

LAC 33:V. 321.C.2

2. Class 2 Modifications

a. For Class 2 modifications, listed in LAC 33:V.322, the permittee must submit a modification request to the Office of Environmental Services, Water and Waste Permits Division, that:

- i. describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;
- ii. identifies the modification as a Class 2 modification;
- iii. explains why the modification is needed; and
- iv. provides the applicable information required by LAC 33:V.515-533, 2707, and 3115.

b. The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the administrative authority and to the appropriate units of state and local government as required in LAC 33:V.717.A.1.b and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the administrative authority evidence of the mailing and publication. The notice must include:

- i. announcement of a 60-day comment period, in accordance with LAC 33:V.321.C.2.e, and the name and address of a department contact to whom comments must be sent;
- ii. announcement of the date, time, and place for a public meeting held in accordance with LAC 33:V.321.C.2.d;
- iii. name and telephone number of the permittee's contact person;
- iv. name and telephone number of a department contact person;
- v. location where copies of the modification request and any supporting documents can be viewed and copied; and
- vi. the following statement:

"The permittee's compliance history during the life of the permit being modified is available from the department contact person."

c. The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

d. The permittee must hold a public meeting no earlier than 15 days after the publication of the notice required in LAC 33:V.321.C.2.b and no later than 15 days before the close of the 60-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

e. The public shall be provided 60 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department contact identified in the public notice.

f. No later than 90 days after receipt of the notification request, the administrative authority must do one of the following:

i. approve the modification request with or without changes, and modify the permit accordingly;

ii. deny the request;

iii. determine that the modification request must follow the procedures in LAC 33:V.321.C.3 for Class 3 modifications for the following reasons:

(a). there is significant public concern about the proposed modification; or

(b). the complex nature of the change requires the more extensive procedures of Class 3;

iv. approve the request, with or without changes, as a temporary authorization having a term of up to 180 days;

v. notify the permittee that the administrative authority will decide the request within the next 30 days.

g. If the administrative authority notifies the permittee of a 30-day extension for a decision, the administrative authority must, no later than 120 days after receipt of the modification request, take one of the following actions:

i. approve the modification request, with or without changes, and modify the permit accordingly;

ii. deny the request;

iii. determine that the modification request must follow the procedures in LAC 33:V.321.C.3 for Class 3 modifications for the following reasons:

(a). there is significant public concern about the proposed modification; or

(b). the complex nature of the change requires the more extensive procedures of Class 3;

iv. approve the request, with or without changes, as a temporary authorization having a term of up to 180 days.

h. If the administrative authority fails to make one of the decisions specified in LAC 33:V.321.C.2.g by the 120th day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to 180 days, without formal department action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of LAC 33:V.Chapter 43. If the administrative authority approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in

LAC 33:V.321.C.2.f, g, and h, such action cancels the temporary or automatic authorization.

i. In the case of an automatic authorization under LAC 33:V.321.C.2.h, or a temporary authorization under LAC 33:V.321.C.2.f.iv or C.2.g.iv, if the administrative authority has not made a final approval or denial of the modification request by the date 50 days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:

i. the permittee has been authorized temporarily to conduct the activities described in the permit modification request; and

ii. unless the administrative authority acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.

j. If the owner/operator fails to notify the public by the date specified in LAC 33:V.321.C.2.i, the effective date of the permanent authorization will be deferred until 50 days after the owner/operator notifies the public.

k. Except as provided in LAC 33:V.321.C.2.m, if the administrative authority does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for up to 180 days. The activities authorized under this Subsection must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of LAC 33:V.Chapter 43.

l. In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the administrative authority must consider all written comments submitted to the department during the public comment period and must respond in writing to all significant comments in his or her decision.

m. With the written consent of the permittee, the administrative authority may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

n. The administrative authority may deny or change the terms of a Class 2 permit modification request under LAC 33:V.321.C.2.f-h for the following reasons:

i. the modification request is incomplete;

ii. the requested modification does not comply with the appropriate requirements of LAC 33:V.Chapters 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, and 37 or other applicable requirements; and

iii. the conditions of the modification fail to protect human health and the environment.

o. The permittee may perform any construction associated with a Class 2 permit modification request beginning 60 days after the submission of the request unless the administrative authority establishes a later date for commencing construction and informs the permittee in writing before day 60.