity that signed, or will sign, the Affected Property Assessment Report (APAR). For example, a person that has entered the affected property into the VCP program and is taking action under TRRP will be required to provide the notification. Another example of who will be required to provide the notification is a person who is subject to regulation under 30 TAC Chapter 335 (relating to the storage, processing or disposal of industrial solid waste) and is taking action under TRRP in response to a release. Although the person’s consultant can make the notification on behalf of the person, the person is responsible for ensuring the notifications are properly provided.

The remainder of this document will describe the specific requirements for each of the six different situations discussed earlier that require notice to be conducted. For convenience, the following table provides a summary of the requirements for providing notice. However, be aware that the table is not comprehensive of all rule requirements, and therefore, the table should be used in conjunction with §350.55.

There is an additional notification requirement set forth in §350.31(i) for owners of land where a response action is planned or underway. This notification provision is discussed in the last section of this guidance document.

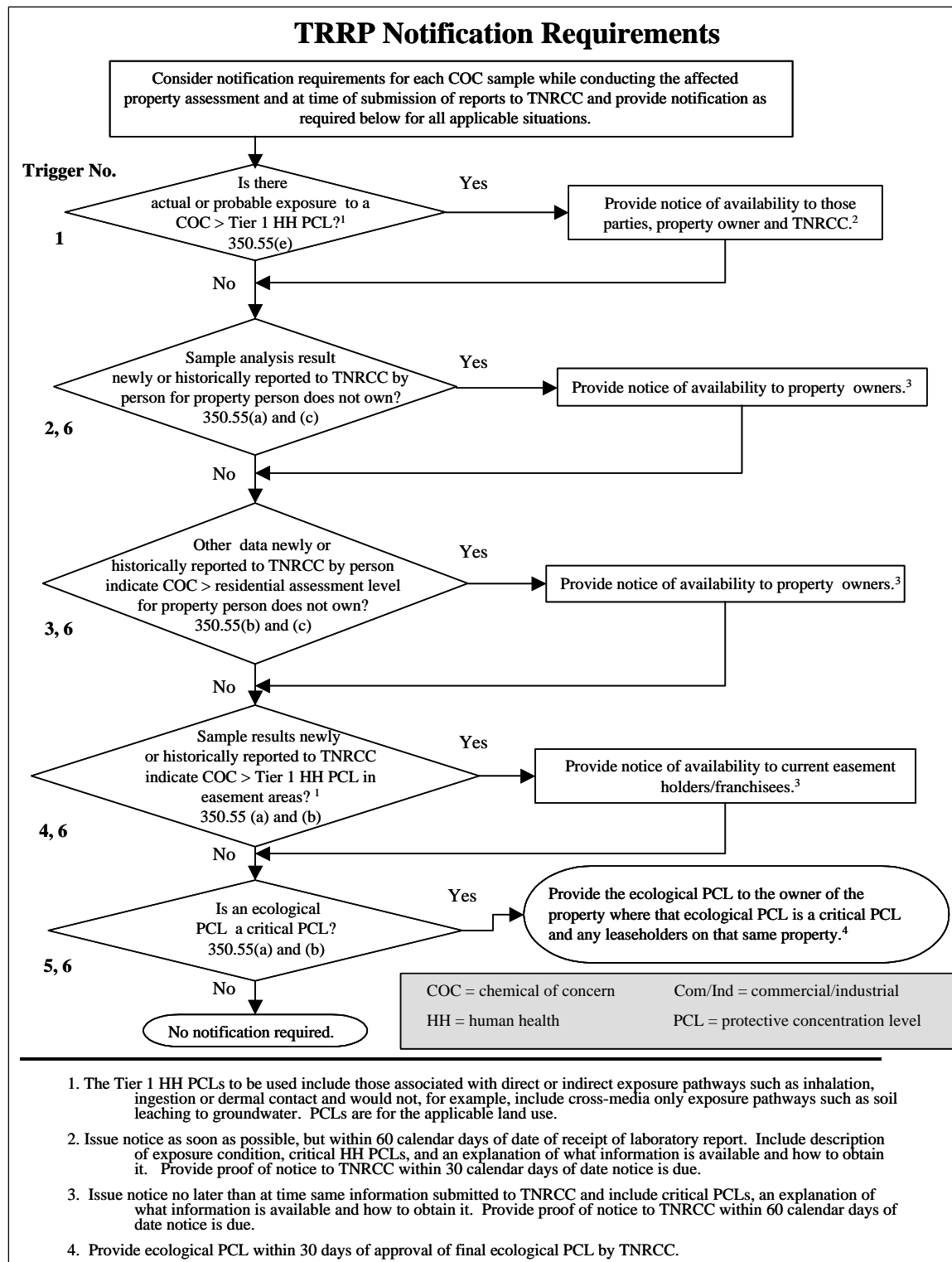


Figure 1. TRRP Notification Triggers

Summary of TRRP Notification Requirements

What triggers notification?	Who is to be notified?*	When to notify?	What is the form and content of the notification?
<p>1. The person receives a sample analysis result that documents the concentration of a COC that someone is “actually or probably” exposed to exceeds the Tier 1 human health PCL for the applicable land use and exposure pathway. [§350.55(e)]</p>	<p>Anyone, either on-site or off-site, who has an “actual or probable” exposure to a COC at a concentration that exceeds the Tier 1 human health PCL for the applicable land use and exposure pathway,</p> <p>AND the property owner,</p> <p>AND the TNRCC.</p>	<p>As soon as possible, but no later than 60 days after the date that the laboratory analysis is received.</p> <p>If new information indicates other parties are potentially exposed, they must be notified as soon as possible, but no later than 14 days after the date actual or probable exposure was determined, unless determined by additional sampling results in which case they must be notified no later than 60 days after the date that the laboratory analysis is received.</p>	<p>By personal contact, or letter, other effective public communication (a sign mandatorily posted for as long as the exposure conditions exist in publicly accessible areas (e.g., public parks)) notify those actually or probably exposed:</p> <ul style="list-style-type: none"> ▪ that sampling results for the specific property are available; ▪ that exposure to the COC(s) is possible and how exposure may be occurring; ▪ what the critical human health PCL(s) is/are; and ▪ how to obtain the sample results and any additional information and what that additional information is.
<p>2. The person submits sample analysis results in a plan or report to the TNRCC that were collected from property not owned by the person (i.e., off-site property or property that the person only leases). [§350.55(a)]</p>	<p>Property owner</p>	<p>At the time the first plan or report containing that information is submitted to the TNRCC.</p>	<p>By personal contact, letter, other effective public notice, or signs posted for a minimum of 180 consecutive days, notify the property owner:</p> <ul style="list-style-type: none"> ▪ that sampling results are available; ▪ what the critical human health PCL(s) is/are; and ▪ how to obtain the information and any additional information and what that additional information is.
<p>3. The person submits information to the TNRCC such as sample analysis results or COC distribution maps that indicate that a COC more likely than not exceeds a residential assessment level on an off-site property that was not sampled and not owned by the person. [§350.55(b)]</p>	<p>Property owner</p>	<p>At the time the first plan or report containing that information is submitted to the TNRCC.</p>	<p>By personal contact, letter, other effective public notice, or signs posted for a minimum of 180 consecutive days, notify the property owner:</p> <ul style="list-style-type: none"> ▪ that sampling results are available; ▪ what the critical human health PCL(s) is/are; and ▪ how to obtain the sample results and any additional information and what that additional information is.

*Note: Within 60 days of the date the notice is due, the person must provide the TNRCC with a signed notarized affidavit that the §350.55 notification requirements have been completed. In the case of actual or probable exposure, the notarized affidavit is due to the TNRCC within 30 days of the date the notice is due (§350.55(d) and (e)(4)). The person must maintain their proof of notification for no less than 5 years following the issuance of a no further action letter in accordance with §350.34(1) or (3).

Summary of TRRP Notification Requirements

What triggers notification?	Who is to be notified?*	When to notify?	What is the content of the notification?
<p>4. The person submits sample results to the TNRCC that document that a Tier 1 human health PCL applicable for the land use is exceeded at any depth within an easement or franchise area OR when information other than direct sampling indicates that a COC concentration exceeds the Tier human health PCL at any depth within an easement or franchise area is submitted to the TNRCC by the person.</p> <p>[§350.55(a) and (b)]</p>	<p>Current easement or franchise area owner (e.g., municipal or private utility, right of way, etc). For municipal entities, provide notice directly to the chief clerk or city secretary.</p>	<p>At the time the first TRRP plan or report containing those sample analysis results or information are submitted to the TNRCC.</p>	<p>By personal contact, letter, other effective public notice, or signs posted for a minimum of 180 consecutive days, notify the easement or franchise holders:</p> <ul style="list-style-type: none"> ▪ that sampling results are available; ▪ what the critical human health PCL(s) is/are; and ▪ how to obtain the sample results and any additional information and what that additional information is.
<p>5. Receipt of TNRCC approval of a final ecological PCL for a COC and that ecological PCL is the critical PCL for a specific property. [§350.55(a) and (b)]</p>	<p>Property owner and leaseholder(s), to the extent the lessees are known or obvious, of a specific property where the ecological PCL is the critical PCL.</p>	<p>Within 30 days of receipt of TNRCC approval of the Tier 2 or 3 ecological risk assessment which contains the final ecological PCL for a COC to be used under Remedy Standard A or B.</p>	<p>By personal contact, letter, other effective public notice, or signs posted for a minimum of 180 consecutive days, notify the property owner and leaseholder(s):</p> <ul style="list-style-type: none"> ▪ that the ecological PCL is available; ▪ how to obtain this information and any additional information and what that additional information is.
<p>6. The person submits a TRRP plan or report that contains information that was originally submitted to the TNRCC before TRRP was applied (i.e., historical information) and that historical information meets the conditions of triggers 2-5.</p> <p>[§350.55(c)]</p>	<p>Property owner, easement or franchise area owner, and leaseholder when required the ecological PCL is the critical PCL for the specific property.</p>	<p>At the time the first TRRP plan or report containing that historical information is submitted to the TNRCC.</p>	<p>By personal contact, letter, other effective public notice, or signs posted for a minimum of 180 consecutive days, notify the property owner and leaseholder(s):</p> <ul style="list-style-type: none"> ▪ that sampling results are available; ▪ what the critical human health PCL(s) is/are; and ▪ how to obtain the sample results and any additional information and what that additional information is.

*Note: Within 60 days of the date the notice is due, the person must provide the TNRCC with a notarized affidavit that the §350.55 notification requirements have been completed. In the case of actual or probable exposure, the notarized affidavit is due to the TNRCC within 30 days of the date the notice is due (§350.55(d) and (e)(4)). The person must maintain their proof of notification for no less than 5 years following the issuance of a no further action letter in accordance with §350.34(1) or (3).

General Requirements

This section discusses requirements that are applicable for all of the six situations that trigger notification.

Responding to Requests for Information

As explained in greater detail later, the person is required to provide a notice of availability of information. If the person receives a written request for the information from a notified party, that information must be provided to that party within 14 calendar days of receipt of the request at the expense of the person.

Notice Format

The notice may be in the form of individual communication by letter or personal contact, or public notice through public meetings, fliers, or signs. The form of notification must be appropriate and effective.

Providing Proof of Compliance with Notification Requirements to TNRCC

The person must submit a signed and notarized affidavit to the TNRCC stating that all notices required by §350.55 have been completed. This affidavit is due to the TNRCC within 60 days of the date notices are due to be made to the parties, except in the case of actual or probable exposure. In the case of actual or probable exposure, the proof of notification must be provided to the TNRCC within 30 days of the date the notice is due to the parties (i.e., no later than 90 days from the receipt of the laboratory analysis results). The notarized affidavit may be included as part of a TRRP report (e.g., Affected Property Assessment Report (APAR), Response Action Plan (RAP)) submitted to the TNRCC on this same affected property when it is submitted within the required period for submission of the affidavit to the TNRCC. When the notification was made directly to parties, such as by mail, personal contact, public meetings, or fliers, a list of the names and addresses of parties notified must be included with the affidavit.

Record Keeping Requirements

The person responsible for notification must maintain proof of notification for a minimum of 5 years following the issuance of a no further action letter that documents that notice was completed (see §350.34(1) or (3) for an explanation of when no further action letters are issued). If requested by the TNRCC, the person must produce this proof.

Notices to Others

Although not required by §350.55, persons required to make notification are urged to notify lenders and other secured parties. "Lenders and other secured parties" means those parties whom the county real property records currently reflect have a security interest in the affected property, including both the on-site and off-site portions of the affected property. Additionally, persons required to make the notification and people receiving the notification may have contractual obligations to notify their lenders and other secured parties. Parties providing or receiving notice should review their contracts with their lenders or other secured parties to determine if additional notices are needed by their contracts. Persons providing notice may want to alert people receiving this notice of the possibility of such contractual requirements.

Information to Aid Identifying Property Ownership, Leases and Easements

Information on property owners is available from county clerk records and from county tax appraisal districts. Many county tax appraisal districts provide access through the Internet to property ownership

records. There is some delay, however, in these records being updated and the information may need to be verified by follow-up inquiry. Information from the county clerks records is available electronically for a fee from electronic search services. Information on recorded easements and leases may also be found in the county clerk records. A person may need to retain the services of a title company in conducting searches of county real property records. In the case of leases, it may be necessary to contact the owner, since not all leases are filed in the public records.

Specific Requirements for Notification Situations

This section discusses the notification requirements that are specific for each of the following situations:

1. Actual or probable human exposure;
2. Samples collected from property owned by someone else;
3. Other information indicating the presence of COCs on property owned by someone else;
4. Concentration of a COC within an easement or franchise area exceeds a Tier 1 human health PCL applicable for the land use;
5. An ecological PCL is the critical PCL; and
6. Resubmission of previously submitted information (i.e., historical information) for property owned by someone else.

Trigger 1. Actual or Probable Human Exposure

Notice must be provided to anyone actually or probably exposed to a COC at a concentration that exceeds the Tier 1 human health PCL established for the applicable current land use and exposure pathways. An exposure pathway is how someone is exposed to the COC. For example, the ingestion of soil that contains COCs is an exposure pathway. Examples of instances where an actual or probable human exposure might occur, thereby, triggering notification under §350.55(e) include, but are not limited to the following:

- Contact with soil at ground surface in areas such as yards, playgrounds or recreational areas where a non-volatile COC is found in excess of Tier 1 human health PCL so that there is incidental ingestion and dermal contact with that soil COC (Figure 2);
- Exposure to vapors in excess of the Tier 1 human health PCL in the basement of a building overlying shallow groundwater containing a COC;
- Ingestion of groundwater from wells containing a COC in excess of the Tier 1 human health PCL (Figure 2);
- Consumption of crops, dairy, beef or other food products with a COC in excess of human health PCLs. (Note that the triggers are based on Tier 2 or 3 PCLs for these additional exposure pathways since there are no Tier 1 PCLs. Notice cannot be delayed until TNRCC review of Tier 2 or 3 PCLs is completed).

Consider the following to determine if anyone is actually or probably exposed:

- The various people who use the affected property;
- Human activity patterns at the affected property;

- Presence of any areas of congregation or recreation (e.g., playgrounds, natural areas, greenbelts, or break areas);
- Distribution and concentration of COCs exceeding Tier 1 human health PCLs;
- Conditions of any structures which may allow or prevent exposure to a COC in soil, water, or vapors; and
- Source of drinking water.

Employees or contractors of the person who are subject to OSHA Hazard Communication programs designed to inform and protect workers from harmful exposure at a facility to the COCs in the affected property would not be required to be provided this type of notice where it can be determined there is not actual or probable exposure. For example, if a worker at a chemical plant is required to wear personal protective equipment that precludes exposure to the COC in question at concentrations greater than Tier 1 commercial/industrial human health PCLs, then notification would not be triggered because there is no actual or probable exposure. It is up to the person to make such a determination; otherwise, notification to the party, that is the actually or probably exposed worker, would be required.

It is important that all potential exposure pathways be identified early in the affected property assessment planning process. Once the samples are collected from areas where actual or probable exposures may be occurring (e.g., playgrounds, drinking water wells), consideration should be given to instructing the analytical laboratory to prioritize the processing and reporting of the sample results.

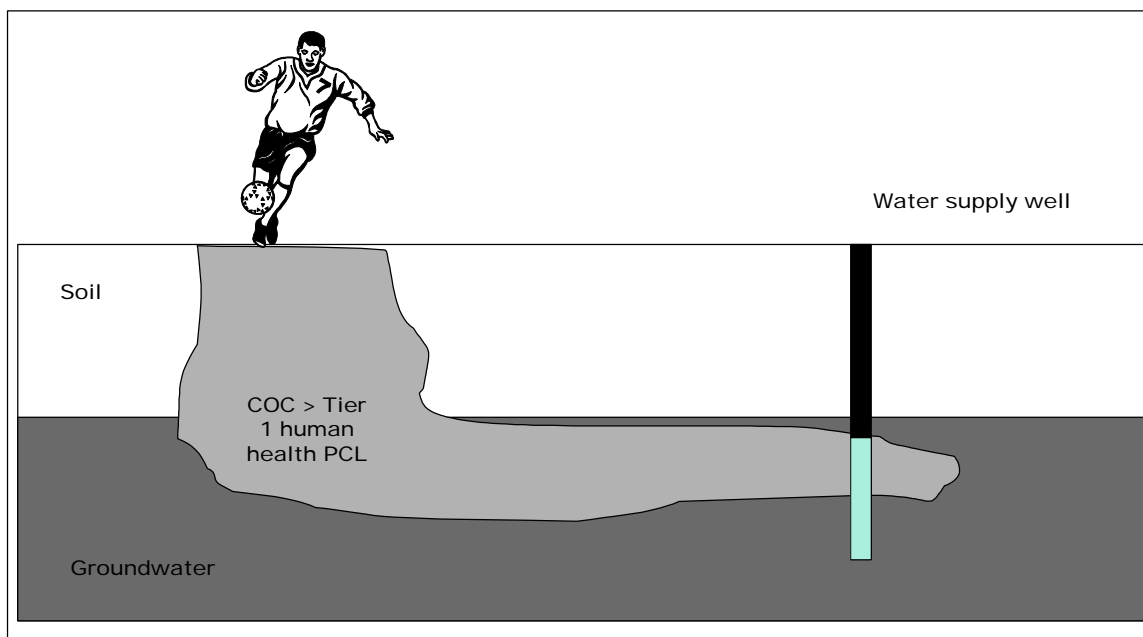


Figure 2. Cross-section of affected property illustrating actual soil contact and groundwater ingestion exposure pathways.

Who must provide notice?

In the course of the assessment, if COCs are determined to be in excess of Tier 1 human health PCLs and there is actual or probable exposure, the person is required to provide the notice to every party who is actually or probably exposed, the property owner (if different), and to the TNRCC. The person is required to provide the notice even if the person conducting actions under TRRP is not the party responsible for the COCs. For example, if the COCs were discovered off-site and actual or probable exposure is occurring at that off-site property, but the person determines that the COCs originated from a

second off-site property (not from the on-site property), the person conducting action under TRRP is still required to provide the §350.55(e) notice for actual or probable exposure. They may indicate in the notice that they are not the responsible party and are only reporting discovered information and may indicate who may be responsible. Alternatively, they may directly contact the third party who is responsible for the COCs and provide them the opportunity to provide notice. However, the person is not released from the responsibility of §350.55(e) in the event that the third party fails to provide notice properly.

As stated in the preceding paragraph, in this situation a notice must also be provided to the TNRCC. When providing the notice to the TNRCC, direct it to the project manager in the TNRCC program area (for example, Corrective Action Section, Voluntary Cleanup Section). Clearly indicate that the information is being sent because there is probable or actual exposure of people to a COC.

What triggers the notification requirement?

The notification requirement for actual or probable human exposure is triggered “upon the receipt of the laboratory analysis from the performing laboratory” that documents that the concentration of the COC that someone is actually or probably exposed to exceeds a Tier 1 human health PCL applicable for the land use (§350.55(e)(1)). The Tier 1 human health PCLs to be used include those associated with direct or indirect exposure pathways such as inhalation, ingestion or dermal contact and would not, for example, include cross-media only exposure pathways such as soil leaching to groundwater. In this instance “applicable” land use means the actual use of the land in comparison to the definitions for residential and commercial/industrial property (§350.4(a)(74) and §350.4(a)(13), respectively) and is not contingent upon landowner consent for placement of an institutional control. A determination of whether notice for actual or probable human exposures is required should quickly commence upon receipt of written analytical laboratory results (e.g., facsimile, e-mail, U.S. Mail, or overnight delivery).

When must notification be made?

Notification must be made as soon as possible, but no later than 60 calendar days from receipt of the laboratory analyses from the performing laboratory. Also, if new information becomes available which indicates that other parties could be exposed, then those other parties and the TNRCC shall be notified as soon as possible, but no later than 14 days of the date actual or probable exposure is determined; unless the exposure determination is made based on the collection and analysis of an additional sample in which case notice must be made within 60 days from receipt of the laboratory analysis. Notification of actual or probable exposure via an exposure pathway that does not have a Tier 1 PCL is triggered when a Tier 2 or 3 PCL for that exposure pathway is exceeded.

What is the required content and form of the notice?

The person must provide a notice of availability of information that must indicate:

- Information is available regarding environmental sample analysis results for samples collected from the specific property;
- Exposure to COCs is possible given certain existing conditions and how that exposure might be occurring (e.g., drinking well water);
- The critical human health PCL(s) (Tier 1, 2, or 3);
- An explanation of what additional information is available; and
- That the notified party can receive the information by submitting a written request to an identified contact point.

It is important to remember that the trigger for notification is an actual or probable human exposure to a COC at a concentration that exceeds a Tier 1 human health PCL, as applicable to land use. However, the

person making the notification may include the Tier 2 or 3 PCLs to indicate that subsequent and more site-specific analysis of the results may conclude that there is no unacceptable exposure (assuming the Tier 2 or 3 PCLs are higher than the maximum COC concentrations for the samples collected).

The form of the notice will typically be written and delivered by mail, by hand delivery, or at a public meeting. In some instances where the name and address of a party to be notified is not known or in areas where access is unrestricted (e.g., park, playground, etc.), the person providing the notice must use and maintain legible signs for as long as the actual or probable exposure conditions exist. The sign should convey enough information so that it is clear to the people actually or probably exposed to COCs that potential exposure to chemicals may occur. An example of a sign is provided as Figure 3.

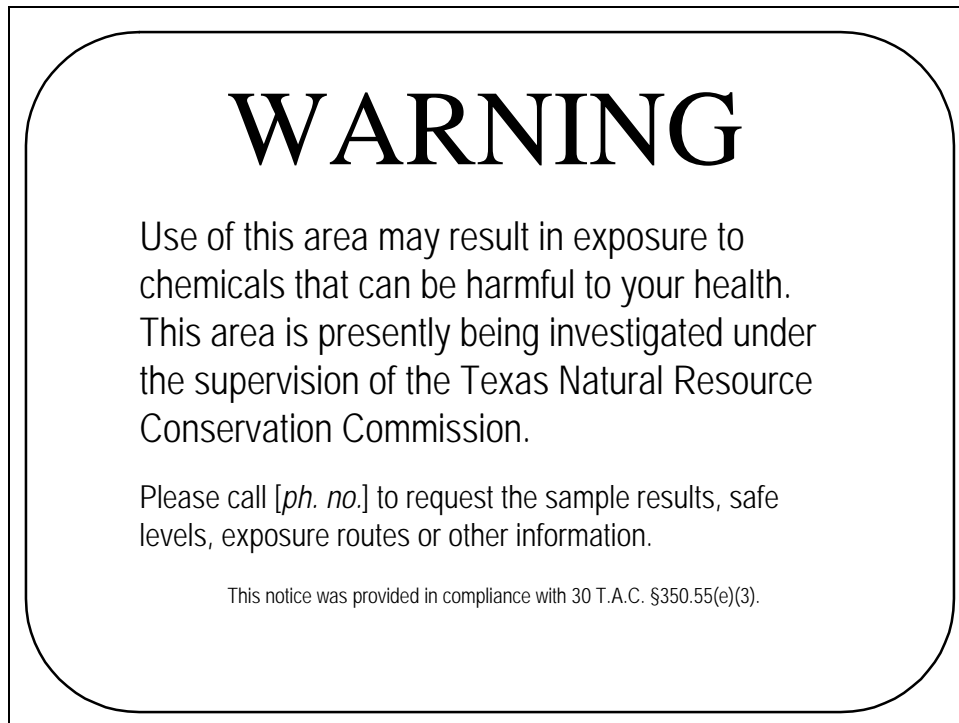


Figure 3. Example Notice Sign for Actual or Probable Human Exposure

Trigger 2. Samples are Collected from Property Owned by Someone Else

These notification requirements occur when environmental samples are collected on property that the person does not own and those results are submitted to the TNRCC. This includes on-site property such as may be the case when the person is leasing the property, and off-site property (Figure 4, on-site property and off-site properties A, B, C, E, F).

What triggers the notification requirement?

The requirements for the notification are triggered by the submission of the sample analysis result to the TNRCC, regardless of the reported concentration. If the analytical results of samples collected from another person's property will be submitted to the TNRCC as part of the APAR or within other TRRP plan or report, then the analytical results for those samples and any subsequently collected samples from that property must be made available to the owner.

Who is required to be notified?

The owner of the property that was sampled must be provided this notice. For municipal entities, notices are required to be delivered to the chief clerk or city secretary.

When must notification be made?

Provide notice no later than at the time the first plan or report that contains the sample analysis result is submitted to the TNRCC. Examples of such plans or reports are the APAR, RAP, etc.

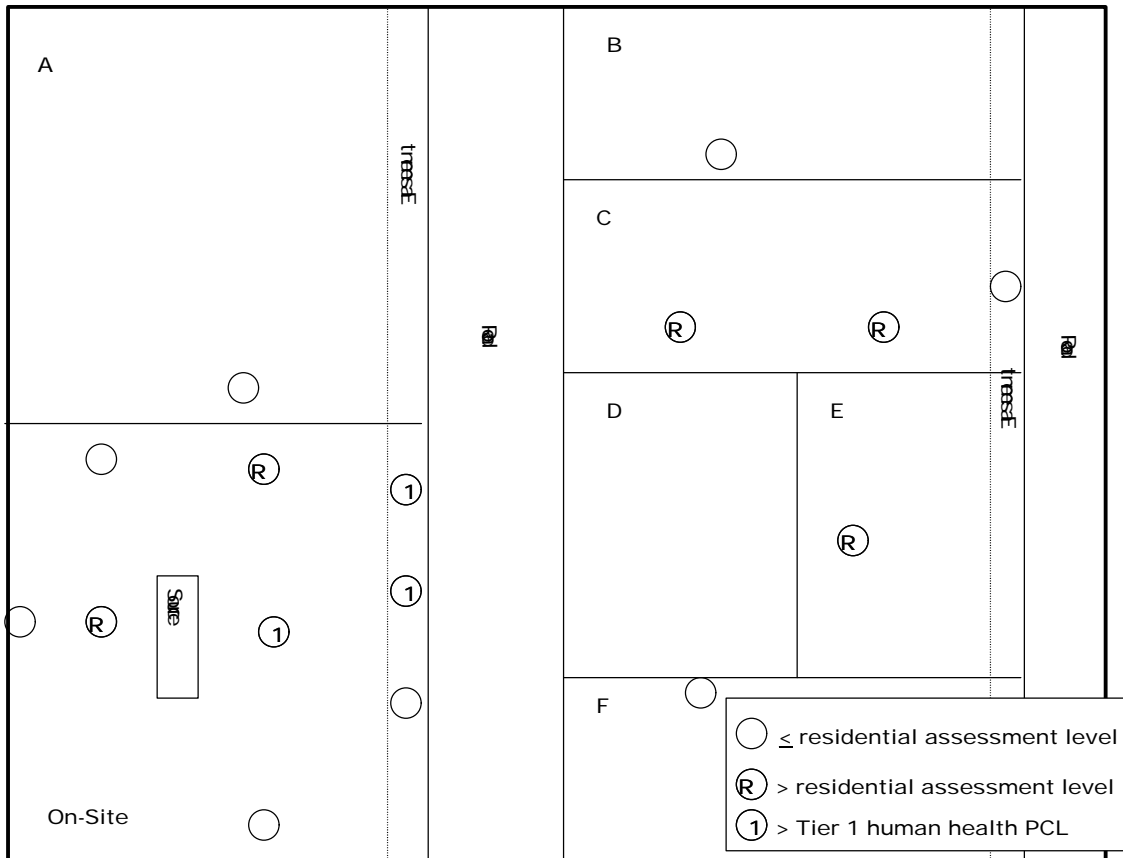


Figure 4. Map view of leased on-site property and off-site properties A – F illustrating locations of samples collected during an affected property assessment

What is the content of the required notice?

The person must provide a notice of availability of information that must indicate:

- Information is available regarding environmental sample analysis results for samples collected from the specific property;
- The critical human health PCL(s) (Tier 1, 2, or 3) for the COC assessed at the property;
- An explanation of what additional information is available; and
- That the notified party can receive the information by submitting a written request to an identified contact point.

Trigger 3. Other Information Indicating the Presence of COCs on Property Owned by Someone Else

In this situation, assessment data collected from on-site and/or off-site property indicate that a COC has affected property owned by others that was not sampled as part of the assessment (Figure 4, property D

and the road between the on-site and off-site property). A final inquiry to make when reviewing the analytical results for the samples collected during the assessment process is whether the results support such a determination. This evaluation necessarily must entail not only a consideration of the concentrations of the COCs for the on-site and off-site samples, but the other information obtained during the assessment process that provide some evidence of migratory pathways, likely routes of exposure, etc.

What triggers the notification requirement?

The submission of information to the TNRCC that indicates that it is more likely than not that a COC originating from on-site activities is present on property owned by others in excess of a residential assessment level.

Who is required to be notified?

The owner of the property affected in excess of the residential assessment level must be provided this notice. For municipal entities, notices are required to be delivered to the chief clerk or city secretary.

When must notification be made?

Provide notice no later than at the time the first plan or report containing that sample analysis result is submitted to the TNRCC. Examples of such plans or reports are the APAR, RAP, etc.

What is the required content of the notice?

The person must provide a notice of availability of information that must indicate that:

- Information is available regarding actual sample analysis results collected from other property(ies) that indicates that it is more likely than not that a COC is affecting that property;
- The critical human health PCLs (Tier 1, 2, or 3);
- An explanation of what additional information is available; and
- That the notified party can receive the information by submitting a written request to an identified contact point.

Trigger 4. Concentration of a COC within an Easement or Franchise Area Exceeds a Tier 1 Commercial/Industrial Human Health PCL

Easement or franchise areas can be located within the property owned by the person conducting the assessment or on property owned by others (Figure 4, Easements 1 and 2). Typical encumbrances to consider include municipal or private utility easements, public and private rights of way, etc.

What triggers the notification requirement?

The submission of sample analysis results or other information to the TNRCC that indicates the concentration of a COC within the easement area exceeds a Tier 1 human health PCL for the applicable land use. The Tier 1 human health PCLs to be used include those associated with direct or indirect exposure pathways such as inhalation, ingestion or dermal contact and would not, for example, include cross-media only exposure pathways such as soil leaching to groundwater. If a Tier 1 human health PCL is exceeded at any depth, then notification requirements apply (Figure 4, Easement 1). If analysis results are submitted to the TNRCC for samples collected from within an easement or franchise area, but the results do not indicate that a Tier 1 human health PCL applicable for the land use is exceeded, then notification is not triggered.

Who is required to be notified?

Notice must be provided to the easement holder/franchisee. For municipal entities, notices are required to be delivered to the chief clerk or city secretary.

When must notification be made?

Notification must be made to the easement holder/franchisee no later than at the time the first plan or report that contains the sample analysis result or other information is submitted to the TNRCC. Examples of such plans or reports are the APAR, RAP, etc.

What is the content of the required notice?

The person must provide a notice of availability of information that must indicate that:

- Information is available regarding environmental sample analysis results for samples collected from the specific easement or franchise area or regarding the sample analysis results for samples collected from other property(ies) that indicates that it is more likely than not that a COC is affecting the easement or franchise area;
- The critical PCLs (Tier 1, 2, or 3);
- An explanation of what additional information is available; and
- That the notified party can receive the information by submitting a written request to an identified contact point.

Trigger 5. An Ecological PCL is the Critical PCL

For some property, the ecological risks may result in more stringent cleanup levels than those needed for human health protection (See §350.55(a) and (b)). When this is the situation, then additional notice provisions are triggered.

What triggers the notification requirement?

Receipt of TNRCC approval for a final ecological PCL and that ecological PCL is the critical PCL for a specific property.

Who should be notified?

Leaseholders, to the extent they are known or obvious, and owners of the property where the ecological PCL is the critical PCL are required to be notified of the ecological PCLs.

When must notification be made?

The notice of availability of the ecological PCLs must be made within 30 days of TNRCC approval of the Tier 2 or 3 ecological risk assessment which contains the final ecological PCLs to be used under Remedy Standards A or B.

What is the content of the required notice?

The person must provide a notice of availability of information that must indicate that:

- Ecological PCLs are available;
- An explanation of what additional information is available; and
- That the notified party can receive the information by submitting a written request to an identified contact point.

Trigger 6. Resubmission of Previously Submitted Information for Property Owned by Someone Else

If any of the information was submitted to the TNRCC for an affected property before TRRP was applicable to that affected property and that information meets the conditions of the scenarios regarding notification triggers 2-5, then notification will be triggered if that information is included in any report or

plan that is submitted under TRRP. If such is the case, then the notification requirements mirror those for each of those situations as described previously in this document. The notification is triggered at the time that information is resubmitted to the TNRCC. For example, if sample analysis results collected from an off-site property were submitted to the TNRCC in 1998 (pre-TRRP), and then those reported concentrations are subsequently included in a table in a report submitted under TRRP, notification would be triggered for those sample analysis results. As another example, for the same case if a COC concentration map was submitted in 1998 that indicated that a COC exceeds a residential assessment level on an off-site property that was not sampled, and an updated version of the map is submitted under TRRP and the same inference can be made, then notification is triggered.

Notification in Accordance with §350.31(i)

TRRP may require the owner of land where a response action is planned or underway to disclose the fact that a response action is planned or underway prior to transfer of the property or signing of lease agreements. The landowner must inform the prospective purchaser or tenant of the property or the existing or planned response actions and of any current or future potential limitations on the use of the property until such time as the institutional control requirements of §350.31(g) are met; or until the Response Action Completion Report (RACR) is approved by the TNRCC when the requirements of §350.31(g) are not applicable. Once those institutional control requirements are met or the RACR is approved, TRRP no longer requires the landowner to make the disclosure. The rule does not require the landowner to provide any proof to the TNRCC that the disclosure has been made, but it is recommended that the landowner document and maintain proof of the disclosure.