

**Title 33
Environmental Quality**

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 15. Permit Application Review

§1501. Applicability

A. This Chapter applies to permit applications for new facilities and ~~for to~~ applications for substantial permit modifications submitted to the department after the rule's effective date (date of publication in the *Louisiana Register*).

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:**.

§1503. Definitions

A. For all purposes of this regulation, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

Administratively Complete—in reference to an application for a permit, that the application contains all of the information necessary for the administrative processing of the application. Designating an application administratively complete for purposes of permit processing does not preclude the administrative authority from requesting or accepting any additional information. Required application information submitted under separate cover or separately from the application shall cause the administrative completeness determination to be delayed until such information is received, processed, and verified along with the other application information.

~~*Complete*~~—~~repealed~~, in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the administrative authority from requesting or accepting any additional information.

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Extraordinary Public Response—that situation that exists where the quality and/or quantity of comments ~~which~~ that are relevant and material to the permit are such as to necessitate additional time for agency department review.

Final Decision—action taken by the administrative authority ~~a final decision~~ to issue, deny, modify, ~~or~~ revoke and reissue, or terminate a permit.

New Facility—a pollution source (including all emission points and units of such the source located within a contiguous area and under common control) or any public or private property where an activity required to be permitted by the department has not yet commenced.

Processing Day—except as otherwise provided herein, a day during which an application is available to the department for review and decision in the permit decision development process. Non-processing days include, but are not limited to, any day the department:

- a. awaits from the applicant requested information that revises or supplements administrative or technical information or deficiencies in the application; or
- b. reviews the following information from the applicant, not to exceed 60 days per submittal:
 - i. department-requested information; or
 - ii. application revisions or additional information unsolicited by the department.

Substantial Permit Modification—a changes that substantially alters the permitted facility or its operation as follows:

- a. for a hazardous waste permit, any Class 3 modification listed in LAC 33:V.322 or otherwise described in LAC 33:V.321.C.4;
- b. for a solid waste permit, any modification listed in LAC 33:VII.517.A.2.a, or otherwise determined by the administrative authority to warrant public notice;
- c. for a Louisiana ~~Water~~ Pollutant Discharge Permit Elimination System (LWDPSLPDES) permit, any modification not processed as a minor modification under LAC 33:IX.~~307.D.2905~~; and
- d. for an air quality permit, any modification ~~which~~ that results in a significant increase in the amount of any regulated pollutant or results in the significant emission of any air pollutant not previously emitted.

Suspended Application—a permit application that is not eligible to be processed for a permit decision because administrative or technical information requested by the department has not been submitted by the applicant within the time period specified by the department. An application deemed suspended, if not denied, may be reinstated if the requested information is submitted to, and found to be adequate by, the department within six months from date of application suspension. In addition, the department may require the applicant to submit an updated application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:**.

§1505. Review of Permit Applications for New Facilities and Substantial Permit Modifications

- A. Administrative Completeness Review

1. ~~Within 60 days after submittal~~ After receipt of a permit application for a new facility~~iesy~~ or an application for a substantial permit modifications, the department shall perform an administrative completeness review and, if applicable, submit written notification to the applicant that lists the application's specific administrative deficiencies or additional information needed for application processing. Permit application forms and checklists of required information in the permit application review process shall be provided to the applicant upon request.

2. The applicant shall respond to the notice of deficiency or the request for additional information within ~~30 days after receipt of the notice of deficiency~~ the amount of time specified in the notice or request. This response shall contain all of the information required by the department to proceed with processing the application, unless otherwise provided for ~~under LAC 33:I.1505.E~~ in Subsection E of this Section.

3. Within ~~40~~ 60 processing days from the date a permit application is submitted, the department shall:

- a. issue a letter of administrative completeness; or
- b. notify the applicant that the application has been suspended because the required administrative information has not been received within the amount of time specified by the department. ~~issue a notice of intent to deny the permit based on an incomplete application.~~

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

45. Within 30 days after receipt of a letter of administrative completeness, the applicant shall publish a notice, provided by the department, of the administrative completeness determination in a major local newspaper of general circulation and submit proof of publication to the Office of Environmental Services, Air Permits Division, Water Permits Division, or Water and Waste Permits Division.

56. The requirement for publication of a notice of administrative completeness may be waived for applications for air quality permits for sources not defined as major in LAC 33:III.504 502, 509, or 5103.

67. The requirement for publication of a notice of administrative completeness may be waived for applications for water quality permits for sources defined as minor by the administrative authority.

B. Technical Review

1. If at any time during the application review process the application is found to contain technical deficiencies, or if additional information is needed to correct or clarify the application, the department shall provide a written notice or request to the applicant and require a response within a specified time.

2. The applicant shall respond to the notice of technical deficiency or request for additional information within the time specified in the notice or request. This response shall be deemed adequate only if it contains all of the information specified in the notice of technical deficiency or request for additional information ~~and~~ as required by the department to complete the review of the application.

3. If the applicant does not supply the required information within the time period specified in the notice of technical deficiency or request for additional information, the department may notify the applicant that the application has been suspended because the required information has not been received within the amount of time specified by the department.

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

35. Applications undergoing technical review shall not be subject to rule changes that occur during the technical review unless such changes are made in accordance with R.S. 49:953(B)(1) or are required by federal law or regulation to be incorporated prior to permit issuance. However, such a rule change made prior to the issuance of the permit may constitute grounds for a modification of the final permit.

C. Final Decision

1. The secretary or his designee shall issue a final decision within ~~410~~300 processing days from the submission date of the application.

2. The 300-processing-day deadline shall be extended where additional time is required: The secretary or his designee may extend the deadline for a final decision for up to a total of 45 days for the following purposes:

a. ~~to provide additional time~~ for the applicant to revise or supplement the application to address technical information or deficiencies in the application;

b. ~~to allow~~ for adjudicatory or judicial proceedings under R.S. 30:2024; or

c. for required review by the United States Environmental Protection Agency; or

d. ~~to consider~~ for consideration of comments received at a public hearing in the case of an extraordinary public response, however in no case shall the extension for consideration of comments exceed 45 days.

D. Exceptions. Notwithstanding any other provisions of this Chapter to the contrary, the following requirements shall pertain to all applications for permits relating to oil and gas wells and pipelines.

1. Within 14 workdays after submittal of a permit application, the department shall ~~perform an administrative issue notification of a completeness review determination to the applicant, and make a determination as follows.~~

a. If the application is deemed administratively complete, the department shall issue notification of the administrative completeness determination to the applicant.

b. If the application is not deemed administratively complete, the department shall notify the applicant in writing and provide a list of the application's specific administrative deficiencies, and This notice shall specify the date by which the administrative information is to be submitted.

2. If, during the technical review, additional information is needed, the department shall notify the applicant in writing and shall specify the date by which the information is to be submitted.

3. If the applicant does not submit the required administrative or technical information within the specified time period as requested by the department, the department may notify the applicant that the application has been suspended because the required information has not been received within the amount of time specified by the department.

4. The applicant's failure to address an application deemed suspended may result in a permit denial, based on an incomplete application.

35. Within 60 ~~workdays~~ processing days after ~~notification to the applicant of a complete~~ a permit application has been submitted to the department, the secretary or his designee shall issue a final decision to grant or to deny the permit.

46. In the event of a permit denial, the secretary or his designee shall provide written reasons for the decision to all parties.

57. If the secretary or his designee does not grant or deny the ~~application~~ permit within the time period provided for herein, the applicant may file a rule as provided for in R.S. 49:962.1.

E. Extensions. Any deadline established by this Section may be extended. A request for an extension of any deadline shall be submitted in writing by the permit applicant or by the secretary or his designee. The request shall specify the reasons and any special conditions that support a deadline extension. Written responses to all extension requests shall be submitted to the requestor within 10 days of receipt of the request.

F. Withdrawal of Permit Application

1. An applicant may voluntarily withdraw an application during the review process, without prejudice, provided notice of withdrawal is submitted to the Office of Environmental Services, Air Permits Division, ~~or Water Permits Division,~~ or Water and Waste Permits Division, in writing with the appropriate signatory authority, and:

a. the applicant has voluntarily submitted an application for a new facility and such an application is not required other than to gain permission to operate; or

b. the applicant has voluntarily submitted an application to modify an existing permit and such a permit modification would not be required other than to operate in a different manner.

2. Following withdrawal, any subsequent submission will be considered a new application.

3. Following withdrawal, the requirements of this Chapter ~~would~~ will be reinitiated upon the submittal of a new application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Legal Affairs and Enforcement, Enforcement and Regulatory Compliance Division, LR 19:487 (April 1993), repromulgated LR 19:742 (June 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000),

amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005), LR 33:**.