

## Air Construction Permits

Many new commercial and industrial businesses include operations that are subject to specific air quality regulations. State-specific emission standards are identified in Chapter 62-296 of the [Florida Administrative Code \(F.A.C.\)](#). Florida regulates hazardous air pollutants (HAP) in accordance with the National Emissions Standards for Hazardous Air Pollutants (NESHAP) in Title 40 of the Code of Federal Regulations (CFR): Part 61 is regulation by HAP and Part 63 is regulation by industrial category. There are also federal New Source Performance Standards specified for criteria air pollutants in Title 40, Part 60 of the CFR.

Permits are required for operations subject to applicable regulations or that emit air pollutants in sufficient quantities to warrant regulation. For example, equipment that combusts fuel (e.g., boilers, furnaces, stationary engines, etc.) is common to many businesses and such equipment may be subject to a range of state and federal regulations. Businesses that utilize regulated equipment are required to obtain permits prior to beginning construction on new emissions units, modifying an existing emissions unit or installing air pollution control equipment. These permits will specify applicable emissions standards and work practices to control the emissions of pollutants such as:

- Particulate matter from combustion exhaust or dust from material handling, sizing and screening;
- Carbon monoxide, nitrogen oxides, and sulfur oxides from equipment that burns oil, natural gas, wood, or other fuels;
- Volatile organic compounds, which includes a variety of chemical compounds commonly found in paints, thinners, cleaning agents, adhesives and other solvent-containing materials; and
- Hazardous air pollutants like styrene, which is released during fiberglass product manufacturing.

Businesses are encouraged to conduct a thorough site/plan survey to identify all activities that generate and/or control air emissions. If the air-emitting activities at a proposed business are not exempt from permitting or the facility is not eligible for an air general permit, then the owner or operator must obtain an air construction permit before construction can begin. Air permitting requirements are specified in [Chapters 62-4, 62-204, 62-210, and 62-212](#) of the Florida Administrative Code (F.A.C.).

### Applications

The process for obtaining an air construction permit begins with submitting the appropriate:

- [Application form](#) or [electronic form](#), and
- [Fee for minor facility \(Rule 62-4.050, F.A.C.\)](#)

The Florida Department of Environmental Protection's (DEP's) Division of Air Resource Management (Division) processes applications for all major source permits subject to the Prevention of Significant Deterioration (PSD) of air quality as well as all minor air construction permits for utility power plants, facilities subject to the acid rain program, waste-to-energy facilities, landfills, and other select special projects. DEP's District offices process all minor air construction permits within the District, except for those within a county for which an approved local air program has jurisdiction. The Division or District offices also process the applications for pulp and paper mills, chemical manufacturing plants, sugar mills, county-owned or operated facilities and construction permits subject to processing under state "expedited permitting" statutes.

See following webpages for contact information:

- [Division of Air](#)
- [District Offices](#)
- [Local Programs](#)

Applicants must identify general facility information, contact information, process equipment, air pollution control equipment, fuels, materials processed, operational restrictions, applicable state and federal regulations, emissions standards, and methods of compliance. Applications for air construction permits must be sealed by a professional engineer registered in Florida.

### **Administrative Process**

The permitting flowchart on the following page provides a simplified view of the permitting and administrative process from the receipt of an application through issuance of a final air construction permit.

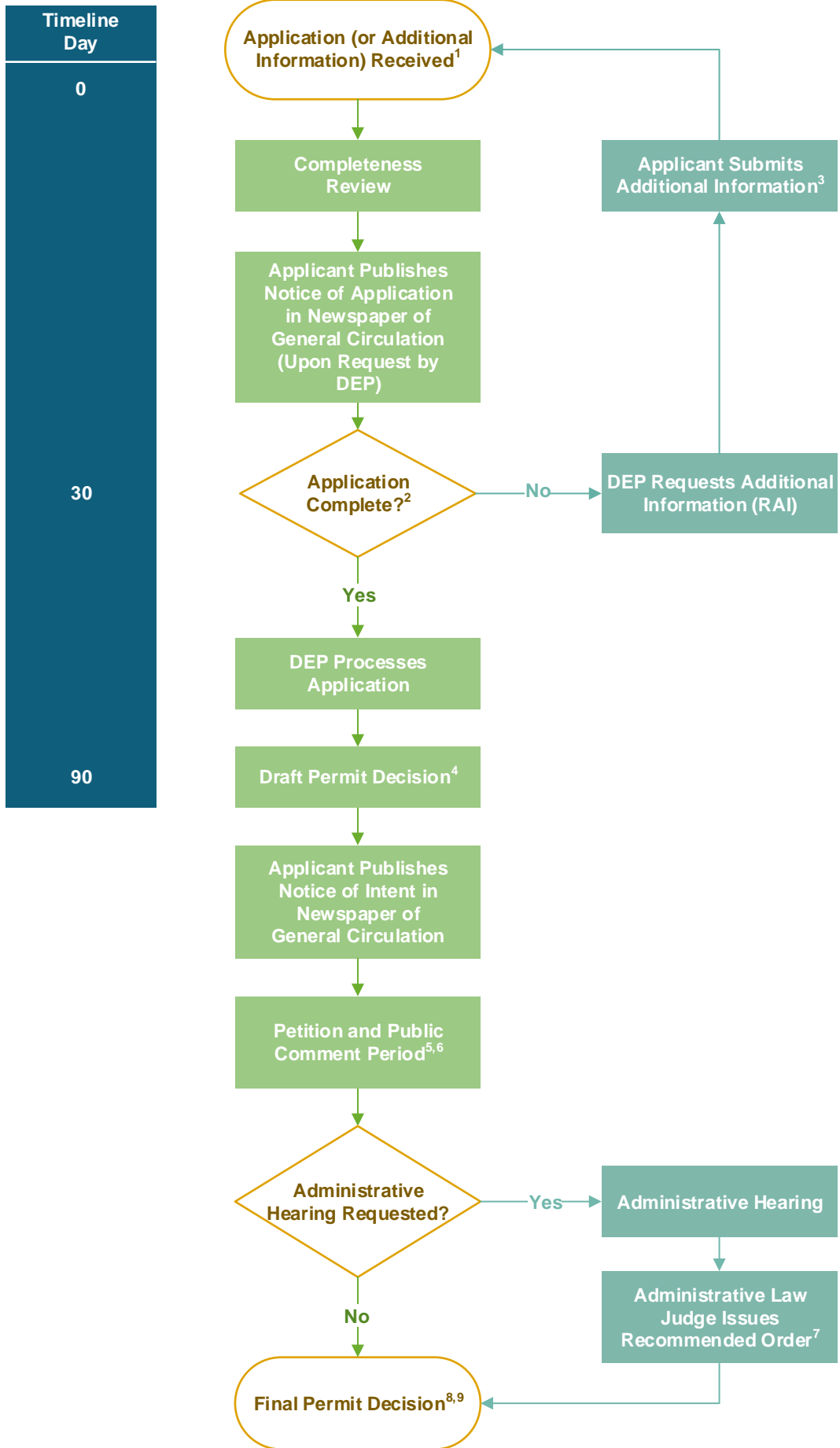
The critical components are:

- (1) The processing fee must be received by permitting authority in order for the application to be considered “received.” There are no applicable fees for an existing facility holding a Title V air operation permit.
- (2) Within 30 days of receipt of the initial application or receipt of the last item of information submitted to complete the application, the permitting authority must determine whether the application is complete.
- (3) If the application is deemed incomplete, the applicant has 90 days to submit the requested additional information or may request additional time to provide the information.
- (4) The permitting authority must make a written permitting decision (issue or deny) within 90 days from receiving a complete application or from receipt of the last item required to complete the application. The first step towards permit issuance is providing the applicant with a written notice of intent to issue a permit, a draft permit, and a public notice.
- (5) Affected parties may petition for an administrative hearing within 14 days from the date of “actual notice” or from publication of the Notice of Intent, whichever occurs first.
- (6) Affected parties, federal agencies and the public may provide comments on the draft permit. The comment period ends 30 days after publication for PSD permits and 14 days after publication for all other permits. If the draft permit is substantially revised due to public comments, the permitting authority will issue a revised draft permit and require another public notice.
- (7) Hearings are conducted by the Florida Division of Administrative Hearings. DEP cannot issue a final permit until the Administrative Law Judge issues a Recommended Order.
- (8) If the draft permit is not substantially revised and no hearing is requested, the final permit decision is issued promptly following close of the public comment period. Substantial revisions based on comments require a new public notice.
- (9) The final permit decision may be appealed to a Florida District Court of Appeal. A Notice of Appeal must be filed within 30 days of the final permitting decision.

### **Permit Content**

Air construction permits specify the equipment capacities, operational restrictions, air pollution controls, emission limits, work practice standards, monitoring and testing requirements, records, reporting provisions and other compliance demonstrations. Each permit has an expiration date, which authorizes a period of time to construct, test, and operate while obtaining an air operation permit. Nevertheless, the limitations and requirements in the air construction permit that are applicable to the design and operation of the equipment remain in effect until the equipment is permanently shut down or the requirement becomes obsolete by its nature (e.g., a requirement for *initial* compliance testing). See subparagraph [62-210.300\(1\)\(b\)1, F.A.C.](#) These permit conditions are applicable requirements for operation permits and may only be revised by a subsequent air construction permit or modification of the original air construction permit.

## Simplified Air Construction Permitting Flow Chart



## PSD Permits

Applications for air construction permits subject to PSD preconstruction review (Rule 62-212.400, F.A.C.) are required for:

### 28 PSD Listed Categories

1. Fossil fuel-fired steam electric plants > 250 MMBtu/hour
2. Coal cleaning plants w/thermal dryers
3. Kraft pulp mills
4. Portland cement plants
5. Primary zinc smelters
6. Iron and steel mill plants
7. Primary aluminum ore reduction plants
8. Primary copper smelters
9. Municipal incinerators > 250 tons per day
10. Hydrofluoric acid plants
11. Sulfuric acid plants
12. Nitric acid plants
13. Petroleum refineries
14. Lime plants
15. Phosphate rock processing plants
16. Coke oven batteries
17. Sulfur recovery plants
18. Carbon black plants (furnace process)
19. Primary lead smelters
20. Fuel conversion plants
21. Sintering plants
22. Secondary metal production plants
23. Chemical process plants
24. Fossil fuel boilers totaling > 250 MMBtu/hour
25. Petroleum storage and transfer units w/total storage capacity > 300,000 barrels
26. Taconite ore processing plants
27. Glass fiber processing plants
28. Charcoal production plants

- New major sources with potential emissions of a PSD pollutant of 100 tons/year or greater (including fugitive emissions) if one of the 28 PSD “listed” facility categories (see list);
- New major sources with potential emissions of a PSD pollutant of 250 tons/year or greater; or
- Major modifications to existing PSD major sources that equal or exceed the PSD significant emissions rate defined in Rule 62-210.200, F.A.C.

Applications for PSD projects are much more comprehensive and require a rule applicability analysis, a review of the best available control technology, an air dispersion modeling analysis and an additional impacts analysis. For these projects, it is critical that an applicant hire a consultant experienced in PSD preconstruction permitting and air dispersion modeling. It is also highly recommended that an applicant schedule a pre-application meeting with the Division to discuss the project and expectations. Good communication is essential to satisfying the regulatory requirements and getting authorization to construct quickly.

### Construction in Non-Attainment Areas

In 2010, the U.S. Environmental Protection Agency (EPA) revised the National Ambient Air Quality Standards (NAAQS) for nitrogen dioxide (NO<sub>2</sub>) and sulfur dioxide (SO<sub>2</sub>). After collecting and reviewing ambient air quality data, Florida designated two small non-attainment areas for SO<sub>2</sub>, one in Hillsborough county and one in Nassau county, and DEP is currently developing a plan for meeting attainment requirements in these areas. Florida also has one very small non-attainment area for lead in the Tampa Bay region. Any

new projects within these non-attainment areas, or within an area of influence, will be subject to non-attainment area new source review. This permitting process requires meeting the “lowest achievable emissions rate (LAER)” excluding cost considerations, and obtaining emissions offsets prior to beginning construction. Recent monitoring data shows significant improvement in the air quality in these areas and DEP’s plan for attainment will bring those areas back into compliance with the federal air quality standards.