OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

IN THE MATTER OF:	)
	)
PERMIT NO. 2026-0100-C (PSD) (TIER III), FACILITY ID NO. 25367; APPLICATION OF EMIRATES GLOBAL ALUMINUM AND ENVIRONMENTAL RESOURCES MANAGEMENT, INC. ON BEHALF OF THE UNITED ARAB EMIRITES; DECLARATION OF THE MEANING OF "BEGIN ACTUAL CONSTRUCTION" UNDER OAC 252:100-8-31 AND 40 CFR 52.21(a)(2)(iii).	)

Case No. PH-2026-001

OKLAHOMA
DEPT OF ENVIROMENTAL QUALITY
OCT 08 2026
FILED BY: J. Matheson
HEARING CLERK

PETITION FOR DECLARATORY RULING OF WHEN RESPONDENT MAY BEGIN ACTUAL CONSTRUCTION; WHETHER THE OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY HAS UNLAWULLY AUTHORIZED CONSTRUCTION OF THE SMELTER BEFORE A CONSTRUCTION PERMIT APPLICATION PROCESS HAS BEEN COMPLETED AND THE PERMIT LAWFULLY ISSUED

Petitioners, Stop the Inola Smelter Inc., Brian Hill, Dale Danker, Dustin Spurlock, and Tim Brown hereby make the following claims for relief pursuant to 75 O.S. §§ 306 & 307 and OAC 252:4-9-32(e). This Petition seeks declaratory relief as to the meaning of "begin actual construction" under OAC 252:100-8-31 and 40 CFR 52.21(a)(2)(iii). It further seeks a declaration that the Air Quality and the Water Quality Divisions of the Oklahoma Department of Environmental Quality ("ODEQ") have failed to perform their respective duties under law as the State of Oklahoma's human health and environmental protection policemen with

respect to Permit No. 2026-0100-C (PSD) (Tier III) (Application for an Initial Construction Permit for a Part 70 Source, Oklahoma Aluminum) and National Pollution Discharge Elimination System ("NPDES") Permit.

Petitioners

1. Petitioner Stop the Inola Smelter, Inc. ("STIS"), is an Oklahoma not for profit corporation with its principal place of business in Rogers County, Oklahoma. Its purpose is to investigate and educate the public concerning the human health risks, environmental hazards, and community costs associated with the proposed operation of a primary aluminum smelter in Inola, Oklahoma (the "Inola Smelter"). These health risks, environmental hazards and community lifestyle and health costs exist *because* the proposed large-scale smelting of aluminum ore results in the generation of large quantities of hazardous wastes (including cyanide, fluoride, arsenic, and lead), discharges of contaminated water into rivers and streams, groundwater contamination, and toxic emissions of tons of hazardous air pollutants. The life cycle of the pollutants generated, discharged, and emitted from the proposed Inola Smelter is such that they are inhaled, ingested, and incorporated into the plants and animals through bioaccumulation, such that they will cause death and disease.

2. Petitioner Brian Hill is a member of the Board of Directors of STIS and a resident of Rogers County, Oklahoma. His home is located on property

which is next to the planned Inola Smelter. He lives there with his wife. They grow hay for cattle and raise vegetables to eat. They hunt turkey, dove, hogs, and deer on their property and catch fish in their pond and creek.

3. Petitioner Dale Danker is a member of the Board of Directors of STIS and a resident of Rogers County, Oklahoma. His home and acreage are approximately one (1) mile north of the planned Inola Smelter. He lives on the property with his wife, son, and daughter, along with two donkeys, four dogs, and some cats.

4. Petitioner Dustin Spurlock is a member of the Board of Directors of STIS and a resident of Rogers County, Oklahoma. His home is located approximately five (5) miles southeast of the planned Inola Smelter. He lives on the property with his wife and daughter. They have 75 cows, some goats, donkeys, and horses, along with a pecan orchard on their property.

5. Petitioner Tim Brown is a member of the Board of Directors of STIS and a resident of Rogers County, Oklahoma. His home is approximately two (2) miles south of the planned Inola Smelter. He has cattle on his property and grows hay on his property to feed his cattle. He also hunts and fishes on his property. There there are deer, wild turkeys, eagles, bobcats, foxes, owls, and migratory ducks that live on his land. Mr. Brown also has a pecan orchard on his property.

6. Thus, Petitioners have significant personal and property interests in the decisions of the ODEQ, which has to date, failed in the function of providing a full and fair forum to disclose to and inform the public on these issues.

Respondents

7. Respondent Environmental Resources Management, Inc. ("ERM") is an environmental consulting company representing the other Respondent, Emirates Global Aluminum ("EGA").[1]

8. EGA is a conglomerate and the world's largest aluminum producer that owns bauxite/alumina mines and primary aluminum smelters around the world. EGA is owned by the United Arab Emirates ("UAE"), which is an absolute monarchy consisting of a federation of seven coastal sheikdoms. EGA is controlled by Princes or Sheiks through the UAE sovereign wealth investment funds. Despite ERM filing the PSD construction permit application on behalf of EGA for an aluminum smelter in Oklahoma, EGA is not registered with the Oklahoma Secretary of State.

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[1] There may be other respondents, but ERM submitted the PSD construction permit application on behalf of EGA and either through sloppy work or being intentionally misleading, we don't know the owner/operator of the planned Inola Smelter. While the PSD construction permit application is littered with references to "Oklahoma Aluminum," there is no such business registered with the Oklahoma Secretary of State.

9. ERM purports to be an environmental consulting firm representing the UAE in this environmentally important permitting matter. Upon information and belief, ERM is not law firm or a company with lawyers or attorneys that are licensed to practice law in Oklahoma. Yet, ERM is advocating and providing legal advice on this permitting matter without a license to practice law. Upon information and belief, neither ERM, nor the ERM representatives who are propounding the Inola Smelter as agents for ERM's permit are attorneys licensed, qualified and determined fit to practice law in Oklahoma as required by the Oklahoma Supreme Court. 5 O.S. § 5-12. As shown below, ERM has offered legal advice which has been relied upon by the ODEQ to the detriment of Petitioners because such advice was wrong.

Statement of Facts

10. ODEQ is the successor to the Oklahoma Department of Health, who have been and are charged with the protection of human health and the environment.

11. On February 9, 2026, EGA, which is owned by UAE, filed with the ODEQ a PSD Air Permit Application for the Inola Smelter to be located on E 620 Road, Inola, OK 74036 at the Tulsa Ports Industrial Park in Inola, OK (Rogers County). *See* Permit No. 2026-0100-C (PSD). https://applications.deq.ok.gov/PermitsPublicReview/permitinformation.aspx?id=1072402 [last visited 10/8/26]

12. This behemoth of an air pollution factory will also need hazardous waste generator and NPDES water permits.

13. Under applicable air quality rules, the Inola Smelter will be a major source for air pollutants and require a PSD construction permit to "begin actual construction". *See* OAC 252:100-8-1, *et seq*. After it is built, it will need an operating permit from the ODEQ to operate a smelter. As a practical matter, however, because the time and expense for such a project are so very immense (construction costs estimated to be more than $4,000,000,000.00) (https://www.wsj.com/business/how-oklahoma-landed-americas-first-aluminum-smelter-in-half-a-century e00c83d3?st=hBj8x5&reflink=desktopwebshare_permalink [last visited 10/8/26]), the UAE and EGA (owner/operators) will be able to effectively Petition an Oklahoma court to allow it to operate even without the proper and lawful permits because of the time and expense invested in the project. Thus, the only full and fair hearing that will happen to protect human health and the environment is the permitting that is occurring now for the construction permit.

14. Among the toxic emissions from an aluminum smelter are fluorides, arsenic, cyanides, and PAHs.

15. On March 30, 2026, the ODEQ announced it would hold a "Permit Process Meeting" in Inola, Oklahoma on April 23, 2026 "to discuss the agency's

permitting process." https://oklahoma.gov/deq/divisions/executive-offices/office-of-communication-and-education/news-releases/2026/march/aluminum-smelter-process-meeting.html [last visited 10/1/26]

16. On April 3, 2026,[2] the ODEQ deemed EGA's PSD construction permit application to be administratively complete. https://applications.deq.ok.gov/PermitsPublicReview/permitinformation.aspx?id=1072402 [last visited 10/8/26] Yet, no air modeling had been submitted and still has not been submitted, even though modeling is required to be submitted *prior* to a determination that an application is administratively complete. See OAC 252:100-8-2 and 252:100-8-5(d). This is another example of the ODEQ either being sloppy or intentionally misleading in this important permitting process.

17. The ODEQ's PowerPoint presentation at the Inola public meeting stated that "Large industrial facilities typically require multiple permits *before construction* and operation can begin." [Emphasis added.] ODEQ PowerPoint Presentation, ODEQ Public Meeting, Inola, Oklahoma, April 23, 2026. *See* Exhibit 1, attached hereto. https://oklahoma.gov/content/dam/ok/en/deq/documents/executive-offices/Inola Meeting.pdf [last visited 10/6/26]. No NPDES permit has been applied for by Respondents; nor is it clear how their wastewater will be

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[2] Interestingly, the administrative completeness of PSD construction permit application was not a point made at the so called transparency meeting in Inola, Oklahoma on April 23, 2026.

"pretreated" on site and whether it will meet the Tulsa Port of Inola's NPDES permit. More importantly, the ODEQ has neglected its duty to require such an application so that the full effects of such a pollutions industry facility may be known by the public. The Respondents do not address this issue with the ODEQ but they have claimed industrial wastewater that is discharged will be treated on-site before being sent to the Tulsa Port of Inola Wastewater Treatment Plant for "further treatment and disposal."

18. News accounts of ODEQ's Permit Process Meeting in Inola reported that Madison Miller, Deputy Executive Director of the ODEQ, said "one of our main priorities is transparency." KJRH, Channel 2, https://youtu.be/QsgqiO6Ivc0?si=vnPCDuWy5fX4yQO3 [last visited 10/1/26] Indeed, the word "transparency" was used by ODEQ personnel multiple times during the April 23, 2026 meeting to explain the ODEQ's purpose and intent for the Inola Smelter permit process ("DEQ is committed to transparency in permitting", "to ensure transparency of the project", "DEQ maintains a permitting transparency website", "we are talking about transparency"). https://youtu.be/CR1TtqlBTkI?si=6i4XaJIEkbzQyrdf [last visited 10/3/26]

19. Yet, *no* official record of this April 23, 2026, "transparency" meeting was made by ODEQ, and incredibly, no questions about *this Inola Smelter permit* were answered. Instead, the public must rely on crowd shot footage uploaded to

YouTube to learn what occurred at the meeting. *See* https://youtu.be/CR1TtqlBTkI?si=6i4XaJIEkbzQyrdf [last visited 10/3/26], and only guess what actions and conversations are occurring between ERM, Respondents, and the ODEQ.

20. On August 12, 2026, the ODEQ issued a press release touting its transparent permitting process for the Inola Smelter:

- The Oklahoma Department of Environmental Quality (DEQ) is providing an update on the agency's ongoing efforts to ensure a thorough, *transparent* evaluation of the pending air quality permit application for the proposed aluminum smelter in Inola, Oklahoma.
- DEQ has made *transparency* a priority throughout the permitting process.
- During the most recent legislative session, the agency successfully initiated legislation establishing new requirements for greater *transparency* in *future* permitting actions.
- Although those statutory requirements are not yet in effect, DEQ has committed to applying those stricter *transparency* standards to this application—and is, in fact, going well beyond those requirements.
- DEQ further recognizes that this technical and interactive process, combined with the level of *transparency* that agency is trying to achieve, ***has the potential to lead to some confusion by those trying to interpret the information; however, DEQ believes that the desired transparency outweighs those concerns.***
- "*Transparency* includes allowing the public access to the process as it actually occurs, including the questions we ask, the information we receive, and the analyses we conduct," said DEQ Executive Director Rob Singletary.

- "This level of *transparency*, while going beyond what is required by law, is in the public interest, and DEQ staff is committed to assisting the public and answering any questions that may arise as the process unfolds."

- The agency hopes that the approach being taken, including this level of *transparency* and public engagement, will serve as an example for future permitting actions in Oklahoma and across the nation.

https://oklahoma.gov/deq/divisions/executive-offices/office-of-communication-and-education/news-releases/2026/august/deq-provides-update-on-proposed-aluminum-smelter-permitting-process.html [(emphasis added) last visited 10/1/26]

21. Transparent means "open and honest, without secrets."

https://dictionary.cambridge.org/us/dictionary/english/transparent [last visited 10/1/26]

22. However, the ODEQ has been intentionally deceptive and secretive about its permitting process for the Inola Smelter. Long prior to the public announcement of the Inola Smelter in January 2026, the environmental consulting firm of ERM, on behalf of the UAE and Emirates Global Aluminum, Inc., wrote to the ODEQ on December 2, 2025. In that letter, the Respondents "requested concurrence from the Oklahoma Department of Environmental Quality ("ODEQ") regarding *ERM's interpretation* of '**Begin Actual Construction**' under the new source review (NSR) preconstruction regulations in 40 C.F.R. Part 52 and OAC 252:100-8 as it applies to EGA's construction of a new, primary aluminum smelter located in the Tulsa Port of Inola []." [emphasis added.] *See* Exhibit 2, Letter dated

December 22, 2025, from Kendall Stegman, Director Air Quality Division, ODEQ, to Margaret Averill, Environmental Resources Management, Inc., attached hereto. ERM sought this concurrence from the ODEQ because "EGA [UAE] wishes to commence an initial construction phase of its Project **prior to obtaining a PSD** [prevention of significant deterioration] **permit**, that would include the supporting structures to house emission units but not the emission units themselves." [Emphasis added.] *See* Exhibit 2, attached hereto.

23. Petitioners are unaware as to any legal analysis or internal investigation performed by ODEQ before it granted permission to begin construction in Exhibit 2. Rather, ODEQ relied on ERM's legal interpretation of this rule using a flawed legal analysis and opinion.

24. Under EPA's regulations (which are controlling in this instance), UAE *cannot* "begin actual construction" without a construction permit:

> No new major stationary source or major modification to which the requirements of paragraphs (j) through (r)(5) of this section apply *shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements.*

40 CFR 52.21(a)(2)(iii). (emphasis added). This rule prevents the issuance of a PSD construction permit from becoming a *fait accompli* after the applicant has spent tens of millions of dollars on construction or moving dirt or clearing trees for a foundation.

25. The term "Begin actual construction" is a defined by rule term that precludes the activities that Respondents seek to perform until *after* issuance of a PSD construction permit:

> ***Begin actual construction*** means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

40 CFR 52.21(b)(11).

26. This is the same basic definition as found in ODEQ's own rules:

> **"Begin actual construction"** means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature.
>
> (A) Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures.
>
> (B) With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

OAC 252:100-8-31.

27. Despite the clear regulatory text and condition precedent that no construction of a permanent nature may begin without an issued PSD construction permit, Kendal Stegman, Director Air Quality Division of ODEQ, consented to Respondent's request to allow construction *prior* to obtaining a PSD construction

permit, "*Given EPA's conclusion in the MCAQD Letter and EPA's stated intention to amend the regulations, DEQ will recognize this interpretation of the definition for the purposes of the Project, with the understanding that the construction activities at issue would specifically be limited to the supporting structures to house emissions units and not the emission units themselves.*" *See* Exhibit 2, attached hereto. (emphasis added). This action by Ms. Stegman was unlawful. It envisages poor judgment and worse legal analysis. And it deprives the Citizens of Oklahoma, which she is duty bound to protect, of an opportunity to advise and consent or reject the smelter. Yet another sorry example of ODEQ's wholesale failure to be transparent.

28. Upon information and belief, Ms. Kendall Stegman is a licensed attorney within the state of Oklahoma and previously advised the ODEQ as a staff attorney. Clearly, the approval of construction she authorized is not supported by any cogent legal analysis or even fair and fundamental public policy.

29. Despite its claims of transparency, the ODEQ did not disclose at the Permit Process Meeting in Inola on April 23, 2026, that it was allowing the Inola Smelter to proceed with construction even though such construction was prohibited without a PSD construction permit. Instead, the ODEQ misled the public in stating "but I would point out the PSD process does allow a facility to break ground while they're in the application process. They are limited otherwise in what they can do

without a case-by-case— well, they're limited." *See* https://youtu.be/CR1TtqlBTkI?si=6i4XaJIEkbzQyrdf [last visited 10/3/26] The sin here is one of omission. It lied about what it had done and offered a legal opinion that is foolish and unsound. The ODEQ did not reveal at the public meeting that it is allowing the applicant to perform activities strictly forbidden by its own rules which are designed to protect human health and the environment. It acted contrary to its Rule and granted the applicant unlawful, undisclosed, and hidden relief in December 2025.

30. EPA published a notice of proposed rulemaking on May 13, 2026 to amend the text of 40 CFR 52.21(b)(11). This proposed rulemaking is to change the rule to allow ODEQ to do that which was *prohibited* in December 2025. See, *Begin Actual Construction in the New Source Review (NSR) Preconstruction Permitting Program*, 91 Fed. Reg. 26958 (proposed May 13, 2026). The decision by EPA to propose amendment of the regulation demonstrates that 40 CFR 52.21(b)(11) had to be amended to allow ODEQ's interpretation and action because it is not consistent with the language of the regulation. The ODEQ has not, as of yet, proposed to amend OAC 252:100-8-31. So again, its action allowing Respondents to begin smelter construction without a permit is unlawful. This action by ODEQ is *ultra vires* and should be expressly rescinded and any work performed since December 22, 2025, be held in violation of ODEQ rules with

appropriate sanctions. There has been and still is a requirement for a PSD construction permit before actual construction begins.

Requested Relief

31. Declare that the actions taken by the ODEQ in issuing the letter of December 22, 2025 to Respondents and approving construction are contrary to the express provisions of its own rules.

32. Require that the ODEQ's Air Quality Divion rescind its interpretation of the Rule *sub judice* and retract its letter of December 22, 2025, from Kendall Stegman, Director Air Quality Division, to Margaret Averill ERM, as the relief was unlawfully granted.

33. Remove/prohibit Ms. Kendall Stegman from participating in *any fashion* or for any aspect of the Inola Smelter licensing and Permit No. 2026-0100-C (PSD) (Application for an Initial Construction Permit for a Part 70 Source, Oklahoma Aluminum).

34. Finally, the ODEQ should suspend and prohibit ERM from working on any project before the ODEQ for five (5) years.

35. Section 302 of Title 75, Oklahoma Statutes, provides, in part:

> D. An agency shall not by internal policy, memorandum, or other form of action not otherwise authorized by the Administrative Procedures Act:

1. amend, interpret, implement, or repeal a statute or a rule;

75 O.S. § 302(D)(1).

36. ODEQ, by its letter of December 22, 2025, has interpreted a rule by a form of action not otherwise authorized by the Administrative Procedures Act and thus in violation of 75 O.S. § 302(D)(1). The ODEQ must declare that "begin actual construction" under OAC 252:100-8-31 and 40 CFR 52.21(a)(2)(iii) means that the applicant here cannot initiate "physical on-site construction activities on an emissions unit which are of a permanent nature," including but not limited to "installation of building supports and foundations, laying underground pipework and construction of permanent storage structures."

37. Under Section 302(E), "Any agency memorandum, internal policy, or other form of action violative of this section or the spirit thereof is null, void, and unenforceable." 75 O.S. § 302(E). Therefore, the ODEQ's actions, as expressed in the December 22, 2025 letter, are "null, void, and unenforceable." The ODEQ must withdraw the letter of December 22, 2025, and apologize to the public and Petitioners.

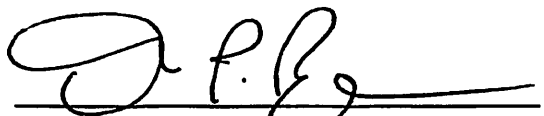
38. In issuing the December 22, 2025, letter, the ODEQ engaged in rulemaking without complying with the requirements of the Administrative Procedures Act for rulemaking. *See* 75 O.S. §§ 250, 250.1, 250.2, 250.3, 250.4, 250.4a, 250.5 through 308.3.

39. Due to these errors and omissions in the process and procedures, the ODEQ should suspend the Respondent's permitting processes until an investigation and audit is completed and published for public review and comment. Furthermore, Ms. Stegman and all ODEQ representatives involved in these *ultra vires* actions must be suspended indefinitely until they can show that they have successfully completed education course for ethics, administrative procedure, and the Clean Air Act process and permitting regulations.

WHEREFORE, Petitioners respectfully request the ODEQ:

1. Declare "begin actual construction" under OAC 252:100-8-31 and 40 CFR 52.21(a)(2)(iii) means that the applicant here cannot initiate "physical on-site construction activities on an emissions unit which are of a permanent nature," including but not limited to "installation of building supports and foundations, laying underground pipework and construction of permanent storage structures.;
2. Retract/rescind its letter of December 22, 2025, from Kendall Stegman, Director Air Quality Division, to Margaret Averill, Environmental Resources Management, Inc. ("ERM"), as the relief was unlawfully granted;
3. ODEQ should suspend Permit No. 2026-0100-C (PSD) (Application for an Initial Construction Permit for a Part 70 Source, Oklahoma Aluminum) and all of Respondents' permitting processes until an investigation and audit is completed and published for public review and comment; and
4. Suspend Kendal Stegman and the ODEQ employees who participated in the April 23, 2026 Inola, Oklahoma meeting until they demonstrate proficiency through education in ethics, administrative procedure and clean air act policy and permitting.

Respectfully submitted,



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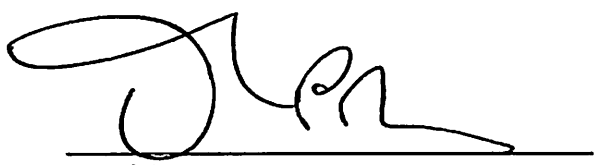
Attorneys for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on October 8, 2026, a true and correct copy of the above and foregoing document was served by U.S. Certified Mail, Return Receipt Requested, to the following:

Emirates Global Aluminum[3]
c/o Oklahoma Secretary of State
421 NW 13th Street, Suite 210
Oklahoma City, OK 73103

Environmental Resources Management, Inc.
c/o CT Corporation System
Registered Service Agent
1833 South Morgan Road
Oklahoma City, OK 73128



David P. Page

[3] Petitioners must serve Emirates Global Aluminum by the Oklahoma Secretary of State, as Emirates Global Aluminum has no registered service agent in Oklahoma, even though it has applied for a PSD construction permit for an aluminum smelter in Oklahoma.

Exhibit 1

OKLAHOMA
Environmental
Quality

GOOD EVENING

Sign up for DEQ Notifications regarding proposed smelter project:

OKLAHOMA
Environmental
Quality

Department of Environmental Quality

PROCESS MEETING

PSD Air Permit Application, Oklahoma Primary Aluminum

INOLA, OK - April 23, 2026

PURPOSE

- Process Meeting
- Air Quality PSD Permit Application

ROADMAP

1. Overview of Permitting Process under Oklahoma Uniform Environmental Permitting Act
2. Status of current permit application review
3. Q & A (3 minutes per person)
4. Wrap-up 7:55/8pm

DEQ Webpage for Proposed Smelter Project

SCAN ME

DEQ

Proposed Aluminum Smelter Project: Inola, Oklahoma

This webpage provides information about the Oklahoma Department of Environmental Quality's permitting process for the proposed aluminum smelter in Inola.

DEQ's role is to review permit applications using established environmental standards, scientific analysis, and applicable laws and regulations. All permitting decisions are based on these criteria to ensure the protection of public health and the environment.

UPCOMING PUBLIC PARTICIPATION OPPORTUNITIES

April 23, 2026, 6 p.m.
Inola High School
Fine Arts Center
801 E. Commercial St.,
Inola, OK 74036

Permitting Overview

Large industrial facilities typically require multiple permits before construction and operation can begin. Depending on the specific details of the project, permits may be required for:

Air Emissions	Water Discharge	Stormwater Management	Waste Handling & Disposal

Data & Maps

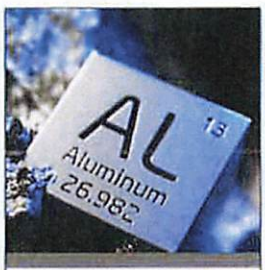
Forms

News & Events

Online Payment

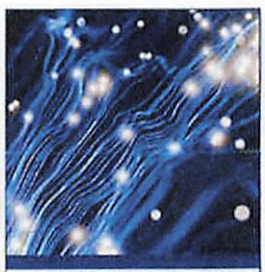
Operator Certification

Records Request



Aluminum Smelter Project: Inola

Information



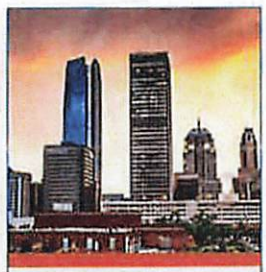
Key Performance Measures

See the Data



Grants & Funding Resources

Grants & Funding



Our Mission & True North

Our Mission

PERMITTING STEPS

1. Construction Permit
2. Operating Permit

PSD PERMIT PROCESS

(Construction Permit)

27A O.S. 2-14-101, *et seq.*
OAC 252:4
OAC 252:100-8, Part 7
40 C.F.R. Parts 51 and 52

- DEQ receipt of PSD Air Quality Application (2/9/26)
- "Tier III" permit application
- Notice of Filing publication (2/28/26)
- Public Process Meeting (4/23/26)
- 2 Technical meetings to explain BACT and Dispersion Modeling prior to draft permit issuance (Meetings NOT required by law)
- Publication of draft permit for 30-day public comment period and opportunity to request public meeting (Date TBD)
  - EPA will also have the opportunity to comment on the draft permit
- Public meeting on draft permit (Date TBD)
- DEQ prepares response to comments (90 days or less)
- Publication of proposed permit and 20-day public opportunity to petition for Administrative Hearing
- Administrative Hearing
- Final permit decision appealable to district court

TITLE V PERMIT PROCESS

(Operating Permit)

27A O.S. 2-14-101, *et seq.*
OAC 252:4
OAC 252:100-8
40 C.F.R. Part 70

- DEQ receipt of Title V Air Quality Application within 180 days of "commencement of operation"
- "Tier II" permit
- Public notice of filing application
- Publication of draft permit for 30-day public comment and opportunity to request public meeting
- Public meeting on draft permit
- DEQ prepares response to comments
- 45-day EPA review period
  - If EPA objects to the permit, DEQ will respond to the objection
  - DEQ is required to issue the permit if no objection is received from EPA
- 60-day period from the end of EPA's review for public to petition EPA to object to the permit
  - Petitions may be based only on comments submitted during comment period
- Final Title V Permit appealable to district court

OKLAHOMA
Environmental
Quality

Department of Environmental Quality

Prevention of Significant Deterioration (PSD)

New Source Review Requirements

Understanding PSD



BACT Determinations



Class I Area Reviews



NAAQS & Increment Modeling



Additional Impact Analyses

New Source Review (NSR) Pollutants

- Pollutants with established NAAQS
  - Nitrogen Dioxide (NO_2)
  - Sulfur Dioxide (SO_2)
  - Lead (Pb)
  - Particulate Matter (PM)
  - Carbon Monoxide (CO)
  - Ozone (precursor Volatile Organic Compounds and Oxides of Nitrogen) (VOC and NO_X)
- Pollutants subject to federal New Source Performance Standards
  - Total Fluoride (TF)
- Excludes Hazardous Air Pollutants (HAPs)
  - Hydrogen Fluoride (HF)
  - Hydrogen Chloride (HCl)

Hazardous Air Pollutants

- EPA established a list of 188 Hazardous Air Pollutants
  - Polycyclic Aromatic Hydrocarbons (PAHs)
  - Hydrogen Chloride (HCl)
  - Hydrogen Fluoride (HF)
- Not an NSR Pollutant
- Subject to Oklahoma BACT review if:
  - Source is a major source due to emissions of this pollutant (10 tons or more per year) and
  - Emissions of this pollutant exceed 100 tons per year
- Subject to Additional Impact Analyses under PSD
  - Not limited to NSR pollutants
  - EPA provides some guidance on thresholds for evaluation of fluorides

What is a PSD Permit & Why Does It Matter?

PSD — Prevention of Significant Deterioration —Its purpose is to keep clean air clean while still allowing economic growth.

Every PSD permit answers four questions:

1. Is the new facility using the best available pollution controls?
2. Will it protect national and state air quality standards?
3. Will it harm pristine areas like national parks?
4. What are the broader impacts on soil, plants, and visibility?

PSD applies to proposed new 'major' stationary sources

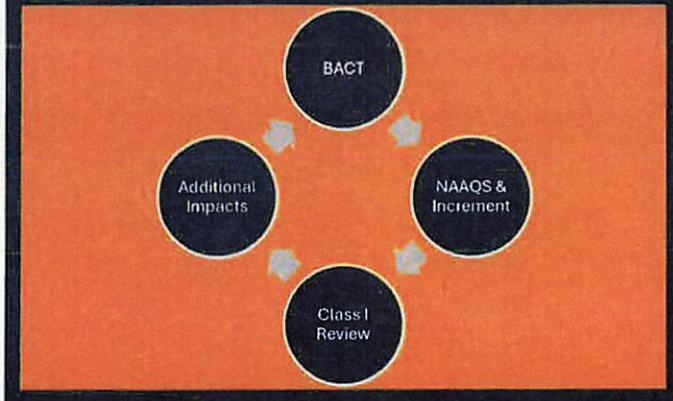
100 tons/year for 28 listed source categories (power plants, refineries, primary aluminum smelters, etc.)

250 tons/year for all other types of facilities

These thresholds apply to 'regulated NSR pollutants' such as SO_2, NO_x, CO, PM, VOC, and lead.

The Four Pillars of PSD Review

Every PSD permit application for a new major source passes through four linked analyses. Each protects a different aspect of the public's air — together, they form the backbone of a PSD decision.



BACT

Best Available Control Technology

Ensures the new facility uses top-tier pollution controls after weighing energy, environmental, and economic factors.

NAAQS & Increment

Air Quality Standards Modeling

Computer modeling shows the new facility will not push pollutant levels above federally-set health standards or state increment ceilings.

Class I Review

Pristine Area Protection

Special scrutiny for national parks and wilderness areas — coordinated with the Federal Land Manager.

Additional Impacts

Soils, Plants, Visibility, Growth

Evaluates effects on vegetation, soils, visibility, and the indirect air quality impact of the growth the new facility supports.

Part 1

BACT Determinations

"The maximum degree of reduction achievable for each pollutant, considering energy, environment, and economic impacts."

— Clean Air Act §169(3); 40 CFR §52.21(b)(12)

What is 'Best Available Control Technology'?

BACT is a case-by-case determination. DEQ requires each proposed new major source to install the most effective pollution controls that are technically feasible and economically reasonable for that specific source.

ENERGY

Does the control technology consume so much energy that its use is impractical? For example, would a scrubber require more electricity than the plant itself generates?

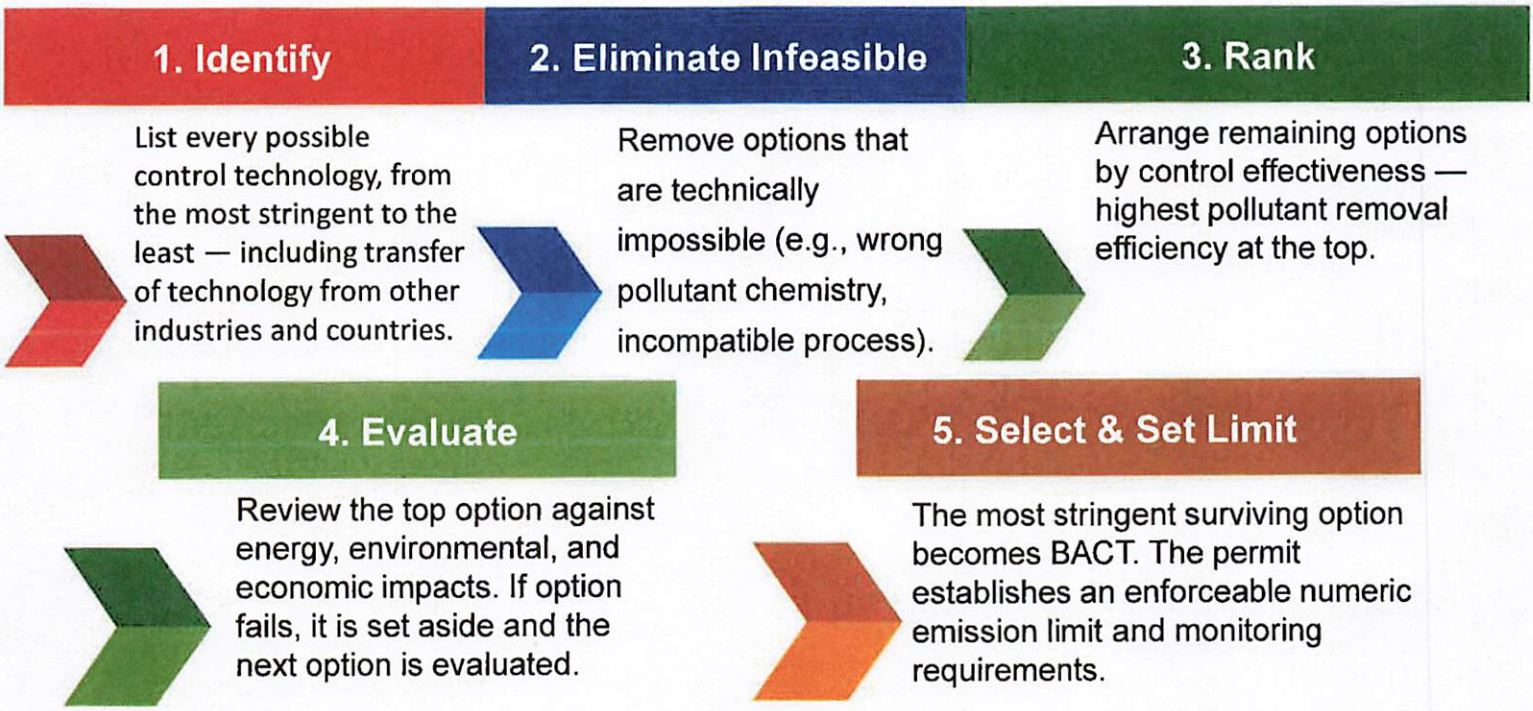
ENVIRONMENTAL

Does one control create a different environmental problem — wastewater, hazardous sludge, or a different air pollutant? BACT weighs the trade-offs.

ECONOMIC

Is the cost per ton of pollutant removed within the range of similar sources nationwide? Options are not rejected simply because they are expensive.

The Top-Down BACT Process



BACT in Practice: What Does It Look Like?

BACT is source-specific. To the right are the kinds of controls that have served as BACT in permits DEQ and other states have issued for new facilities. Actual BACT for a future permit is determined case-by-case.

Example BACT

Source Type	Pollutant	Example Control
Natural-gas Turbine	NO_X (nitrogen oxides)	Dry Low-NO_X combustor + Selective Catalytic Reduction (SCR)
Coal-fired boiler	SO_2 (sulfur dioxide)	Wet or dry Flue-Gas Desulfurization (FGD) scrubber
Cement kiln	Particulate matter	Fabric filter (baghouse) with high collection efficiency
Refinery process heater	CO + VOC	Good combustion practices; low-emission burners
Glycol dehydrator	VOC + HAP	Vapor-recovery unit or enclosed combustion device

EPA maintains the RACT/BACT/LAER Clearinghouse (RBLC) — a public database of past determinations that DEQ and applicants consult when identifying technology options for a given source category.
https://www.epa.gov/catc/ractbactlaer-clearinghouse-rblc-basic-information

Part 2

NAAQS & Increment Modeling

Two ceilings every new facility must stay beneath — health-based national standards, and the increment of clean-air consumption allowed in each area.

40 CFR §52.21(k) & (c) • OAC 252:100-8-34, -8-35

NAAQS: The National Ceiling for Clean Air

The National Ambient Air Quality Standards (NAAQS) are concentration limits EPA sets for six 'criteria pollutants' to protect public health and welfare. A PSD applicant proposing a new major source must show — through computer modeling — that its emissions will not push outdoor air above these limits, anywhere the public can breathe.

- $PM_{2.5}$ / PM_{10} — Fine/Coarse Particulate Matter
- SO_2 — Sulfur Dioxide
- NO_2 — Nitrogen Dioxide

The Demonstration

Modeling must show that:

New facility contribution + existing background < NAAQS

... at every location, the public can access, for every averaging time the NAAQS covers (1-hour, 8-hour, 24-hour, annual).

- CO — Carbon Monoxide
- O_3 — Ozone
- Pb — Lead

PSD Increments: Keeping Clean Air Clean

Even where the air is cleaner than NAAQS allows, the Clean Air Act limits how much new pollution can be added. The 'increment' is the amount of clean-air margin that new sources can consume — and it differs for three classes of area.

CLASS I

NATIONAL PARKS & WILDERNESS

Strictest increment. Protects visibility, ecosystems, and the public's enjoyment of designated pristine areas.

CLASS II

MOST OF THE COUNTRY

Moderate increment. The default for nearly all of Oklahoma — allows reasonable industrial and commercial growth while safeguarding air quality.

CLASS III

NONE CURRENTLY DESIGNATED

Largest increment. Congress authorized this category for areas prioritizing industrial expansion, but no area has ever been reclassified.

APPENDIX W

EPA's Guideline on Air Quality Models

The modeling a PSD applicant performs is governed by 40 CFR Part 51, Appendix W — the national rulebook that specifies which models, which weather data, and which procedures to use, so results are comparable across states and defensible in court.

How the Modeling Works

Air quality modeling turns stack data, weather patterns, and terrain into projected pollutant concentrations at ground level around the proposed new facility.

INPUTS

Stack heights, gas temperature & velocity, proposed emission rates, building dimensions, nearby terrain, five years of hourly meteorological data.

MODEL

EPA-approved dispersion models — primarily AERMOD — run hour-by-hour for every receptor grid point around the proposed new facility.

RESULTS

Predicted pollutant concentrations compared to (a) NAAQS and (b) the PSD increment remaining in the area.

DECISION

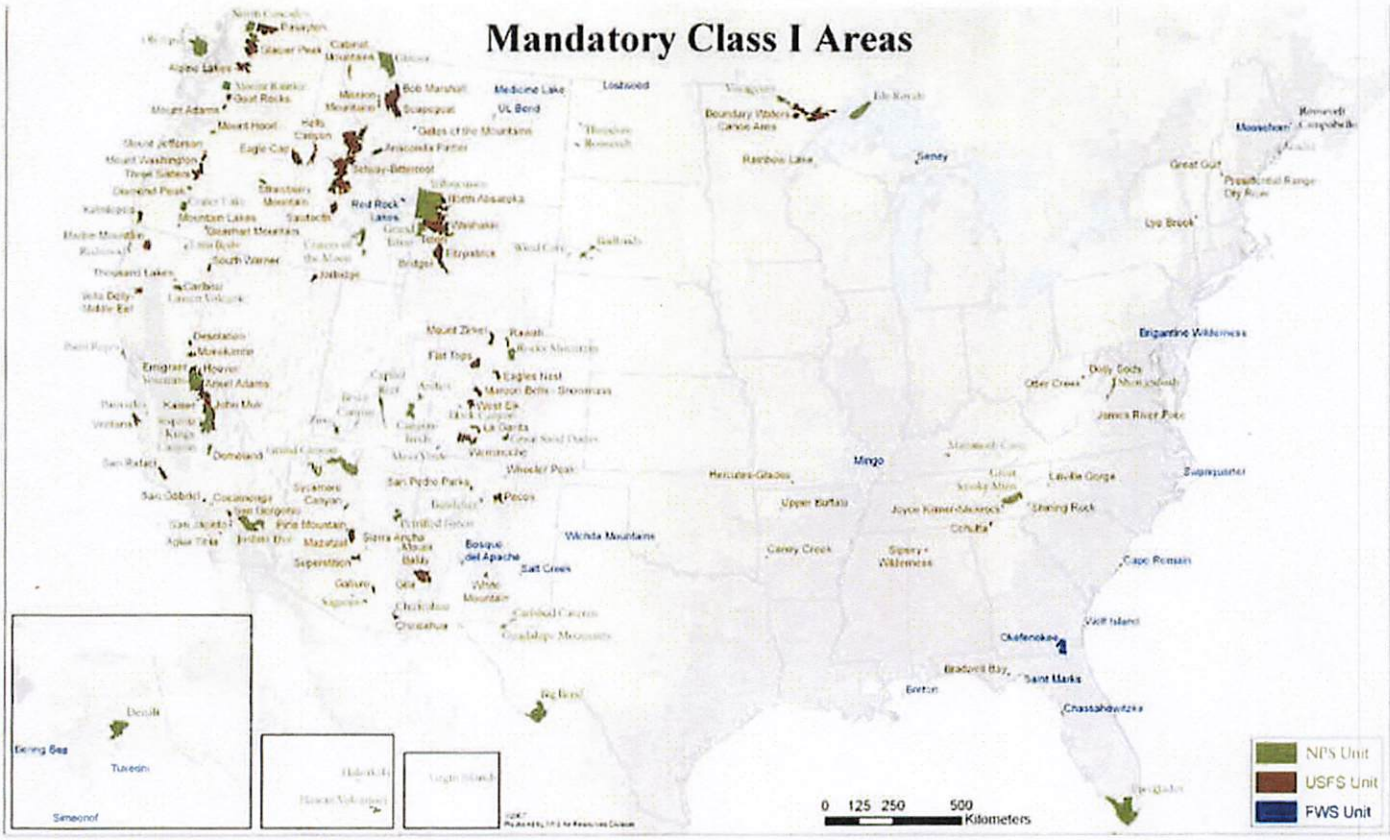
If predicted impact exceeds a threshold, the applicant must reduce proposed emissions, raise stacks, or redesign before DEQ can issue the permit.

Part 3

Class I Area Review

Protecting America's wilderness areas, national parks, and the scenic vistas that define them.

40 CFR §52.21(p), §51.300–§51.309 • OAC 252:100-8-36


Mandatory Class I Areas
NPS Unit
USFS Unit
FWS Unit
0 125 250 500
Kilometers

What Is a Mandatory Federal Class I Area?

PSD gives these areas the strongest increment protection and a dedicated review role for the agency that manages them.

- Caney Creek Wilderness – 14,460-acre protected area in Arkansas's Ouachita National Forest
- Hercules Glades Wilderness – 12,314-acre protected area in the Ozarks of southwest Missouri
- Upper Buffalo Wilderness – 12,000-acre protected area in Ozark-St. Francis National Forest in Arkansas



Designation by Congress



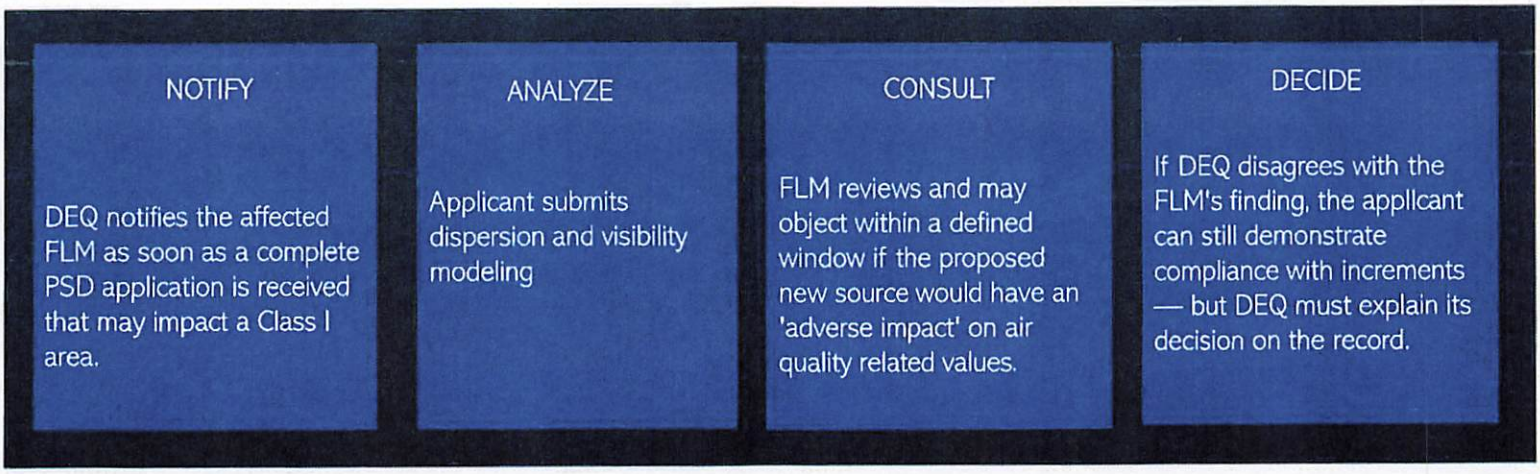
Federal Land Manager (FLM) oversight



Air Quality Related Values

How Class I Review Works

Under OAC 252:100-8-36 and 40 CFR §52.21(p), when a proposed new major source may affect a Class I area, DEQ must coordinate directly with the Federal Land Manager (FLM). The FLM evaluates impacts on 'air quality related values' — visibility, flora, fauna, soils, waters — and the permit decision must give that assessment substantial weight.



Part 4

Additional Impacts Analyses

Looking beyond concentrations – at plants, soils, visibility, and the chain of growth a new facility can trigger.

40 CFR §52.21(o) & §51.166(o)

Beyond Concentrations: Additional Impact Analyses

Federal rule 40 CFR §52.21(o) requires every PSD applicant proposing a new major source to submit three additional analyses — describing effects the NAAQS/increment numbers don't directly capture.

Soils & Vegetation

Evaluates whether projected pollutant concentrations from the proposed new facility could damage soils or sensitive vegetation — especially commercially or recreationally important plant species near the site.

Visibility Impairment

Considers how the new facility's emissions might cause haze or discoloration of the air, both near the site and – where relevant – at integral vistas. Visibility modeling is coordinated with any Class I area review.

Associated Growth

Estimates the air quality effect of the indirect growth the new facility will support — new housing, transportation, and commercial activity that arrives alongside a major new employer. This ensures cumulative impacts are considered, not just direct stack emissions.

QUESTIONS

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

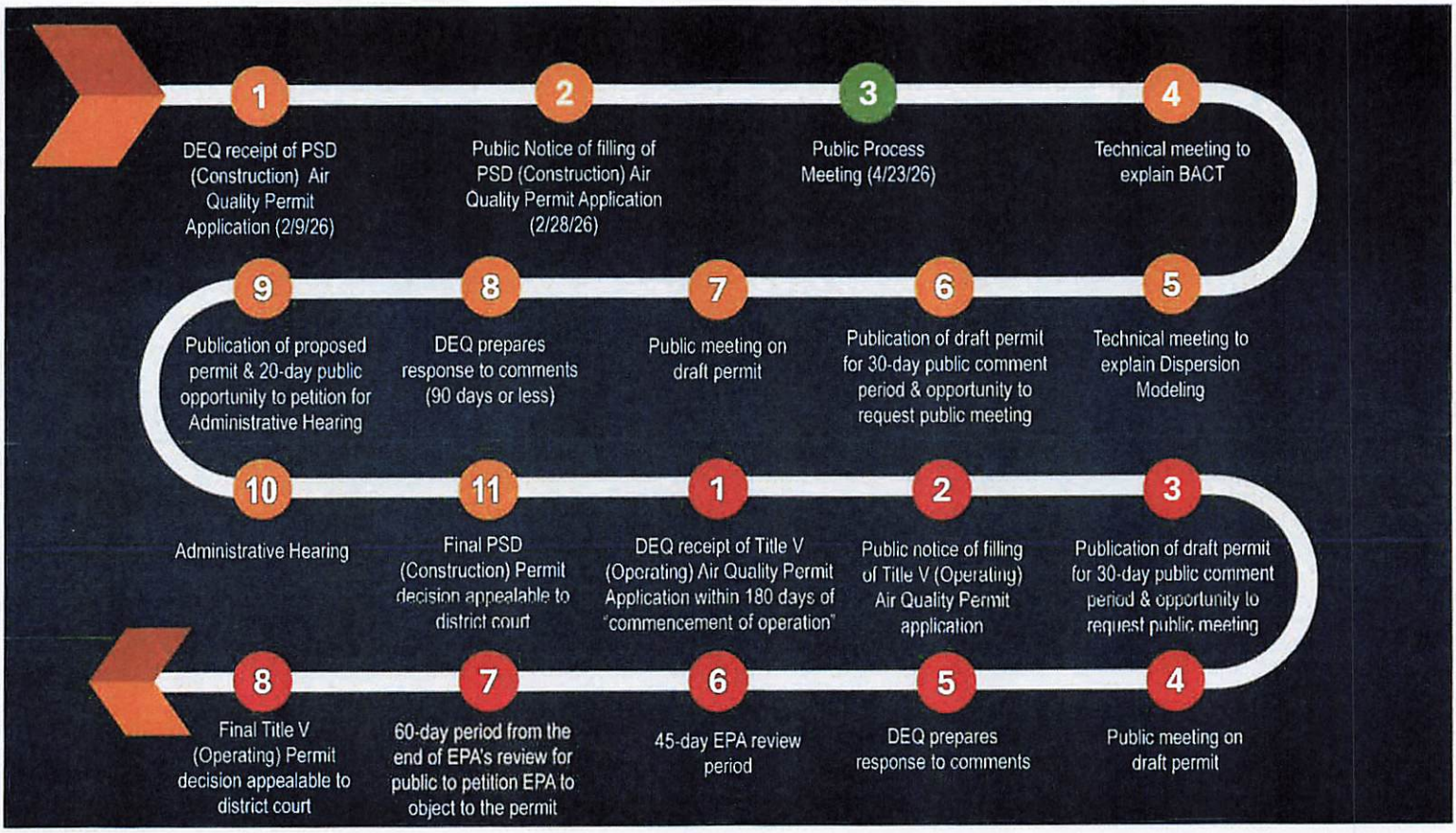

1
DEQ receipt of PSD (Construction) Air Quality Permit Application (2/9/26)
2
Public Notice of filling of PSD (Construction) Air Quality Permit Application (2/28/26)
3
Public Process Meeting (4/23/26)
4
Technical meeting to explain BACT
5
Technical meeting to explain Dispersion Modeling
6
Publication of draft permit for 30-day public comment period & opportunity to request public meeting
7
Public meeting on draft permit
8
DEQ prepares response to comments (90 days or less)
9
Publication of proposed permit & 20-day public opportunity to petition for Administrative Hearing
10
Administrative Hearing
11
Final PSD (Construction) Permit decision appealable to district court
1
DEQ receipt of Title V (Operating) Air Quality Permit Application within 180 days of "commencement of operation"
2
Public notice of filling of Title V (Operating) Air Quality Permit application
3
Publication of draft permit for 30-day public comment period & opportunity to request public meeting
4
Public meeting on draft permit
5
DEQ prepares response to comments
6
45-day EPA review period
7
60-day period from the end of EPA's review for public to petition EPA to object to the permit
8
Final Title V (Operating) Permit decision appealable to district court

Exhibit 2

Robert Singletary
Executive Director

OKLAHOMA Environmental Quality

Kevin Stitt
Governor

December 22, 2025

Margaret Averill, CPEA
Environmental Resources Management Inc.
95 Glastonbury Blvd, #101
Glastonbury, CT 06033

Subject: ODEQ response to ERM's Interpretation of "Begin Actual Construction"

Dear Ms. Averill:

On December 2, 2025, Environmental Resources Management Inc. ("ERM"), on behalf of Emirates Global Aluminium Inc. ("EGA"), requested concurrence from the Oklahoma Department of Environmental Quality ("ODEQ") regarding ERM's interpretation of "Begin Actual Construction" under the new source review (NSR) preconstruction regulations in 40 C.F.R. Part 52 and OAC 252:100-8 as it applies to EGA's construction of a new, primary aluminum smelter located in the Tulsa Port of Inola (the Project). EGA wishes to commence an initial construction phase of its Project prior to obtaining a PSD permit, that would include the supporting structures to house emission units but not the emission units themselves.

ERM and EGA state this approach is in line with the United States Environmental Protection Agency's ("EPA's") current interpretation of "Begin Actual Construction" based on EPA's September 2, 2025 letter to the Maricopa County Air Quality Department ("MCAQD Letter"). In this letter, EPA concluded that the Taiwan Semiconductor Manufacturing Company may begin the initial phase of construction prior to obtaining a preconstruction permit, as long as the initial phase does not constitute the construction of any emission units as defined in 40 CFR § 52.21(b)(7).

Additionally, EPA has announced that, as part of its permitting reform initiative to expedite construction of essential power generation and reshore manufacturing, it intends to amend the NSR preconstruction regulations in 40 CFR Part 52 to provide flexibility to begin certain building activities that are not related to air emissions, such as installing cement pads, before obtaining an NSR permit. Given EPA's conclusion in the MCAQD Letter and EPA's stated intention to amend the regulations, DEQ will recognize this interpretation of the definition for the purposes of the Project, with the understanding that the construction activities at issue would specifically be limited to the supporting structures to house

emissions units and not the emission units themselves. However, it is important to note that EPA stated within the MCAQD Letter that EPA intends the guidance to be on a case-by-case basis until a formal rule change is proposed. *See* MCAQD Ltr., pg. 2. To that end, while ODEQ recognizes the stated interpretation of "Begin Actual Construction" in this instance, ODEQ recommends that ERM and EGA request a specific determination directly from EPA on this matter for greater coverage under the Clean Air Act.

Finally, it is important to note the following EPA statement in the MCAQD Letter with respect to TSMC, which would apply to EGA when taking this approach:

> The EPA view expressed here is based on the project-specific facts presented by TSMC and MCAQD. This communication of EPA's view is not a final agency action, and it does not itself create or alter any binding requirements on MCAQD, TSMC, or the public. Any construction activities undertaken by TSMC prior to issuance of an NSR air permit by MCAQD would be solely at TSMC's risk, as MCAQD would retain the discretion to deny any subsequent application to construct a stationary source of air pollution (including emissions units) if the applicable criteria are not met. If TSMC submits an application to construct under the MCAQD NSR air permitting program, MCAQD may not use TSMC's time and resources expended on construction prior to obtaining a permit (what EPA has called "equity in the ground") to justify MCAQD's decision on any applicable Best Available Control Technology (BACT) or Lowest Available Emissions Rate (LAER) determinations and/or to grant the air permit. Furthermore, if changes to TSMC's proposed emissions units design are necessary to meet this or any other requirements of the permitting process (such as demonstrating that emissions from the stationary source will not cause or contribute to violations of air quality standards), MCAQD may require TSMC to meet the requirements of such conditions in the final air permit, even if it means modifying or rebuilding structures that TSMC has begun building prior to obtaining a permit. MCAQD Ltr., pg. 3.

Please contact Lee Warden. Engineering Manager, at (405) 702-4237 for any further discussion or questions.

Thank you.

Kendal Stegman, Director
Air Quality Division

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

IN THE MATTER OF:	)	
	)	
PERMIT NO. 2026-0100-C (PSD) (TIER III), FACILITY ID NO. 25367; APPLICATION OF EMIRATES GLOBAL ALUMINUM AND ENVIRONMENTAL RESOURCES MANAGEMENT, INC. ON BEHALF OF THE UNITED ARAB EMIRITES; DECLARATION OF THE MEANING OF "BEGIN ACTUAL CONSTRUCTION" UNDER OAC 252:100-8-31 AND 40 CFR 52.21(a)(2)(iii).	)	Case No. PH-2026-001

OKLAHOMA
DEPT OF ENVIROMENTAL QUALITY
OCT 12 2026
FILED BY: J. McPherson
HEARING CLERK

PETITIONERS' MOTION FOR STAY OF PERMITTING ACTIVITIES DURING PENDENCY OF PETITION FOR DECLARATORY RULING

Petitioners, Stop the Inola Smelter Inc., Brian Hill, Dale Danker, Dustin Spurlock, and Tim Brown move the Oklahoma Department of Environmental Quality ("ODEQ") to stay all permitting activities with respect to Permit No. 2026-0100-C (PSD) (Tier III) (Application for an Initial Construction Permit for a Part 70 Source, Oklahoma Aluminum) during the pendency of this Petition for Declaratory Ruling. In support of their Motion, Petitioners would show the ODEQ as follows:[1]

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[1] Petitioners incorporate by reference, as if fully set forth herein, the allegations in their *Petition for Declaratory Ruling of When Respondent May Begin Actual Construction; Whether the Oklahoma Department of Environmental Quality Has Unlawfully Authorized Construction of the Smelter Before a*

1. On February 9, 2026, Emirates Global Aluminum ("EGA") filed a PSD Air Permit Application with the ODEQ for a primary aluminum smelter to be located on E 620 Road, Inola, OK 74036 at the Tulsa Ports Industrial Park in Inola, Oklahoma, Rogers County, Oklahoma ("Inola Smelter"). *See* Permit No. 2026-0100-C (PSD). https://applications.deq.ok.gov/PermitsPublicReview/permitinformation.aspx?id=1072402 [last visited 10/8/26]

2. Under applicable air quality rules, the Inola Smelter will be a major source for air pollutants and require a PSD construction permit to "begin actual construction". *See* OAC 252:100-8-1, *et seq*.

3. The environmental consulting firm of Environmental Resources Management, Inc. ("ERM"), on behalf of the United Arab Emirates and Emirates Global Aluminum, Inc., wrote to the ODEQ on December 2, 2025. In that letter, the Respondents "requested concurrence from ODEQ regarding *ERM's interpretation* of '**Begin Actual Construction**' under the new source review (NSR) preconstruction regulations in 40 C.F.R. Part 52 and OAC 252:100-8 as it applies to EGA's construction of a new, primary aluminum smelter located in the Tulsa Port of Inola []." [emphasis added.] *See* Exhibit 2 to Petition. ERM sought this concurrence from the ODEQ because "EGA [UAE] wishes to commence an

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Construction Permit Application Process Has Been Completed and the Permit Lawfully Issued, Case No. PH-2026-001, Oklahoma Department of Environmental Quality ("Petition").

initial construction phase of its Project **prior to obtaining a PSD** [prevention of significant deterioration] **permit**, that would include the supporting structures to house emission units but not the emission units themselves." [Emphasis added.] *See* Exhibit 2 to Petition.

4. On December 22, 2025, Kendal Stegman, Director Air Quality Division of ODEQ, consented to Respondents' request to allow construction *prior* to obtaining a PSD construction permit, "*Given EPA's conclusion in the MCAQD Letter and EPA's stated intention to amend the regulations, DEQ will recognize this interpretation of the definition for the purposes of the Project, with the understanding that the construction activities at issue would specifically be limited to the supporting structures to house emissions units and not the emission units themselves.*" *See* Exhibit 2 to Petition [emphasis added].

5. As demonstrated in the Petition, the actions of the ODEQ, as memorialized in the December 22, 2025 letter, violated 75 O.S. § 307, as well as demonstrated that the ODEQ engaged in rulemaking without complying with the requirements of the Administrative Procedures Act for rulemaking. *See* 75 O.S. §§ 250, 250.1, 250.2, 250.3, 250.4, 250.4a, 250.5 through 308.3.

6. Moreover, on April 3, 2026, the ODEQ deemed EGA's PSD construction permit application to be administratively complete. https://applications.deq.ok.gov/PermitsPublicReview/permitinformation.aspx?id=1

072402 [last visited 10/8/26] Yet, no air modeling had been submitted and still has not been submitted, even though modeling is required to be submitted *prior* to a determination that an application is administratively complete. *See* OAC 252:100-8-2 and 252:100-8-5(d).

7. Given the allegations above and the remaining allegations in the Petition, the ODEQ should stay all permitting activities related to Permit No. 2026-0100-C (PSD) (Tier III) (Application for an Initial Construction Permit for a Part 70 Source, Oklahoma Aluminum) during the pendency of this Petition for Declaratory Ruling. Petitioners sought this very relief in their Petition:

> ODEQ should suspend Permit No. 2026-0100-C (PSD) (Application for an Initial Construction Permit for a Part 70 Source, Oklahoma Aluminum) and all of Respondents' permitting processes until an investigation and audit is completed and published for public review and comment.

Petition at 17.

8. This is necessary to maintain the status quo and prevent any PSD construction permit becoming a *fait accompli* because of the enormous sums of money spent on construction prior to the issuance of a PSD construction permit.

9. The permit processing times provided in OAC 252:4-7-31 are no barrier to the requested relief here:

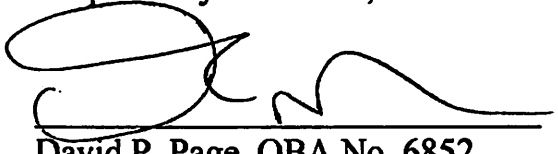
> The following air quality permits and authorizations shall be technically reviewed and issued or denied within the time frames specified below.
>
> (1) Construction permits:

(A) PSD and Part 70 Sources - 365 days.

OAC 252:4-7-31. The issues raised in the Petition include whether the PSD construction permit application is administratively complete without the required modeling data. Technical review and the 365-day deadline do not begin until the application is administratively complete.

WHEREFORE, the Petitioners respectfully request the ODEQ stay all permitting activities with respect to Permit No. 2026-0100-C (PSD) (Tier III) (Application for an Initial Construction Permit for a Part 70 Source, Oklahoma Aluminum) during the pendency of this Petition for Declaratory Ruling.

Respectfully submitted,



David P. Page, OBA No. 6852
Charles R. Willing, OBA No. 15873
Environmental Energy and Natural Resources Advocates, PLLC
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Tulsa, Oklahoma 74119
Telephone: 918.764.8984
Email: dpage@eenradvocates.com
cwilling@eenradvocates.com

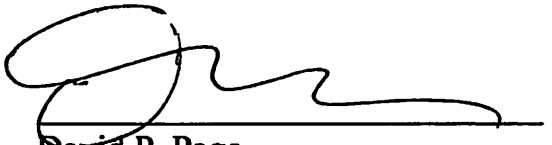
Attorneys for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2026, a true and correct copy of the above and foregoing document was served by U.S. Mail to the following:

Emirates Global Aluminum
c/o Oklahoma Secretary of State
421 NW 13th Street, Suite 210
Oklahoma City, OK 73103

Environmental Resources
Management, Inc.
c/o CT Corporation System
Registered Service Agent
1833 South Morgan Road
Oklahoma City, OK 73128



David P. Page