

CLEAN AIR ACT PERMITTING CHECKLIST

All but the smallest petrochemical facilities will need to obtain a Clean Air Act permit prior to construction. Although the Act is a federal statute, almost all air permits will be issued by state environmental agencies because EPA has largely delegated this authority. Regardless, the state-issued permits will still need to comply with many significant federal requirements. Notably, almost all such permits will require public notice and comment, typically 30 days, prior to issuance.

NOTES	CLEAN AIR ACT PERMITTING PROCESS	GUIDE
	<ul style="list-style-type: none"> <input type="checkbox"/> Sign up for air permitting mailing lists maintained by state environmental agencies. At minimum, these lists will provide notice of draft permits, while some (like Texas) also provide notice when applications are received. 📍 In Louisiana, the Department of Environmental Quality (LDEQ) 📍 In Texas, the Texas Commission on Environmental Quality (TCEQ) 	pp. 52-53
	<ul style="list-style-type: none"> <input type="checkbox"/> Obtain air permit applications. The applications are submitted many months in advance of a draft permit and contain a wealth of valuable information. 📍 In Louisiana, LDEQ hosts applications and other material on their Electronic Document Management System (EDMS) 📍 In Texas, TCEQ maintains three separate (and confusing!) databases, see the guide at p. 95 	p. 95
	<ul style="list-style-type: none"> <input type="checkbox"/> Review air permit application(s) in advance. The public notice and comment period on most air permits is only 30 days, and many issues can be spotted in advance with a thorough review of the application. 	p. 90
	<ul style="list-style-type: none"> <input type="checkbox"/> Begin identifying experts who could opine on topics like: <ul style="list-style-type: none"> <input type="checkbox"/> Control technology determinations (e.g. BACT, LAER) <input type="checkbox"/> Impacts analysis (e.g. modeling, SILs) <input type="checkbox"/> Applicability determinations <input type="checkbox"/> Begin working with them and allies to identify issues for future public comments 	pp. 56-70, 74-78
	<ul style="list-style-type: none"> <input type="checkbox"/> Watch for the draft permit. If you've already signed up for a mailing list, you should receive the notice that way, but it doesn't hurt to periodically check state agency websites or even call the agencies and ask for updates. 	pp. 52-53, 95
	<ul style="list-style-type: none"> <input type="checkbox"/> Read and share with allies the air permit application, draft permit, and any publicly available material on the project; continue identifying issues to raise in comments 	

	<p><input type="checkbox"/> Evaluate whether to involve EPA; EPA has authority to stop the construction of a major source facilities if it is not complying with the Clean Air Act. If there are significant issues identified when reviewing the application (and later, the draft permit), it can be helpful to notify EPA early in the permitting process.</p>	pp. 72-74
	<p><input type="checkbox"/> Evaluate whether to request a public hearing. Depending on the type of permit, a hearing may or may not be required, but you can always request one, even if only informally. Public hearings can be valuable, but also risky, as discussed in the guide. If you do decide to request a public hearing, it can be helpful to inform the agency prior to the issuance of a draft permit.</p>	pp. 54, 85
	<p><input type="checkbox"/> Once the draft permit is released, obtain and review not only the draft permit, but also the accompanying “permit narrative” or similar document prepared by the issuing agency that sets out the agency’s rational for the permit conditions.</p>	p. 95
	<p><input type="checkbox"/> Draft and submit comments to the issuing agency within the comment period, including evidence and expert opinion</p>	p. 90
	<p><input type="checkbox"/> Watch for the response to comments and final permit issuance</p> <ul style="list-style-type: none"> <input type="checkbox"/> Consult with experts and experienced attorneys to determine if there are substantive or procedural flaws that should be appealed and in which court or administrative agency 	p. 78
	<p><input type="checkbox"/> Watch for commencement and completion of construction. Many permits (including major New Source Review permits) are void if construction does not commence within 18 months of issuance, or if construction is stopped for 18 months, although facilities can request limited extensions. Many petrochemical plants are permitted in a speculative manner, and thus may not commence construction in a timely manner.</p> <ul style="list-style-type: none"> <input type="checkbox"/> If construction does not commence within a timely manner, petition the agency to revoke the permit, or consult with experts and experienced attorneys to determine if litigation to revoke the permit is appropriate. 	pp. 65-66