



DELAWARE DEPARTMENT OF  
**NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL**

**Division of Air Quality  
Air Permit Application Process**

**September 20, 2023**

This document is being shared with the public to assist them in understanding some aspects of permitting within the Division of Air Quality. This document is only guidance and is not binding on either the applicant or the Division. Actual permitting outcomes will result from the application of all applicable law to specific factual circumstances.

Delaware Department of Natural Resources and Environmental Control  
Division of Air Quality

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# Air Permit Application Process

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## I. Applying for an Air Permit in Delaware - Introduction

This is a protocol to follow when permitting an air contaminant source in Delaware. Documents that contain more detailed information and which are referenced include:

- [7 DE Admin Code 1101 – Definitions and Administrative Principles](#)
- [7 DE Admin Code 1102- Permits \(“Regulation 1102”\)](#)
- [7 DE Admin Code 1125 - Requirements for Preconstruction Review \(“Regulation 1125”\)](#)
- [7 DE Admin Code 1130 – Title V State Operating Permit Program \(“Regulation 1130”\)](#)
- [Air Contaminant Equipment Registration Instructions](#)
- [Air Contaminant Emission Equipment Registration Form](#)
- [AERSCREEN – Model Application Guidance](#)
- [Stationary Source Impact Analysis](#) (NAAQS and Toxics evaluation)
- [Frequently Asked Questions About Air Quality Permits](#)

When adding new equipment, or modifying existing equipment, both the emissions of the new or modified equipment and the facility-wide emissions must be considered in evaluating impact on the National Ambient Air Quality Standards (NAAQS) and major source thresholds. Detailed information about the NAAQS evaluation is in the document [“Stationary Source Impact Analysis.”](#) Contact the Department for additional guidance in cases where you believe changes may exceed a NAAQS threshold.

## II. Determine the Emissions from the Source that is being installed or modified

The category of permit required is based on the maximum emission rate at design capacity, *prior to any air pollution control device*.

“Potential to Emit” (PTE) means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. The EPA document, [“Criteria for Determining Whether Equipment is Air Pollution Control Equipment or Process Equipment” \(November 27, 1995\)](#), provides guidance on the classification of equipment for purposes of air permitting. An equipment’s, as well as a facility’s, PTE determines if it is a major or a natural minor source.

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### III. Air Permitting Considerations

The sections that follow this section identify and describe the categories of air quality permits. Each section describes the requirements, including the forms to be submitted. Additionally, the permit applicant should be aware of the following considerations of the air permitting process:

#### Compliance with NAAQS

An applicant must demonstrate that the proposed equipment or modification to equipment would not cause or contribute to an exceedance of the NAAQS. [Regulation 1125 - Requirements for Preconstruction Review](#), describes the review process, for major sources, including the major thresholds for the PTE of VOC, NO<sub>x</sub>, SO<sub>x</sub>, PM<sub>2.5</sub>, and HAPs to be considered significant, consequently resulting in the applicability of either a Title V Permit or a Synthetic Minor Permit.

Refer to the document, "[Stationary Source Impact Analysis](#)," for information on screening for NAAQS and toxicity for Regulation 1102 Permits and Registrations.

#### Permit Fees

Permit applicants are subject to both construction and operation fees. Refer to [Regulation 1102 Permit Fees](#) for a listing of construction permit fees. The required fee (both an application fee and an advertising fee) must be submitted with the application. Once the permitted equipment is constructed, and a successful construction-to-operation inspection completed, an operating permit is issued. At that time, applicants become subject to annual operating fees for the duration of the permit's life, either an annual Title V fee or a Reg 1102 fee, depending on the permit source type.

#### Confidentiality

Information submitted to the Division of Air Quality is available to the public for review. If you have information that you wish to remain confidential, you must submit a request for confidentiality pursuant to [8 DE Admin Code 900 Policies and Procedures Regarding FOIA Requests](#). The Department will review the request and notify you in writing as to whether the information will be afforded confidentiality protection.

#### Proof of Local Zoning

7 Del. C. § 6003(c)(1) prohibits the issuance of a permit unless the county or municipality having jurisdiction has first approved the activity by zoning procedures provided by law. The applicant must provide to the Department the documentation by the county or local municipality that the specific activity is allowed on the property. Given the nuances associated with zoning codes, simply providing the parcel zoning classification is not adequate.

#### Permit Timing

The length of time to receive a permit depends on the category of the permit. Typical timing begins when a completed permit application is received. Typical timing, starting from receipt of a **complete** permit application is shown in the table below. The provided timelines

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represent issuance goals. A permit is not guaranteed within these timelines. In addition, if a permit application is subject to public comment, these permit issuance goals no longer apply.

Registration	Up to 60 days
Reg 1102 Natural Minor	90 days
Synthetic Minor	180 days
Title V Major Source	1 year

Applications received that are incomplete will result in delays. Common causes of incomplete applications include, but are not limited to:

- Missing/incomplete forms
- Missing/incomplete cover letter
- Omission of permit fee
- Basis for emission rates not included (e.g., source of emission factor, calculations)
- Missing proof of local zoning
- Modeling results exceed Department criteria

#### IV. Determine the Category of Permitting

Maximum Daily Emissions (prior to controls)	Category of Permit
Less than 0.2 lb/day	Exemption
≥ 0.2 lb/day and < 10 lb/day	Registration
≥ 10 lb/day but less than the major source threshold	Regulation 1102 Permit (Natural Minor)
Operation restricted to remain below major source threshold	Synthetic Minor (SM) Permit
Over major source threshold	Regulation 1125 Construction Permit and Regulation 1130 Title V Operating Permit

Delaware specific requirement for permitting based on PTE (VOC, NO<sub>x</sub>, SO<sub>x</sub>, PM<sub>2.5</sub>, HAPs)

Source PTE greater than 5 ton/year	Minor New Source Review – MNSR (Delaware)
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#### V. If Category = Exemption

If the maximum emission rate from the equipment, without taking credit for an air pollution control device, is less than 0.2 lb/day, the equipment is exempt from air permitting, and no Air Permit application or registration is required. Maintain a record of this determination.

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Some specific listed equipment identified in Appendix A of Regulation 1102 is not subject to Regulation 1102 and consequently does not require a Regulation 1102 permit or registration.

## VI. If Category = Registration

If the maximum emission rate from the equipment, without taking credit for an air pollution control device, is equal to or greater than 0.2 lb/day but less than 10 lb/day, the equipment requires a state registration, provided the equipment or facility does not exceed the major source threshold and meets all applicable State and Federal emission limitations and standards without an air pollution control device. There are two options for obtaining a registration. The two options, and their requirements, are described in the document, “Air Contaminant Equipment Registration Instructions,” and in Regulation 1102 – “Permits”:

- **Perform Self-Registration.** Self-Registration is quick, but requires that the facility generate the registration, including air dispersion modeling and toxicity evaluation. The document “AERSCREEN – Model Application Guidance” provides guidance for the air dispersion modeling. When self-registering, the applicant must exercise care to be accurate in completing the process. Incorrect information or results could result in the applicant being in violation of a regulation; therefore, applicants not familiar with evaluating an application should utilize the step immediately below and have DNREC perform the evaluation.
- **Submit Registration Application and DNREC performs the evaluation.** This process takes more time compared to Self-Registration and does not require the facility to perform the modeling and the calculations. Applicants are not permitted to commence construction until they have received a written registration from DNREC. Links to the air registration and permit documents are provided in Section 1.

## VII. If Category = 7 DE Admin. Code 1102 Permit (Natural Minor)

If the maximum emission rate from the equipment, without taking credit for an air pollution control device, is 10 lb/day or greater but less than the major source threshold, an Air Permit is required. The facility must apply for a Regulation 1102 Air Permit. The procedure for obtaining an Air Permit is described in [Regulation 1102 -Permits](#), and instructions and required forms are located at the site [Air Quality Permit Applications](#). For common questions, see [“Questions and Answers about Delaware Air Permits.”](#)

Application forms include the Administrative Information (AQM-1), the Overall Process Flow Diagram (AQM-2), the applicable Process Equipment Application (AQM-3.X), the applicable Control Device Application (AQM-4.X), the Emissions Information (AQM-5), and the This document is being shared with the public to assist them in understanding some aspects of permitting within the Division of Air Quality. This document is only guidance and is not binding on either the applicant or the Division. Actual permitting outcomes will result from the application of all applicable law to specific factual circumstances.

Air Emission Modeling Application (AQM-6). Submissions must include a cover letter summarizing the request, identifying the attachments, and providing detail on relevant items that may not be adequately addressed within the confines of an application form.

The permitting process includes a Public Notice period that can range from 15 days (Natural Minor Permit) to 45 days (Title V Major Source Permit); public comment during this period may require additional steps.

Installation and construction of the equipment to be permitted must not start until the facility receives the Regulation 1102 Permit. The Permit received is a Construction Permit and permits installation and construction, startup, testing, and troubleshooting, but **not operation**. Once the equipment is successfully started up, contact the Department to schedule a construction to operation inspection. After a successful inspection, an Operating Permit will typically be issued within 7 days.

## **VIII. Synthetic Minor Permit**

A Synthetic Minor Permit is applicable to facilities that limit emissions to below a major source threshold by agreeing to enforceable limits of operating hours or capacity. The Synthetic Minor Permit is like the Regulation 1102 Permit, with the difference that all applicable equipment located at the facility is included in the Permit, as opposed to only the new or modified equipment. Additionally, the conditions in a Synthetic Minor Permit are federally enforceable, and the Permit will typically have additional monitoring and record-keeping requirements.

The applications required are the same as those required for the Regulation 1102 Permit; however, there will be additional documentation required for facility-wide conditions.

The permitting process includes a Public Notice period that is typically 30 days; public comment during this period may require additional steps.

As with a Regulation 1102 Permit, installation and construction of the equipment to be permitted must not start until the facility receives the Permit. The construction to operation permitting steps are similar to those of the Regulation 1102 Permit.

## IX. Major Source Permit

A Title V Permit is required for a facility that has a PTE which is greater than a Major Source threshold, due to a large single source, multiple smaller sources, or any combination thereof.

The process and requirements for obtaining a Title V Permit is found in [Regulation 1130](#) and at the site "[Title V: Major Air Sources.](#)" Application forms typically include the following:

- Administrative Information (AQM-1001),
- Process Specific Forms (AQM-1001[x]),
- Stack Parameters and Air Pollution Control Equipment (AQM-1001K),
- Monitoring Equipment (AQM-1001L),
- Good Engineering Practice (GEP) Stack Height Determination (AQM-1001N),
- Applicable Requirements (AQM-1001V),
- Emission Comparison (AQM-1001W),
- Compliance Monitoring Devices and Activities (AQM-1001X),
- Compliance Status (AQM-1001Y), and
- Additional schedules and forms as applicable.

A Title V Permit consolidates all Regulations 1102 and 1125 Permit requirements and consequently does not stand alone. A Title V Permit typically includes additional facility-wide requirements.

The permitting process includes a Public Notice period that is typically 45 days; public comment during this period may require additional steps.

The Title V Permit has semi-annual and annual compliance certification requirements.

Title V Permits must be renewed every five years. Applicants must submit a renewal application according to the schedule outlined in permit. However, early submissions are welcome and encouraged.