



Fact Sheet

Notice of Construction

What is a Notice of Construction?

DEQ's Notice of Construction, or NC, rules outline the notification requirements for certain construction projects that emit air pollutants into the atmosphere, including air pollution control equipment.

- Existing permitted facilities use this construction notification to request approval from DEQ regarding planned changes to their facilities.
- Unpermitted facilities use this notification to request DEQ approval for construction that will emit air pollution at new locations.
- The NC process also assists facilities in determining if an air permit is, or will be, required for their facility.

The Notice of Construction [AQ104](#) application form is available on [DEQ's air quality permit web page](#). The [instructions](#) provide additional information on how to fill out form AQ104 and the [Notice and Go List of Equipment Form \(AQ104A\)](#).

Do I have to submit an NC for my project?

[Oregon Administrative Rules Chapter 340 division 210](#) provides the full and complete description of applicability and exemptions. Generally, a facility must submit an NC if:

- Existing permitted facilities make a physical change or change in operation that will cause an increase on an hourly basis at full production, in any regulated air pollutant emissions.
- Existing permitted facilities AND unpermitted facilities:
 - Establish, construct or install any new equipment that can emit regulated air pollutants AND the facility does not/will not require a permit or permit modification; or
 - Construct or modify any air pollution control device.

DEQ's rules include several categories of construction activities and projects that are exempt from the requirement to submit a construction notification. Exempted categories include:

- Sources for which the owners or operators are required to obtain a permit or permit modification for the construction;
- Agricultural operations or equipment that is exempted by [OAR 340-200-0030](#);
- Heating equipment in, or used in connection with, residences used exclusively as dwellings for not more than four families;
- Other activities associated with residences used exclusively as dwellings for not more than four families, including, but not limited to barbecues, house painting, maintenance, and groundskeeping;
- Portable sources, except modifications of portable sources that have air permits; and
- Categorically insignificant activities (defined in [OAR 340-200-0020](#)) unless they are subject to a federal regulation ([NESHAP](#) or [NSPS](#) requirements).

Translation or other formats

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Determining the Notice of Construction type

Emissions from the equipment must be calculated at capacity unless federally enforceable conditions, already established in a permit, can limit emissions. No offsets or emission reductions can be used in the calculation of emissions for determining the NC type unless a pollution control device is part of the application.

Types of Notice of Construction

There are two types of NC defined in OAR chapter 340 [division 210](#):

- **Type 1** is for equipment with emissions less than or equal to de minimis emission levels (defined in [OAR 340-200-0020](#)) and equipment in [OAR 340-210-0225](#)(1)(b) and contained on the Notice and Go List of Equipment [AQ104A](#). Facilities can begin construction of Type 1 projects as soon as they notify DEQ with the NC application. Facilities have the option to request that DEQ review the application's emissions calculations (maximum 30 day review period). There is no fee for Type 1 NCs.
- **Type 2** is for equipment with less than the significant emission rate (defined in [OAR 340-200-0020](#)). Facilities can begin construction 60 days after submitting a **complete** application with all required information and the fee or after receiving approval from DEQ, whichever comes first. The fee for a Type 2 NC is \$720¹.

Toxic Air Contaminant Emissions Inventory

If a facility has not completed a Cleaner Air Oregon risk assessment, applicants must submit form [AQ104B](#) Toxics Reporting in addition to the [AQ104](#) form (unless the application meets one or more of the exceptions outlined in the AQ104 form). If a facility has completed a Cleaner Air Oregon risk assessment, a revised risk assessment or permit modification may or may not be needed. Applicants should contact DEQ at CleanerAir@deq.oregon.gov to identify any additional CAO requirements.

Air quality modeling for Type 2 NCs

Applications for Type 2 NCs must include air quality modeling unless the facility is willing to accept an emissions limit below de minimis emission levels or below the Significant Emission Thresholds².

Modeling can be done for a single piece of equipment using DEQ's [Notice to Construct Screening Tool](#). Instructions on how to use the tool are built into the tool. The report generated by the tool must be submitted with the Type 2 NC application.

If the project includes multiple pieces of equipment, refined modeling is required. See DEQ's [Recommended Procedures for Air Quality Dispersion Modeling](#).

Construction approval expiration

Construction must commence within 18 months of approval or other date approved in writing by DEQ ([OAR 340-210-0240](#)(4)). Facilities can request one 18-month extension, and DEQ may approve it for good cause.

Help determining if a permit is required

Some facilities (existing or proposed) may want assistance from DEQ staff in determining if a permit or permit modification is required for their operations or activities. A facility can request a pre-application meeting with a permit writer from one of DEQ's [regional offices](#) to determine whether a permit is required.

¹ Existing Basic and General ACDP sources are exempt from the Type 2 NC Fee of \$720.

² SETs = 3 pounds/hour for SO₂ and NO_x, 5 pounds/day for PM_{2.5}

For facilities that would like a written determination from DEQ that 'no permit is required,' DEQ will require an NC application that includes emissions data and all associated [equipment and device forms](#) describing all activities, operations, and equipment at the existing or proposed site. After reviewing the submitted materials and obtaining any additional required information, DEQ staff will provide a determination in writing.

- If a permit is not required, DEQ staff will process the NC application following typical procedures; in many cases the facility will receive a construction approval letter.
- If a permit is required, DEQ staff will notify the applicant and provide a 'denial' letter stating that the proposed project cannot be approved by an NC and that an air permit is required.

Construction completion

Whenever an NC is submitted to DEQ, a construction completion notification ([AQ104C](#)) must be submitted within 30 days of when construction is completed, unless otherwise specified in the air permit issued to the applicant.

More information

For more information about the NC process, please review DEQ's [AQ104 NC Instructions document](#), which provides additional information about the different classifications of construction projects, potentially applicable fees, and more. [DEQ regional office](#) staff are available for scheduling a pre-application meeting.

Program name and contacts

Air Quality Program Operations

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