



Small Business Assistance Program

Colorado Department of Public Health and Environment
<http://www.cdphe.state.co.us/ap/sbap.asp>

An Overview of Colorado Air Regulations for: Land Development

Under Colorado air quality regulations, land development refers to all land clearing activities, including but not limited to land preparation such as excavating or grading, for residential, commercial, or industrial development, or oil and gas exploration and production. Land development activities release fugitive dust, a pollutant regulated by the Air Pollution Control Division (Division) at the Colorado Department of Public Health and Environment. This document provides an overview of the air pollution reporting and permitting requirements that may apply to land development activities.

➤ Exemptions for Small Land Development Activities

Small land development activities are not subject to the same reporting and permitting requirements as large land development activities. Specifically, land development activities that are *less than 25 contiguous acres and less than 6 months in duration* do not need to report air emissions to the Division. For these projects, operators must use appropriate control measures to minimize the release of fugitive dust from the site.

➤ Reporting and Permitting Requirements for Large Land Development Activities

Land development projects that are greater or equal to 25 continuous acres and/or 6 months in duration typically require the submission of an *Air Pollutant Emission Notice (APEN)* and an air permit (in some cases APENs and air permits are not required due to estimated air emissions below reporting thresholds). When an air permit is specifically required, a *Start Up Notice* must be submitted to the Division at least 30 days prior to commencing the land development project. The APEN, Start Up Notice, and air permitting process are described below.

Submitting an APEN

The APEN form titled “Air Pollutant Emission Notice – and – Application for Construction Permit” is available through the Division and downloadable at www.cdphe.state.co.us/ap/downloadforms.asp. The APEN form is used to record general project information including the project description, location, size, and duration of the land development project. In addition, the APEN form includes detailed information

on the *Fugitive Dust Control Plan (FDCP)*. The FDCP addresses how dust will be kept to a minimum at the project site. Control measures listed in the plan should be specific to the land development site. Fugitive dust control techniques commonly included in the plan are shown in Table 1. A permit, if required, will specify the type of dust control measures that were included on the FDCP. (You can submit a separate FDCP specific to the site in addition to the APEN but if you do not, the fugitive dust control measures listed on the APEN will be used on the air permit.) It is important to note that even if a permit is not required, fugitive dust control measures in the FDCP must be followed at the site.

Table 1

Control Options for Unpaved Roadways	
Watering	Use of chemical stabilizer
Paving	Controlling vehicle speed
Graveling	
Control Options for Mud and Dirt Carry-Out Onto Paved Surfaces	
Gravel entry ways	Washing vehicle wheels
Covering the load	Not overfilling trucks
Control Options for Disturbed Areas	
Watering	Application of a chemical stabilizer
Revegetation	Controlling vehicle speed
Compaction	Furrowing the soil
Wind Breaks	Minimizing the areas of disturbance
	Synthetic or Natural Cover for Slopes

A land development APEN can be submitted by a property owner, a site contractor, or a management company involved with the project. The party that submits the APEN will be responsible for paying the associated APEN and permitting fees and ensuring compliance with the Fugitive Dust Control Plan and air permit (if applicable).

Land Development Process Equipment

Sometimes process equipment such as generators or crushers is used at a land development site. Process equipment is treated separately from the land development operations. Process equipment may be designated as portable or fixed, and must be reported on a “**General APEN**” form. This form requires general information about the equipment such as the type of equipment, make, model, and serial number, hours of operation, and quantity of material processed through the equipment. For more information on the filing process for land development equipment, refer to the guidance document, “An Overview of Colorado Air Regulations for Surface Mining Operations, Concrete Batch Plants, and Hot Mix Asphalt Plants” located at www.cdphe.state.co.us/ap/stationarylibrary.html. Refer to the section on surface mining process equipment.

Portable equipment can be moved from site to site. “**Notice of Relocation**” must be submitted to the Division at least 10 days prior to the relocation of permitted portable equipment. You should maintain records on the location of each piece of equipment at your home-base office.

Allow Enough Time for the Processing of Your APEN!

The Division will use the information provided on the APEN to determine whether the land development project requires an air permit. If an air permit is required, the APEN will become part of the permit

application package. Per Colorado air regulations, the Division has up to **90 days** to issue a permit once a complete APEN is received. If an incomplete APEN is received, the Division may request additional information and the permit-processing clock will start over. If a permit is required for your land development project, site operations cannot commence until the air permit has been issued. *You must plan ahead!*

Submitting a Start Up Notice

The Start Up Notice for a permitted land development project must be submitted to the Division at least 30 days *prior* to commencing operation of the source. As with the APEN, you must plan ahead. The Start Up Notice is available through the Division and downloadable at www.cdphe.state.co.us/ap/downloadforms.asp.

Obtaining an Air Permit

Land development projects that are greater or equal to 25 contiguous acres and/or 6 months in duration typically require an air permit. The land development permitting process has been streamlined to generate a final “temporary” land development air permit in one step. The temporary air permit is applicable through the project’s “Commence” and “Stop” dates listed on the APEN. The temporary permit expires at the requested “Stop” date. As a rule of thumb, land development activities may be considered complete when all disturbed areas are stabilized from dust emissions. If an extension or modification to the air permit is required, contact the Division to discuss the change and determine whether a new APEN is required.

Temporary land development permits are typically issued for a period of up to five years. Based on the information provided on the APEN, the permit may cover a single land development activity or a series of activities (or project phases) over a defined period of time.

➤ WHAT FEES APPLY?

Filing Fee: Each APEN must be submitted with a \$119.96 APEN filing fee.

Permit Processing Fee: Permit processing fees will be assessed at an hourly rate of \$59.98/hour. Once an application is received, all processing time will be charged regardless of whether a permit is issued (unless the project has been determined to be exempt from APEN requirements). If a project is cancelled, notify the Division in writing immediately.

Annual Fee: All sources required to file an APEN must pay annual fees based on the estimated annual emissions of air pollutants. Currently, the Division does not assess annual fees for fugitive dust (e.g., dust generated by wind erosion and not by process equipment). Therefore, most land development projects do not pay annual emission fees (unless permitted process equipment is operating at the site). If your facility emits other regulated pollutants, the Division will assess an annual fee of \$13.54 per ton of criteria pollutants emitted (PM, CO, NO_x, etc.) and \$90.34 per ton of non-criteria (hazardous air pollutants) emitted. The Division mails invoices to small businesses for these fees in approximately March or June of each year. Fees are subject to change by the legislature on an annual basis.

➤ **Small Business Assistance Program**

The Small Business Assistance Program (SBAP) is available to answer questions you may have regarding environmental issues at your site. The SBAP can help you understand the regulations, determine what your company has to do to be in compliance, calculate emissions, file required forms, and complete the APEN and permitting process. Our services are always free and confidential.

Small Business Assistance Program Colorado Department of Public Health and Environment

Home Page: www.cdphe.state.co.us/ap/sbap.asp

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