

SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-8. Permit review by EPA and affected states

(a) **Applicability.** This Section applies ~~only to specific Tier II and III applications for Part 70 construction and/or operating permits and permit actions that have not been waived from compliance with this section by the Administrator to all Subchapter 8 permit actions except administrative permit amendments.~~

(b) **Format.** To the extent practicable, information provided to the EPA by applicants shall be in computer-readable format compatible with EPA's national database management system.

(c) **Recordkeeping.** The DEQ will keep for 5 years records required by this Section and will submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the State program complies with the requirements of the Act or of this Chapter.

(d) **Transmission of Part 70 applications information to EPA.** ~~For Part 70 Tier II and III applications subject to this section, the~~ The DEQ shall provide to the Administrator a copy of each permit application (including any application for permit modification), each proposed permit, and each final part 70 permit, unless waived by the Administrator for a category of sources other than major sources. In the alternative, the DEQ may require an applicant upon filing to also provide a copy of the permit application (including the compliance plan) directly to the Administrator. ~~or~~ Upon agreement with the Administrator, the DEQ may submit a permit application summary form and any relevant portion of the permit application and compliance plan, in place thereof.

(e) ~~Transmittal~~ **Transmission of notice of draft permit to affected states.** ~~See 27A O.S. § 2-5-112(E); 27A O.S. §§ 2-14-101 through 2-14-401; and OAC 252:2-15~~ The DEQ shall give notice of each draft permit to any affected State on or before the time that this notice is provided to the public under 27A O.S. § 2-14-302, except to the extent that paragraph 8-7.2(b)(1) regarding minor permit modification applications, and 40 CFR § 70.7(e)(3)(iii) regarding group processing of minor permit modifications, requires the timing of the notice to be different.

(f) ~~Preparation and submittal~~ **Timelines for submission of EPA review copy.**

(1) ~~Tier II applications.~~ For Tier II applications, the DEQ shall review public comments, revise the draft permit as appropriate and submit the revision to EPA for review no later than 60 days before the issuance deadline established in OAC 252:2-15-72 or, if none, by this Chapter.

(2) ~~Tier III applications.~~ For Tier III applications, the DEQ shall prepare a proposed permit according to 27A O.S. §

~~2-14-304, and submit it to EPA for review upon the publication of notice of an administrative permit hearing opportunity. The DEQ shall review public comments, revise the draft permit as appropriate and submit the proposed permit to EPA for review no later than 60 days before the issuance deadline established in OAC 252:4-7-31, except as provided in OAC 252:4-7-9 through 4-7-11, which stop the review timeline and provide additional time for permit review.~~

(g) **Notice of non-acceptance.** ~~As part of the DEQ's submittal of a revised draft permit (Tier II) or a proposed permit (Tier III) to the Administrator, the~~ The DEQ shall notify the Administrator and any affected State in writing of any refusal by the DEQ to accept all recommendations for the ~~revised draft permit or proposed permit~~ that the affected State submitted during the review period. The notice will include the DEQ's reasons for not accepting any such recommendation. The DEQ is not required to accept recommendations that are not based on applicable requirements of the Oklahoma Clean Air Act or ~~these rules~~ 40 CFR Part 70.

(h) **EPA review and non-objection.** Upon receipt of notice from the EPA that it will not object to:

~~(1) A revised draft permit based on a Tier II application, the DEQ shall issue the permit.~~

~~(2) A proposed permit based on a Tier III application, a proposed permit,~~ the DEQ shall issue the proposed permit as final unless an administrative permit hearing has been timely and properly requested.

(i) **EPA review and objection.**

(1) **Timing.** ~~Except as specified in paragraph 5 of this subsection, no~~ No permit for which an application must be transmitted to the Administrator under subsection (a) of this Section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the ~~revised draft permit (Tier II) or proposed permit (Tier III)~~ and all necessary supporting information.

(2) **Form of objection.** An EPA objection shall include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections.

(3) **Additional grounds.** Failure of the DEQ to do any of the following also shall constitute grounds for an objection:

(A) Comply with subsections (d) or (e) of this Section;

(B) Submit any information necessary to review adequately the ~~revised draft permit (Tier II) or the proposed permit (Tier III);~~ or

(C) Process the permit application according to the uniform permitting requirements of OAC ~~252:2-15~~ 252:4-7

Part 1.

(4) **Copy.** The Administrator will provide the permit applicant a copy of the objection.

(5) **DEQ response.** The DEQ shall consult with EPA and the applicant and shall either:

~~(A) **Amend permit.** Amend amend the permit and submit for approval an amended draft (Tier II) or proposed (Tier III) permit to EPA within 90 days after the date of EPA's objection, or~~

~~(B) **Give notice and issue.** Determine that one or more revisions sought by EPA are inconsistent with applicable state or federal statutes or regulations, inform EPA accordingly within 90 days following the date of the Administrator's objection, decline to make those particular revisions and:~~

~~(i) issue the amended or revised draft permit (Tier II) as final, or~~

~~(ii) issue the proposed permit (Tier III) as final unless an administrative permit hearing has been timely and properly requested.~~

(6) **Failure of DEQ to respond.** If the DEQ fails, within 90 days after the date of the EPA objection, to amend and resubmit the ~~draft permit or~~ amended proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of EPA's Part ~~70~~ 71 regulations.

(j) **Public petitions to the Administrator.** If the Administrator does not object in writing under subsection (h) of this ~~section~~ Section, any person that meets the requirements of this subsection may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that the petitioner raised with reasonable specificity during the public comment period provided for in ~~OAC 252:2-15~~ 27A O.S. § 2-14-302.A.2., unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the DEQ shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the DEQ has issued a permit prior to receipt of an EPA objection under this subsection, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in ~~OAC 252:100-8-7 through 252:100-8-7.5~~ 40 CFR §§ 70.7(g)(4) or (5)(i) and (ii) except in unusual circumstances. If the DEQ revokes the permit, it may thereafter issue only a revised permit

that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(k) **Effect on ~~Tier III~~ administrative permit hearing.** When a public petition or an EPA objection is registered on a proposed permit ~~(Tier III)~~ on which an administrative permit hearing has been requested in accordance with the Oklahoma Uniform Environmental Permitting Act, 27A O.S. §§ 2-14-101 through 2-14-401, the DEQ may stay the evidentiary part of the hearing involving cross-examination until EPA objections are resolved ~~or determined to be inconsistent with applicable laws.~~