

State Environmental Permitting Overview for Industry Recruitment

The Tennessee Department of Environment and Conservation (TDEC) has jurisdiction over certain site activities that may impact air, land or water quality.¹ Permits and other approvals are designed to ensure that Tennessee businesses and communities have access to high quality environmental resources now and in the future. Without specific details of a project, it is difficult to identify necessary permits; however, descriptions of TDEC permits that may be applicable in a business recruitment circumstance follow. For complex and significant projects TDEC encourages applicants to engage in pre-application meetings with its divisions.

Generally, permit applications first undergo completeness review and determination followed by the actual permit writing and issuance process, which may by law require public notice. A number of permitting factors vary considerably based on permit type as well as scope, complexity, location, and scale of proposed activities, including but not limited to:

- Issuance timetable
- Public notice and/or public hearing
- Duration of permit coverage
- Application fees
- Materials required to be deemed complete

If circumstances warrant a public hearing, TDEC is required to circulate public notice for the hearing no less than 30 days in advance.

Air

| REQUIREMENT | APPLICATION TIMING | REGULATED ACTIVITY | PUBLIC NOTICE | ISSUANCE TIMETABLE | NOTES |
|---------------------|---|---|--|---|--|
| Construction Permit | 90 days prior to commencement of on-site construction for minor sources. 120 days prior to commencement of on-site construction for major sources. | Construction of an air contaminant source or modification of an existing air contaminant source | <ul style="list-style-type: none"> • For a minor source, once an application has been deemed complete, a public notice is issued with a 30-day comment period. An informal public meeting may be held if requested but is not required by law or regulation. • For a major source, a public notice with a 30-day comment period is issued once a draft permit and preliminary determination is made that the permit can be issued. An informal public meeting may be held if requested but is not required by law or regulation. | <ul style="list-style-type: none"> • Under state regulation, a construction permit for a minor source must be issued within 115 days after receipt of a complete application. • For major source applications, the permit is to be issued within 180 days after receipt of a complete application unless a longer time period is agreed to in writing by the applicant. | <ul style="list-style-type: none"> • A list of activities that may occur prior to issuance of a major source construction permit is available on TDEC’s website.² • A change in location usually requires a new construction permit application. • Typically valid for one year. |

¹ This document is intended to reflect potential state environmental permits or approvals which might be required for new business recruitment, however, is not exhaustive. Additionally, this document does not reflect local approvals which may be required from counties or municipalities.

² https://www.tn.gov/content/dam/tn/environment/air/documents/apc_permit-docs/apc_Construction-Activities-Prior-to-Permit-Issuance_sep-5-2019.pdf.

| REQUIREMENT | APPLICATION TIMING | REGULATED ACTIVITY | PUBLIC NOTICE | ISSUANCE TIMETABLE | NOTES |
|------------------|--|--|---|---|---|
| Operating Permit | In preparation for or after start of operation (see notes for additional detail) | Operation of an air contaminant source | <ul style="list-style-type: none"> For a major source, a public notice with a 30-day comment period is issued once a draft permit and preliminary determination is made that the permit can be issued. A public hearing on the permit may be held if requested. For a minor source, once an application has been deemed complete, a public notice with a 30-day comment period is issued. | <ul style="list-style-type: none"> A minor source operating permit is typically issued within 270 to 360 days of receipt of a complete operating permit application. A major source operating permit is typically issued within 18 months of receipt of a complete major source permit application. | <ul style="list-style-type: none"> A start-up notification and air quality operating permit application must be submitted within 30 days of start-up for a minor source or within 60 days following completion of a stack test if one is required. For major sources, a major source operating permit application must be submitted within 360 days of start-up. An applicant may operate under the authority and conditions of their construction permit provided that a start-up notification and operating permit application is submitted within the required time frame and the applicant complies with the requirements of the construction permit. Minor area source operating permits usually valid for 10 years. |

Additional permitting information available at <https://www.tn.gov/environment/program-areas/apc-air-pollution-control-home/apc/permit-air-home.html>.

Water

| REQUIREMENT | APPLICATION TIMING | REGULATED ACTIVITY | PUBLIC NOTICE | ISSUANCE TIMETABLE | NOTES |
|--|-------------------------------|---|--|---|--|
| National Pollutant Discharge Elimination System (NPDES) Stormwater Construction Permit | 30 days prior to Construction | Construction activity disturbing one or more acres or less than one acre but part of a common plan of development. Disturbance of greater than 50 acres require an individual permit if construction activities cannot be phased. | <ul style="list-style-type: none"> For an individual permit, a public notice is issued on the TDEC web site and distributed via the Division of Water Resources' mailing list. The applicant must also place a division-approved legal notice in a local newspaper and post a placard near the project site. A public hearing on the permit may be held if requested. | <ul style="list-style-type: none"> For activities qualifying under a general permit, notice of coverage sent to the applicant within 30 days of receiving a complete notice of intent and Storm Water Pollution Prevention Plan. For activities requiring an individual permit, issuance may take up to 180 days after receipt of a complete application. | <ul style="list-style-type: none"> Notice of intent must be submitted at least 30 days prior to work commencing. Notice of Termination required when site is stabilized. |

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| Aquatic Resource Alteration Permit (ARAP)/Section 401 Certification | 90 days prior to Construction | Activity that results in the physical alteration of waters – streams, rivers, lakes, or wetlands – of the State. General permit vs individual permit dependent upon size of each type of alteration. | <ul style="list-style-type: none"> For an individual permit, public notice with a 30-day comment period issued on the TDEC web site and distributed via mailing list. The applicant must also place a division-approved legal notice in a local newspaper and post a placard near the project site. During the public comment period, a public hearing must be held if requested. | <ul style="list-style-type: none"> For activities qualifying under a general permit, notice of coverage is issued within 30 days. For an individual permit application, the division must take action to issue or deny a permit within 90 days after receipt of a completed application or the fee can be refunded. | <ul style="list-style-type: none"> Listing of activities covered by general permit available TDEC’s website. Individual permit may require mitigation to offset impacts to waters of the state. In most cases, individual permits are processed in less than 90 days. A federal §404 permit may also be required from the U.S. Army Corps of Engineers for projects that include the discharge of dredged or fill material into waters of the U.S. including wetlands. When a §404 permit is required from the Corps, a §401 certification must first be obtained from TDEC. Notice of Termination required when site is stabilized. |
| Discharge permits through publicly owned treatment works (POTW) | Prior to Operation | Discharge (other than domestic sewage) into local POTW system. | | | <ul style="list-style-type: none"> Publicly owned treatment works standards and requirements are specified in local sewer ordinances. Contact municipality. |
| NPDES Individual Permit | 180 to 90 days prior to Operation, depending on activity type. | Discharge of pollutants directly from point sources into surface waters of the state. | <ul style="list-style-type: none"> A public notice with a 30-day comment period is issued once a draft permit and preliminary determination is made that the permit can be issued. A public hearing on the permit may be held if requested. | <ul style="list-style-type: none"> A major facility (>1 million gallons of wastewater per day) permit must be issued within 1 year of receipt of a complete permit application. A minor facility (<1 million gallons of wastewater per day) permit must be issued within 180 days of receipt of a complete permit application. | <ul style="list-style-type: none"> A complete application for a new discharge will require engineering documentation detailing why the option to discharge to a POTW is not feasible and must provide sufficient detail about the proposed discharge and likely impacts to water quality. Water quality modeling may be required for oxygen demanding pollutants (BOD5, CBOD5, ammonia). |

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| State Operating Permit | 180 days prior to Operation | Operation of a sewage, industrial waste or other waste treatment system that does not discharge to surface or subsurface waters. | <ul style="list-style-type: none"> A public notice with a 30-day comment period is issued once a draft permit and preliminary determination is made that the permit can be issued. A public hearing on the permit may be held if requested. | <ul style="list-style-type: none"> Prior to application, discussion must be held with Division of Water Resources. Application must be submitted at least 180 days prior to starting any new activity. Permit issuance typically takes between 5 and 9 months. | <ul style="list-style-type: none"> Examples might include pump and haul system operation, temporary collection and holding of wastewater, or land application by spray or drip irrigation |
| Tennessee Multi-Sector Permit (TSMP) (NPDES Industrial Stormwater Permit) | Prior to Operation <ul style="list-style-type: none"> Notice of Intent for TSMP must be submitted at least 5 days prior to beginning industrial activity. | Stormwater runoff from an industrial activity. | | <ul style="list-style-type: none"> For activities qualifying under a general permit, notice of coverage sent to the applicant within 30 days of receiving a complete notice of intent and Storm Water Pollution Prevention Plan. | <ul style="list-style-type: none"> Individual permit is also an option |

Additional permitting information available at <https://www.tn.gov/environment/permit-permits/water-permits.html>.

Solid & Hazardous Waste

| REQUIREMENT | APPLICATION TIMING | REGULATED ACTIVITY | PUBLIC NOTICE | ISSUANCE TIMELINE | NOTES |
|------------------------|--------------------|---|--|--|---|
| Special Waste Approval | Prior to disposal | Disposal or processing of special wastes. | | <ul style="list-style-type: none"> Approval typically received within 30 days of receipt of a completed request. | <ul style="list-style-type: none"> Will need recertification every three years. Special wastes are solid wastes that are either difficult or dangerous to manage and may include sludges, bulky wastes, pesticide wastes, medical wastes, industrial wastes, hazardous wastes which are not subject to regulations under Rule 0400-12-01-.03 through 0400-12-01-.07, liquid wastes, friable asbestos wastes, and combustion wastes. |
| Hazardous Waste Permit | Prior to operation | Treatment, storage, or disposal of a hazardous waste (not under generator exclusions) | <ul style="list-style-type: none"> Multiple public notices Public hearing may be held if requested | <ul style="list-style-type: none"> 14 to 25 months depending on type of facility, community involvement, public hearings, revisions, etc. | <ul style="list-style-type: none"> Two-part application process. A facility may also be required to get an EPA ID number |

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| Solid Waste Permit-by-Rule | Prior to operation | Change to the chemical or physical characteristics of a solid waste by a solid waste processing facility. Other activities that must have a Permit-by-Rule are coal ash fill areas, tire storage facilities, convenience centers and transfer stations. | <ul style="list-style-type: none"> Some PBRs may require public notice | <ul style="list-style-type: none"> Approval typically received within 60 days of a receipt of a completed request. | <ul style="list-style-type: none"> Multiple operations at the same location can operate under one permit. |
| Notification of Hazardous Waste Activity | Within 90 days of initial generation of hazardous waste | Generation of 100 kg (220 lbs.) of hazardous waste or more or more than 1 kg (2.2 lbs.) of acutely hazardous waste generated in a month. Generators of less than above quantities are not required to notify but are encouraged to do so. | | | <ul style="list-style-type: none"> Annual report requirement for Small and Large Quantity Generators Annual report encouraged for Very Small Quantity Generators, but not required. |

Additional permitting information available at <https://www.tn.gov/environment/permit-permits/waste-permits0.html>.

There are several ways an applicant can ensure efficient processing of permit applications, including:

- Turning in a complete application
- Having a defined plant layout
- Communicating regularly with the agency
- Communicating early and regularly with impacted community
- Early engagement with EPA if necessary, for permit type (specific to certain air related permits)
- Running concurrent public notices
- Accurate estimate/quantification of emissions for facility

The National Environmental Policy Act (NEPA) requires federal agencies and those working on behalf of federal agencies to consider impacts of proposed actions and reasonable alternatives to those actions through the preparation of an environmental assessment (EA), environmental impact statement (EIS), or determination of a categorical exclusion (CE). TDEC participates in the NEPA process by reviewing and

commenting on NEPA documents prepared by federal agencies (i.e., "cooperating agency"). The state of Tennessee does not have regulatory requirements establishing a state-level comprehensive environmental review process for projects, similar to some states, like California and Connecticut. If your project is subject to NEPA requirements, you can submit NEPA documents for review to TDEC by visiting the NEPA Comment Request Portal page and fully completing the submittal information – <https://www.tn.gov/environment/program-areas/opsp-policy-and-sustainable-practices/policy/opsp-national-environmental-policy-act-at-tdec.html>.

Additionally, TDEC's Small Business Environmental Assistance Program (SBEAP) provides non-regulatory, confidential, and multi-media assistance to help Tennessee small businesses understand and comply with environmental regulations. Additional information about SBEAP is available at <https://www.tn.gov/environment/program-areas/sbeap-small-business-environmental-assistance.html>.