

AUDIT BASICS

A Quick Guide

By Rick Groshong

AIR QUALITY AUDIT COORDINATORS

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JENN MCCUTCHEON AND KEELY
DOLAN

The Air Quality Audit Coordinators are still part of the Compliance & Enforcement Group and report directly to Rick Groshong. They can still conduct inspections or accompany other inspectors. Rick makes direct decisions about the audits and approves and signs all of letters and reports. Legal is still involved with enforcement decisions in order to ensure consistent application of rules and regulations, including the Audit Privilege Act.



AUDIT STEPS

NOTICE OF AUDIT

- Companies must submit an NOA before they start any serious work on the audit. They should be submitted separately for each division under an audit.

EXTENSION

- If more time is necessary, the facility can request a reasonable extension before the audit is completed.

AUDIT COMPLETION

- While not required, companies are encouraged to submit a notice of audit completion.

CONDUCT THE AUDIT

- The audit period is 6 months from the declared start date, unless an extension is requested and approved.

DISCLOSURES OF VIOLATION

- Can be sent at any time during the audit, and must fit under the parameters of the NOA. Companies are encouraged to submit DOV as they find violations in order to maximize the benefit of the Audit Privilege Act.



NOTICE OF AUDIT

REQUIRED INFORMATION

The NOA form is located on our website, making it easy for companies to ensure that all required information is included.

Companies can audit as many facilities as they would like, and can make the audit as specific or as broad as needed. If they choose to audit land, water, or safety rules, they are required to separately address those divisions/agencies responsible. The Audit contacts for Water and Land are Brian Clagg and Ryan Kirk, respectively.

OUR RESPONSE

We evaluate the NOA to ensure all required information is present, and then send them an acknowledgement letter.

We keep track of every audit, every letter, and each one of our resulting cases.

DISCLOSURES OF VIOLATION

FACILITY REQUIREMENTS

- Must be within the parameters of the audit.
- Must be postmarked by the end of the audit **by certified mail.**
- Must include all the information on the DOV form.
- Must include a corrective action plan and the date expected to be in compliance.

OUR PROCEDURES

- We send a DOV acknowledgment letter (and audit closure, if applicable).
- We track audit cases to ensure violations are resolved as stated and by the date stated in the DOV.
- Continued enforcement if necessary.
- Audit Coordinators can request additional information or conduct follow up inspections as necessary.

INSPECTOR PROCEDURES

- Inspectors are unaware of which facilities are under active audit at any given time.
- Inspectors conduct inspections as normal.
- Inspectors write up any violations found, unless a DOV was postmarked before the inspection.
- Any DOVs found by industry before the inspection date are mentioned in the inspection report as part of an existing case. If there is any question, they consult with the audit coordinators.

QUALIFICATIONS

- Not all DOVs will qualify for privilege and immunity. Determination is made on a case-by-case basis, and is based on meeting the provisions of the Audit Privilege Act.
- There is no “grace period” built in. All extensions must be granted after request.
- DEQ may request more information.

EXTENSION REQUESTS



- Extension Requests must be made **before** the end of the audit.
- If they are not granted before the end of the audit, they are not covered under the Audit Privilege Act during that time.
- The audit is not considered to be extended until the extension approval letter is sent.
- They must have a reasonable extension timeframe.
- They must have a clear and definite end date (i.e. extended until a specific date, or extended by 30 days).
- They must include a reason for the extension request.



WHAT DOES “PRIVILEGE” MEAN?

PRIVILEGE

It is used primarily in reference to the “Audit Report,” which is a complete accounting of procedures, communications, and in-depth information regarding the audit. This information is proprietary, and SHOULD NOT be shared with DEQ. It should be labeled “Confidential – Audit Report” in order to ensure the report remains proprietary. Any part of an audit report is not admissible as evidence or subject to discovery in a civil action, whether legal or equitable, or in an administrative proceeding. In addition, any person or persons involved in the creation of the audit report receive this privilege in association with the information presented in the audit report.

This does NOT apply to the information disclosed in the NOA, the DOV, any request for extension, or the violations themselves. It does not apply to any documents, reports, records, etc. required to be collected under state or federal law. It also does not apply to any criminal proceedings. DEQ DOES NOT ACCEPT CONFIDENTIAL AUDITS.

IMMUNITY

The immunity described by the Audit Privilege Act means immunity from civil and administrative penalties. It **DOES NOT** apply to fees.

This is only granted when the DOVs meet all qualifications under the Audit Privilege Act.

Immunity is **not** applied in every case.

It also does **not** apply to the following:

- Criminal Proceedings
- If the company or facility gains substantial economic benefit from the violation.
- If the violation was committed knowingly in order to obtain the immunity applied by this law.
- If the violation resulted in substantial on or off-site harm to persons, (other owner's) property, or the environment.
- If the violation was willfully committed due to facility or company policies that caused the violation.
- If the company or facility did not submit an NOA.
- If the company or facility does not cooperate with DEQ regarding any violations discovered.

HOW DOES "IMMUNITY"
WORK?

HOW IS AN AUDIT COMPLETED?

NO VIOLATIONS REPORTED

An Audit Closure Letter is sent to the company, and there are no further required actions.

ALL COMPLIANCE MEASURES ACHIEVED

Any DOVs submitted are tracked. Facilities must complete compliance measures by date requested or ask for an extension. Once completed, the case is closed as usual, and a letter stating that the case is closed is sent by DEQ.

DOES NOT QUALIFY/ FAILURE TO COMPLY

If this occurs, a determination can be made that the DOV(s) do not qualify for immunity. This means that the case and any additional enforcement measures can/will be pursued until all compliance measures are achieved.



The NOA form, DOV form, and “A Guide to the Oklahoma Environmental, Health, and Safety Audit Privilege Act” are all located here:

<https://www.deq.ok.gov/air-quality-division/forms-public-participation/air-forms/>

under the Compliance and Enforcement Tab.

INFORMATION

AND CONTACTS

The following are the current contacts:

- **Air:** Audit Coordinators - Jenn McCutcheon (405)702-4145 jenn.mccutcheon@deq.ok.gov and Keely Dolan (405)702-4110 keely.dolan@deq.ok.gov, or Rick Groshong (Manager) (405)702-4150 richard.groshong@deq.ok.gov
- **Water:** Brian Clagg (405)702-8118 brian.clagg@deq.ok.gov
- **Land:** Ryan Kirk (405)702-5172 ryan.kirk@deq.ok.gov

A landscape photograph showing a vast field of green crops in the foreground, transitioning to yellow fields in the distance. The sky is overcast with grey clouds. A white rectangular box is centered over the image, containing the word "QUESTIONS?" in white, bold, sans-serif capital letters.

QUESTIONS?