

## **Notice of Intent to Construct Frequently Asked Questions and Answers**

- 1. When is the construction bill effective?**  
*The construction bill becomes effective when it becomes law and applies to the construction of any new facility and the alternation or expansion associated with the modification of a permit for an existing facility that commences on or after the date on which the bill becomes law.*
- 2. If I don't have an air permit can I use the 'notice of intent to construct' to begin construction?**  
*No, facilities without an existing air permit cannot use the intent to construct and must file an air permit application with the DAQ before construction or operation.*
- 3. Can a permitted facility construct an additional emission source under the notice of intent to construct?**  
*Yes, but must meet the notice of intent to construct criteria under the law.*
- 4. Can the DAQ provide approval on some equipment and disapproval on others if all equipment is included in one notice?**  
*Yes, the approval or disapproval letter from the Director will specify which equipment is approved or disapproved.*
- 5. Is there a formal appeal process for disapproval of the notice?**  
*Yes, the same as for an air permit application. However, it would take longer to go through the appeal process than to through an air permit issuance process.*
- 6. If a notice of intent to construct is received incomplete does the DAQ still have 15 days from receipt to approve or disapprove?**  
*Yes, there is no stopping the 15 days from receipt to either approve or disapprove. If DAQ receives an incomplete submittal, the reviewer should telephone the permittee as soon as possible and ask for the missing information. If the permittee does not supply the missing information within time needed to complete the review within 15 days, the notice of intent is incomplete, and DAQ shall disapprove the request.*
- 7. Where will the notice of intent to construct be processed?**  
*The notice of intent to construct request will be processed at the same location where the operating permit will be issued.*
- 8. Who will sign the approval or disapproval letter for the notice of intent to construct?**  
*The Director will sign all approval and disapproval letters at this time.*
- 9. Is the increase in a permitted or nonpermitted air toxic pollutant or the requirement for toxics modeling grounds for disapproval under the "substantially similar emissions" requirement?**  
*A new toxic pollutant or significant increase in an existing toxic pollutant requiring modeling may be grounds for an incomplete notice of intent to construct. However, the DAQ will take into consideration all submitted documentation and modeling in making its final determination.*
- 10. What is acceptable for 'proof of publication' in the newspaper?**  
*Proof of publication is an affidavit from the newspaper showing the notice and date of publication, or a copy of the page from the newspaper showing the notice and date of publication.*

**11. What is acceptable “Certification Under Oath” language?**

*The “certification under oath” may be satisfied by the responsible official as defined at 15A NCAC 2Q .0503(15) for a Title V facility or an official described in 15A NCAC 2Q .0304(j) for a non-Title V facility signing the following statement:*

*“The undersigned certifies under penalty of law that all information and statements provided in this notice of intent to construct, including any attachments, are true, accurate, and complete to best of my knowledge and ability.”*

**12. When can a permittee commence construction?**

*The permittee shall not commence construction until:*

- 1. The permittee receives written approval from the Director to commence construction; and*
- 2. At least 15 days have elapsed since the notice of intent to construct has appeared in a local newspaper.*

*Once these two conditions have been met, the permittee may begin construction.*

**13. When can a permittee commence operation?**

*The permittee shall not commence operating the source(s) until receipt of an air permit.*

**14. When should the reviewer send the recommendation of approval or disapproval to the Director?**

*Within 13 days of receipt of the notice, the reviewer shall complete the review and forward to the Director a recommendation to approve or disapprove the notice to construct. The Director shall be the authority to issue the approval or disapproval. The reviewer shall send the Director a copy of the review and a completed approval or disapproval letter. If the reviewer’s recommendation is to disapprove, the disapproval recommendation shall contain an explanation justifying the disapproval. If the reviewer recommends disapproval, he should telephone the permittee at the same time, if not before, that the recommendation is being sent to the Director and inform the permittee that the recommendation is to disapprove.*

**15. How will DAQ track the notice of intent to construct?**

*The notice of intent to construct will be tracked in the Permit Application Module (PAM) similar to the way we now track an air permit application. The application type and permit schedule will both be called “Construction Notice.” There will be no start clock, but there will be a 15 days from receipt due date. We have also included an acceptance checklist of items and the appropriate events to track. All necessary letters will be automatically generated in IMPAQ. The tracking number for the notice of intent will be application number. There will be no permit number assigned.*