

Permitting and Reporting Guidance



OKLAHOMA
Environmental
Quality



Oklahoma City



Permitting and Reporting Guidance

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I. Introduction

The Oklahoma Department of Environmental Quality (DEQ) was created in 1993 with a mission to enhance the quality of life in Oklahoma and the health of its citizens by fostering a clean, attractive, healthy, prosperous and sustainable environment. DEQ adheres to statutes, regulations, rules, and guidelines that direct the Agency to be customer friendly.

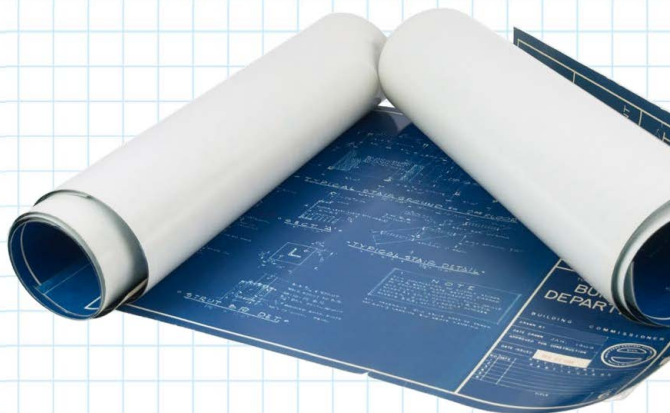
Over the past two decades DEQ's Customer Assistance Program (CAP) established itself as a leader in permitting new facilities. This program is now part of the Office of Business and Regulatory Affairs (OBRA).

An OBRA representative is assigned to new facilities to coordinate interaction with relevant divisions of DEQ. This is especially helpful to new facilities requiring multiple environmental permits. The representative will assist in determining what permits are needed to construct and operate the new facility. Because DEQ has received delegation from the Environmental Protection Agency (EPA) for permitting programs in air, storm water, wastewater, public water supply and RCRA, all permit applications will be filed with DEQ.

The OBRA representative will coordinate meetings between DEQ permit writers and the facility's representatives. The representative can also assist in the establishment of permitting timelines in an effort to meet construction deadlines of the new facility. Finally, as the permit applications move forward toward issuance, the OBRA representative will track the progress of the permitting process to ensure it is proceeding in an efficient manner.

DEQ Contact:

If you have questions, please contact Lloyd Kirk, Director of Business and Regulatory Affairs, at 405-702-7105. His email address is Lloyd.Kirk@deq.ok.gov.



II. Permitting Process Summary

The Uniform Environmental Permitting Act requires that DEQ licenses, permits, certificates, approvals and registrations fit into an application category, or Tier, established under the Uniform Environmental Permitting Rules.

<https://oksenate.gov/sites/default/files/2019-12/os27A.pdf>

Tier I is the category for permit applications with administrative decisions that can be made by a technical supervisor. All permits applications require notice to the landowner. No public participation is required, except for certain Air Quality permits that have a public participation opportunity through noticing on the DEQ website.

Tier II is the category for those permit applications that have some public participation (notice to the public, the opportunity for a public meeting and public comment). The administrative decision is made by the Division Director.

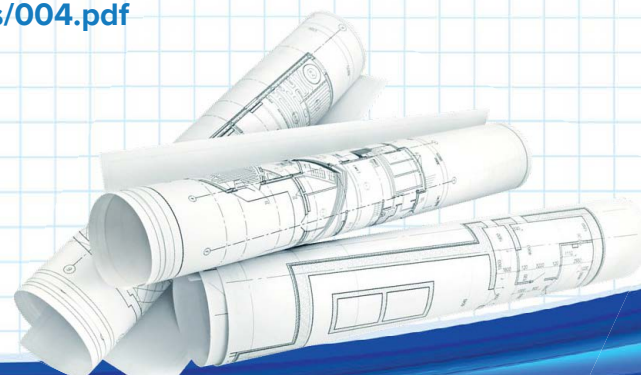
Tier III is the category for those permit applications that have extensive public participation (notice to the public, the opportunity for a public meeting and public comment, and the opportunity for an administrative evidentiary hearing). The administrative decision is made by the Executive Director.

DEQ's Environmental Justice Statement: All people should be protected from the impacts of environmental pollution regardless of race, national origin, or income. DEQ is committed to ensuring such protection through the development, implementation, and consistent enforcement of environmental laws and regulations.

To ensure **Environmental Justice (EJ)** issues are considered in all permitting actions, DEQ first determines whether a community with environmental justice concerns will be impacted by the permitting action. If a permitting action is determined to potentially impact a community with EJ concerns, then DEQ also determines whether the proposed action is a "significant action" for EJ purposes. As an example, Tier 3 permits are presumably significant, whereas others are determined by a balance of factors. If the permitting action is considered significant and potentially disproportionately impacts a community with EJ concerns, then the appropriate Division will implement a meaningful public participation plan for the permitting process, which shall include enhanced notice to and opportunity for comment by the potentially impacted community. The content of the plan will be determined by the Division and should depend on the community and the proposed activity/environmental consequences at issue.

OAC 252:4 Rules of Practice and Procedure Appendix C:

<https://www.deq.ok.gov/wp-content/uploads/deqmainresources/004.pdf>



Permitting Process Steps – All Media

Steps	Tier I	Tier II	Tier III
Filing – Applicant files application, pays any required fee, and provides landowner notice. Applicant may meet with DEQ staff prior to this.	Yes	Yes	Yes
Notice of filing – Applicant publishes notice in one newspaper local to site.	No	Yes	Yes
Process meeting – Notice – 30-day opportunity is published with notice of filing. DEQ holds meeting if requested and sufficient interest is shown.	No	No	Yes
Administrative completeness review – DEQ reviews application and asks applicant to supply any missing information.	Yes	Yes	Yes
Technical review – DEQ reviews application for technical compliance and requests applicant to cure any deficiencies.	Yes	Yes	Yes
Draft permit or draft denial – DEQ prepares this after completing review.	No	Yes	Yes
Notice of draft permit, public comment period and public meeting request opportunity – Applicant publishes this in one newspaper local to site (DEQ publishes notice of draft denial).	No	Yes	Yes
Public comment period – 45 days for hazardous waste treatment, storage or disposal draft permits; 30 days for all others.	No	Yes	Yes
Public meeting – Conducted by DEQ if held.	No	Yes	Yes
Review of comments – DEQ (written response)	No	Yes	Yes
Proposed permit – DEQ prepares this in response to comments on draft permit.	No	No	Yes
Notice of proposed permit – Applicant publishes, in one newspaper local to site, notice of 20-day opportunity to review permit and request administrative hearing.	No	No	Yes
Administrative permit hearing – Conducted by DEQ if held. Results in final order.	No	No	Yes
Issuance or denial – DEQ's final decision.	Yes	Yes	Yes

Note: Air Quality Division has additional steps to meet minimum federal public participation requirements.

III. Air Quality Division (AQD)

Air Permits

Construction and operating permits for air emissions may be required for many operations. Minor Source Tier I, Major Source Tier I and II, and Prevention of Significant Deterioration (PSD) Tier II and III requirements are found in DEQ rules OAC 252:4-7 at <https://www.deq.ok.gov/wp-content/uploads/deqmainresources/004.pdf>.

Permit Exempt – A facility would not need an air permit if the Potential to Emit (PTE) is below major source levels (100 tons/year of any criteria pollutant and 10 tons/year of any individual hazardous air pollutant and 25 tons/year of all HAPs combined), actual emissions of each criteria pollutant are below 40 tons/year, and the facility is not subject to any emission standard, equipment standard, or work practice standard, under New Source Performance Standard (NSPS) or National Emission Standard for Hazardous Air Pollutants (NESHAP).

Minor Source Permit – A Minor Source Permit is needed if a facility does not qualify as Permit Exempt. Most Minor Source Permits are processed as Tier I permits with no public review. These permits are typically issued in 1 – 4 months but can be processed in as little as 6 weeks depending upon the need of the facility and the quality of the application.

Major Source Permit – A Major Source Permit is required if the facility does not qualify under the lower categories. Major Source Permits are processed as Tier II permits and require 30-day public review of the draft permit and 45-day EPA review of the proposed permit. These are typically issued in 6 – 9 months but timelines vary depending on the company need, facility complexity and application quality.

PSD-Major Sources – PSD-Major Sources are large sources with permitted criteria emissions above 250 tons/year (this level can be 100 tons/year if it is a designated source type as classified by EPA). PSD-Major Source construction permits are processed as Tier III permits and require 30-day public review of the draft, 45-day EPA and 20-day public review of the proposed permit. These permits are typically issued in 9 – 12 months.

These facilities often do modifications to their facilities. These modifications are processed as either Tier I or Tier II based on the nature of the project. Tier I modifications are typically issued in 3 – 6 months. Additionally, the Tier I process allows facilities to construct and operate prior to issuance of the permit provided the project qualifies as Tier I. Tier II modifications are typically issued in 6 – 9 months.



Depending on the type of application submitted, certain construction activities are allowed prior to issuance of the construction permit.

- **Major New Source Review (NSR) construction projects** – AQD follows EPA guidance on what construction activities are allowed prior to issuance of the construction permit.
- **Minor NSR projects** – Facilities may begin construction upon submittal of an administratively complete permit application and prior to issuance of the construction permit. Specifically, an applicant may begin construction up to, but not including, making any new, modified, or reconstructed emissions unit operational such that it has the ability to emit any regulated air pollutant. In initiating these activities prior to permit issuance, the applicant assumes the risk of losing any investment it makes toward initiating construction and DEQ retains the authority to deny the permit application without consideration of and regardless of any investment the applicant has made prior to permit issuance. The regulations address this issue in OAC 252:100-7-2(b)(5) and OAC 252:100-8-4(a)(1)(D). Please contact the permit section of AQD for further guidance.



IV. Water Quality Division (WQD)

A. Stormwater Permits

1. Construction – A construction stormwater permit will be required if the project will disturb one (1) or more acres.

<https://www.deq.ok.gov/stormwater-permitting/okr10-construction-stormwater/>

2. Industrial – Facilities wishing to discharge stormwater associated with industrial activities may elect to obtain coverage under either the stormwater multi-sector general permit or an individual discharge permit.

<https://www.deq.ok.gov/stormwater-permitting/okr05-industrial-stormwater/>

NOI's may be submitted online (preferred), via email or through the mail. Stormwater permit authorizations are typically issued within 14-30 days.

<https://www.deq.ok.gov/water-quality-division/permitting/>

B. Wastewater Permits

1. Industrial User Permit – If the facility's wastewater system is to be connected to a Publicly Owned Treatment Works (POTW), an Industrial User Permit will be required if the facility will contribute a significant volume of wastewater flow (>25,000 gallons per day of >5% of the total loading to the POTW) or if the wastewater will contain pollutants likely to pass through or interfere with treatment processes at the POTW. If the POTW operates an approved pretreatment program it will issue the industrial user permit. Otherwise DEQ will issue the permit. In either case, a permit can typically be issued within a few weeks to 90 days. The application form and instructions for a DEQ Industrial User Permit in a non-pretreatment city can be found on the DEQ website here:

<https://www.deq.ok.gov/wp-content/uploads/water-division/Form-606-008-Categorical-or-Significant-Industrial-User.pdf>

2. Wastewater Discharge Permit – If the facility proposes a new direct discharge, the permitting process can be longer than 9 months. If the wastewater contains oxygen-demanding pollutants, a wasteload allocation study would be required (6 months or longer) in order to update the Oklahoma Water Quality Management Plan. This update must occur prior to the issuance of the discharge permit although the two processes may run concurrently. A new discharge permit is either a Tier II or III permit which would require public notice and, as requested, a public meeting. Wastewater Discharge Permit rules may be found at:

<https://www.deq.ok.gov/wp-content/uploads/deqmainresources/690.pdf>

3. Wastewater System (Surface Impoundment, Tank System, or Land Application) Permit – If the facility proposes to store water in an impoundment or subsurface tank or land apply sludge or wastewater, a permit to construct and operate the wastewater system will be required. The permitting process can take as long as 6 months, depending on the complexity of the wastewater system. Industrial wastewater system rules may be found at:

<https://www.deq.ok.gov/wp-content/uploads/deqmainresources/616.pdf>

4. Water Reuse – If the facility proposes to purchase reclaimed water from a POTW, the facility must enter into a User/Supplier agreement with the POTW, and the POTW must seek to modify their DEQ permit to supply reclaimed water to the User. The POTW must be permitted to supply reclaimed water of a category appropriate for the proposed use. Rules for reclaimed water and water reuse may be found at:

<https://www.deq.ok.gov/wp-content/uploads/deqmainresources/626.pdf>

and

<https://www.deq.ok.gov/wp-content/uploads/deqmainresources/656.pdf>

C. Public Water Supply Permits

If a facility develops its own source of drinking water, a DEQ construction permit will be required. In most cases, an industrial facility will become a customer of an existing public water supply system rather than developing its own source of drinking water.



D. Oklahoma DEQ Wasteload Allocations (WLA) Process for New Discharges

1. Submit an official letter to the Watershed Planning section of DEQ WQD from the entity requesting a Wasteload Allocation (WLA) for oxygen demanding substances in their wastewater discharge.¹

The letter must include an alternatives report. This portion states the alternatives to discharge that were examined and explains why discharging is the most feasible option. (Oklahoma Continuous Planning Process – CPP page 158)

<https://www.deq.ok.gov/wp-content/uploads/water-division/2012-OK-CPP.pdf>

2. Submit a workplan to the Watershed Planning section that details how data will be collected and how that data will be used in a models to develop a WLA.

3. Sampling may begin after DEQ approval of the submitted workplan.

4. Submit the WLA report to the Watershed Planning section. After the WLA report and model are properly completed and submitted, DEQ has 30 days to review. If the model and/or report need corrections, DEQ will contact the discharger and request more information or corrections before submittal to EPA Region 6.

<https://www.deq.ok.gov/water-quality-division/watershed-planning/wasteload-allocations-208-plans/>

5. If there are no issues with the model and/or report, then the model files and report will be transmitted to EPA for technical approval. EPA has 30 days to review.

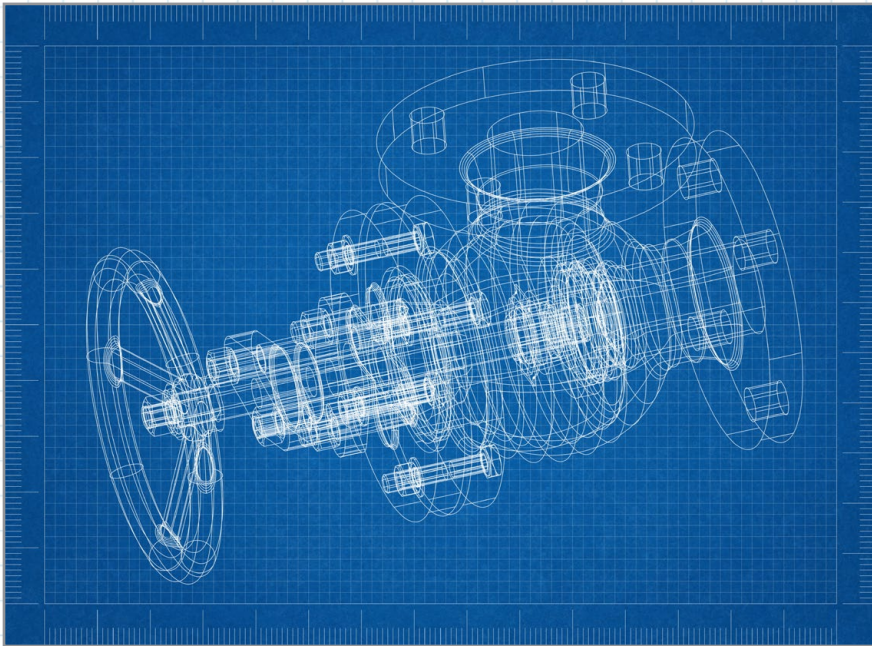
6. After technical approval is granted, a public notice will be sent out within 1 week of DEQ receipt of EPA technical approval.

7. WLA public notices are open for public comment for a period 45 days. If there is a significant interest based on comments received, a public hearing will be scheduled.

8. If a public hearing is warranted, notices will be sent out informing the public of the location and time of the hearing.

9. After all public comments during public comment period are addressed by DEQ and the discharger, the final report will be submitted to EPA for approval; EPA will have 30 days for final review.

¹ The NPDES discharge permitting process is a separate program that must be initiated with the DEQ Water Quality Division Industrial Permitting Section. Certain portions of the permitting process may run concurrently with the WLA process.



V. Land Protection Division (LPD)

A. Hazardous Waste

1. Resource Conservation and Recovery Act (RCRA) Permits – A RCRA permit is required for a facility that does one or more of the following:

- stores hazardous wastes for greater than 90 days;
- treats hazardous waste; and/or
- disposes of hazardous waste on-site.

2. Generator Requirements – If a facility generates hazardous waste, it must follow RCRA rules for its generator size as provided in the federal rules, which Oklahoma has adopted by reference. These rules may be found at:

<https://www.deq.ok.gov/wp-content/uploads/deqmainresources/205.pdf>

B. Solid Waste

1. Solid Waste Permits – The following types of facilities are considered solid waste disposal facilities and will require a permit from DEQ prior to construction and/or operation.

- Land disposal facilities** – a landfill, or any other discrete area of land or land excavation, where solid waste is placed for treatment, processing, and/or disposal, with exceptions.
- Solid waste processing facilities** – including: transfer stations; solid waste incinerators receiving waste from off-site sources; regulated medical waste processing facilities receiving waste from off-site sources, and that are not shared service facilities; waste tire facilities; composting facilities, except yard waste composting facilities; permanently established household hazardous waste collection facilities; and any other type of facility that processes solid waste.
- Solid waste storage** – facilities used for the storage of solid waste for longer than 10 days.
- Used tire storage** – facilities used for the storage of more than 50 waste tires, except as authorized by 27A O.S. § 2-11-401.7.



2. Non-Hazardous Industrial Waste (NHIW) Disposal – If a facility disposes more than 10 cubic yards per month of non-hazardous industrial waste NHIW, as defined in OAC 252:515, it will need to submit a non-hazardous industrial waste certification to DEQ before sending the waste to an Oklahoma landfill for disposal.

<https://www.deq.ok.gov/wp-content/uploads/deqmainresources/515-1.pdf>

The NHIW certification form can be found at:

https://www.deq.ok.gov/wp-content/uploads/land-division/Replacement_nhiw-disposal-request-form.pdf

C. SARA Title III

Facilities that store chemicals requiring an Safety Data Sheet (SDS) or perform manufacturing that uses hazardous chemicals may have reporting requirements under the Superfund Amendments and Reauthorization Act (SARA) Title III.

1. Tier 2 Reporting – Facilities storing 500 lbs. of a listed Extremely Hazardous Substance (list can be found on DEQ website or on SDS) or storing any other chemical requiring an SDS in amounts over 10,000 lbs. will be required to report that storage on a Tier2 form. Due date is March 1st annually. Oklahoma requires on-line reporting; instructions can be found on the DEQ website.

2. Toxic Release Inventory – Facilities engaged in manufacturing, having more than 10 full time employees, and using listed chemicals in threshold amounts, all of which can be found on the EPA TRI website, may be required to report a Form R under the Toxic Release Inventory (TRI). Those reports are due annually on July 1st and must be submitted electronically over the EPA website. Reports are then transmitted to Oklahoma. All instructions and reporting material may be found on the EPA website.

D. Radiation Management

This section is responsible for regulation of radioactive materials, industrial/analytical x-ray machines and particle accelerators, and medical therapeutic x-ray machines and particle accelerators. (It does not regulate medical diagnostic X-Ray machines.) Additional information can be found at:

<https://www.deq.ok.gov/land-protection-division/radiation/>

E. Underground Injection Control

This section is responsible for regulation of injection wells not associated with oil and gas activity, which are regulated by the Oklahoma Corporation Commission. Additional information can be found at:

<https://www.deq.ok.gov/land-protection-division/underground-injection-control/>



Tulsa



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