



Unpermitted Sources

DEQ often receives...

- Notices of Intent to Construct for unpermitted facilities (existing and proposed).
- Questions from the public wanting to know if a permit is required for activities.
- Questions about what is required to build or start up a facility.

This document will explain some steps DEQ permit writers take when these questions come in as well as some considerations for processing an NC for unpermitted facilities.

DEQ staff will not provide official permit determinations on the phone or via email ad hoc.

Facilities need to provide application materials, a land use compatibility statement, or other documentation before this determination can be provided.

Process:

- [Businesses can use DEQ's website: Help Finding the Right Permit](#)
 - This page is helpful for businesses that are attempting to determine if their operation requires an air permit.
 - The site refers to the 'activity and source' table ([OAR 340-216-8010 table 1](#)) with in-depth detail regarding parts A, B, and C, and which permit may be required.
 - The site provides information on pre-application meetings and possible fees.
- As required by DEQ rules, all businesses should submit the following to DEQ for review before official 'permit not required' determinations are made:
 - [Notice of Intent to Construct form](#) (AQ104);
 - [Appropriate device forms](#); and
 - [AQ402 Current/Future Emissions](#)

340-210-0205 Notice of Construction and Approval of Plans: Applicability and Requirements

(1) Except as provided in section (2), OAR 340-210-0205 through 340-210-0250 apply to the following:

- (a) New Sources. Owners or operators of proposed new sources, not otherwise required to obtain a permit under OAR chapter 340, division 216 or 218, must submit a notice of construction application before undertaking construction or operation of a new source that emits any regulated air pollutant.

Translation or other formats

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- If estimated emissions at the capacity of the facility are less than or equal to de minimis levels, a Type 1 Notice of Intent to Construct application is required.

“De minimis emission level” means the level for the regulated pollutants listed below:

- (a) Greenhouse Gases (CO₂e) = 2,756 tons per year.
 - (b) CO = 1 ton per year.
 - (c) NO_x = 1 ton per year.
 - (d) SO₂ = 1 ton per year.
 - (e) VOC = 1 ton per year.
 - (f) PM = 1 ton per year.
 - (g) PM₁₀ (except Medford AQMA) = 1 ton per year.
 - (h) PM₁₀ (Medford AQMA) = 0.5 ton per year and 5.0 pounds/day.
 - (i) Direct PM_{2.5} = 1 ton per year.
 - (j) Lead = 0.1 ton per year.
 - (k) Fluorides = 0.3 ton per year.
 - (l) Sulfuric Acid Mist = 0.7 ton per year.
 - (m) Hydrogen Sulfide = 1 ton per year.
 - (n) Total Reduced Sulfur (including hydrogen sulfide) = 1 ton per year.
 - (o) Reduced Sulfur = 1 ton per year.
 - (p) Municipal waste combustor organics (dioxin and furans) = 0.0000005 ton per year.
 - (q) Municipal waste combustor metals = 1 ton per year.
 - (r) Municipal waste combustor acid gases = 1 ton per year.
 - (s) Municipal solid waste landfill gases (measured as nonmethane organic compounds) = 1 ton per year
 - (t) Single HAP = 1 ton per year
 - (u) Combined HAP (aggregate) = 1 ton per year
- (40)

- If estimated emissions at the capacity of the facility are greater than de minimis levels, a Type 2 Notice of Intent to Construct application is required with a \$720 fee.
- Unpermitted businesses that submit an NC Type 2 with the \$720 fee do not receive a refund if significant work has been done on the submittal (to be determined by the regional manager). This includes when DEQ completes a review of the NC and determines that a permit is required.
- Pre-application meetings should be encouraged for businesses with multiple questions or who would benefit from a 30–60-minute meeting to discuss NC or permit application processes at a higher level.
- If the business has previously submitted an NC for equipment and processes, another NC is likely required to expand or add to the facility/operations. If no expansion or addition to the operations is planned and the business just wants a confirmation from DEQ that their facility does not require a permit, the business should still submit an NC application with all associated forms so that DEQ staff can appropriately respond with a NC approval or ‘no permit required’ letter.
- In some cases, DEQ staff may receive inquiries where the caller/emailer is not willing to identify a specific facility but wants to keep the conversation generic. DEQ staff can make a tentative determination that a permit is not required but will leave room for a more formal determination later while not ‘backing’ the agency into a premature determination

NC Approval for Unpermitted Businesses

When an unpermitted source submits an NC, staff will review application with the following goals in mind:

1. Confirm that a permit is not required
2. Confirm if it is a Type 1 or 2 NC
3. Provide construction approval with appropriate conditions

When an unpermitted business receives an approved NC, it is like a 'no permit required' letter. The NC rules do not apply to activities or sources that are required to get an air permit. Therefore, when the source receives an NC approval order, the agency is confirming that the activity/source does not require an air permit. The NC approval will refer to several different elements:

- What was submitted to DEQ, by whom and when
- Facility/source identification
- Device/equipment/process and emission calculations information on which DEQ made the determination
- Any documents submitted to DEQ

The NC determination is based on the information submitted. If anything is inaccurate or changes from what was submitted, the NC approval may be void. The NC approval will clarify what future Notices of Intent to Construction may be needed and when a permit application may be required.

Enforcement?

In some instances, a business that has already constructed and begun operations will reach out to DEQ to determine if a permit is required. Most of these cases will result in enforcement. That could be a warning letter, warning letter with the opportunity to correct, or a pre-enforcement notice. These are issued for constructing without submitting the proper notifications to DEQ. The corrective action would be to submit the NC (or permit application) that was required previously. DEQ staff will review the NC application and issue construction approval or determine that a permit is required.

Contact

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Non-discrimination statement

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