



Facts About Obtaining Permit Amendments

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Operators of facilities who are required to have air emissions permits should be aware of the circumstances under which they must apply for permit amendments. Because the rules call for you to take certain steps before making some changes or modifications at your facility, a prudent facility operator will plan ahead, allowing time for permit amendments to be issued, if needed.

This fact sheet provides a basic explanation of the rules (Minn. R. 7007.1400 to 7007.1500) regarding amendments to air emissions permits. Note that these rules do not apply to facilities with general permits, capped permits, or registration permits. A separate fact sheet describes the rules applying to those facilities.

What is a modification?

For the purposes of air quality permits, a “modification” is one of two things:

1. Any change that constitutes a modification under Title I of the Clean Air Act, including:
 - New Source Review modifications (see fact sheet on *Determining Applicability of New Source Review* for details)
 - New Source Performance Standards modifications (see *Air Quality Permit Rules* fact sheet for list of affected facilities)

- Hazardous Air Pollutant modifications (see fact sheet on *New Source Maximum Achievable Control Technology Required for Sources Subject to the Section 112(g)(2)(B) rule*)

2. Any physical change or change in the method of operation of an emission unit, emission facility or stationary source that results in an increase in emissions of a regulated air pollutant.

An increase occurs if the emission rate of any regulated air pollutant increases, or if the change results in the release of a regulated pollutant that had not been emitted before.

Increases are determined by comparing the rate of emissions in pounds per hour prior to and after the physical or operational change, with the unit or facility operating at maximum capacity.

What is not a modification?

Federal regulations define some specific activities that are not considered modifications. These include, but are not limited to:

- replacement of equipment
- an increase in production rate or hours of operation (provided that it is not limited in an existing permit condition)
- use of an alternative fuel or raw material, as long as the source was capable of accommodating that fuel or material prior to the effective date of the applicable regulation.

See 40 CFR pt. 60, subp. A, and 40 CFR § 52.21(b)(2)(iii) for more details on what is not a modification under these regulations.

Do all modifications require a permit amendment?

No. Minn. R. 7007.1300 lists several insignificant activities that may not be required to be listed in a permit application. These include:

- fuel used for hot water heating (not for industrial processes)
- plant upkeep (routine housekeeping and upkeep such as painting, paving parking lots, and clerical activities such as copying and printing, unless done commercially)
- fabrication operations (equipment used exclusively for forging, pressing, drawing, spinning, or extruding cold metals)
- finishing operations (closed tumblers used for cleaning or deburring metal products without abrasive blasting)
- storage tanks (pressurized tanks for anhydrous ammonia, liquid petroleum gas, liquid natural gas, or natural gas)
- wastewater treatment (stacks or vents to prevent escape of sewer gases through plumbing traps; but not wastewater treatment plants)
- cleaning operations (alkaline/phosphate cleaners)
- residential activities (fuel burning, emergency backup generators)
- recreational activities
- health care activities (but not support activities such as power and heating plants, emergency generators, or incinerators)

The insignificant activities can be found in Minn. R. 7007.1300 and Minn. R. ch. 7008. Note that while the insignificant activities do not require permit amendments by themselves, they may still constitute modifications and some of them must be listed in an application for a permit amendment. Also, the emissions from them may be requested by the Minnesota Pollution Control Agency (MPCA) in order to determine applicability of federal or state regulations.

How are modifications classified?

Several classes of modifications may occur. Most are determined in part by the size of the increase in emissions. If you are planning a modification of your facility, first determine if the modification will fall in the major category, or if the modification requires you to get a new type of permit. If these first two provisions do not apply, then refer to Table 1 to determine whether the modification is insignificant or if it requires a minor, or moderate amendment. Then refer to the paragraphs that apply to the appropriate modification/amendment class.

Note: A facility may be able to install pollution control equipment or replace a permitted unit without permitting action. If the proposed change does not cause an increase in emissions, is not a Title I Modification, does not cause the facility to violate a permit term or applicable requirement, and does not require the permit to be amended to add any new limits, then the facility can make the change simply by providing written notice to the MPCA. Seven working days after the MPCA receives the written notice, the facility may make the change. The MPCA will initiate an amendment if the replacement triggers new monitoring, record keeping, or reporting requirements.

A **major amendment** is always required when altering existing monitoring, reporting, or record keeping requirements, or establishing or changing any site-specific limit or any limit which is used to avoid an applicable requirement, such as requirements under New Source Review. A major amendment is always needed for any modification classified as a “Title I modification”.

What should I do when I make an insignificant modification?

Permittees do not have to notify the MPCA of every modification resulting in insignificant changes in emissions, but you must keep records of the modifications, including calculations for any emissions increases.

When the sum of emission increases during the permit term exceed four times the threshold value for any pollutant, you must notify the MPCA.

Table 1
Modification/Amendment Classifications

	Insignificant Modifications	Minor Amendments	Moderate Amendments
Pollutant	Up to:	Up to:	Over:
Nitrogen Oxides	2.28 lbs/hour	9.13 lbs/hour	9.13 lbs/hour
Sulfur Dioxide	2.28 lbs/hour	9.13 lbs/hour	9.13 lbs/hour
Volatile Organic Compounds	2.28 lbs/hour	9.13 lbs/hour	9.13 lbs/hour
Particulate Matter less than 10 um in size	0.855 lbs/hour	3.42 lbs/hour	3.42 lbs/hour
Carbon Monoxide	5.70 lbs/hour	22.80 lbs/hour	22.80 lbs/hour
Lead	0.025 lbs/hour	0.11 lbs/hour	0.11 lbs/hour

Note: Use extreme caution when applying this table. Many changes may appear to be insignificant or minor, based on emissions calculations, but nevertheless trip federal regulations or need major permit amendments.

What should I do if I need a minor amendment?

Permittees may make a change qualifying for a minor amendment seven working days after their application for a **minor amendment** has been received by the MPCA. If the facility emissions trigger federal permitting requirements (Part 70 source), the U.S. Environmental Protection Agency (EPA) has 45 days to review the operating conditions of the permit amendment before it is issued. You may begin construction of the change upon receipt of a letter from the MPCA outlining what you may do.

What should I do when I need a moderate amendment?

If a Permittee will be making a change that requires a moderate amendment, construction may not begin until the facility has received a letter of approval from the MPCA, and actual operation of the modification is not allowed until a permit amendment has been issued. As with minor amendments, if the moderate amendment is to a Part 70 permit, the EPA has 45 days to review the permit amendment, but you may begin construction upon receipt of a letter from the MPCA.

Is there a risk to constructing prior to getting my permit?

The rules may allow you to make some changes at your facility without having a permit amendment in hand.

However, please understand that any changes you make without first being issued a permit amendment are at your own risk. For example, if you make a change seven working days after applying for a minor amendment and it is later determined that you needed a major amendment instead, you could be subject to some kind of enforcement action, including a penalty. You also assume the risk of losing any investment you have made toward implementing the change.

What should I do when I need a major amendment?

To make a change that requires a major amendment, a Permittee must complete an application for a **major amendment** to the existing permit using the appropriate application forms. In most cases, construction may not begin until the MPCA has issued the permit amendment.

Most major amendments must be placed on public notice for a 30-day comment period.

For major amendments to Part 70 permits, a 45-day review is conducted by the EPA, usually concurrent with the 30-day comment period. After the 30-day public notice, if there were no comments received and no

significant changes were made to the permit, the MPCA may issue a letter authorizing you to begin construction and operation of your proposed change.

What if my facility is affected by New Source Performance Standards (NSPS)?

For modification of a stationary source involving the installation of a new NSPS affected facility or a modification to an existing NSPS affected facility, it is usually the potential to emit of the new NSPS affected facility that determines what kind of amendment is needed. Installation of a new NSPS source may require a minor, moderate, or major amendment.

A NSPS modification (turning an existing facility into an affected facility through a physical modification that results in an increase in emissions), even if not subject to New Source Review (including those requiring synthetic minor limits) always requires a major amendment. You may request authorization to construct prior to receiving your permit (Minn. R. 7007.1500, subp. 3a). The MPCA must approve or deny this request within 60 days.

When do I need an administrative amendment?

Administrative amendments to permits accomplish a number of tasks. They are used to reflect a change in ownership or operational control of a source, to clarify the meaning of a permit term, or to extend a deadline outlined in a permit. They are also used to require additional, more frequent, or expanded monitoring, recordkeeping or reporting requirements, or to eliminate monitoring, recordkeeping or reporting requirements if they become meaningless because the emissions to which they apply no longer exist. Refer to Minn. R. 7007.1400 for details on uses of administrative amendments.

How do I apply for an amendment?

Call the MPCA at 651-296-6300 or 800-657-3864 and request the *Change Forms*. Then follow the directions in the instructions to determine the type of amendment and information required. The forms are also available on line at www.pca.state.mn.us/index.php/air/air-permits-and-rules/air-permits-and-forms/air-permits-and-forms.html.

Do I need a permit to take advantage of the modification rules?

Not necessarily. These rules have been interpreted to include facilities that have not yet received their total facility operating permits as long as they submitted a timely application for an operating permit as required by Minn. R. 7007.0350, subp. 1, or by when a permit was required if the facility did not yet require a permit at the time of the deadlines in this rule.

Where can I go for more information?

If you would like additional assistance or have questions, contact the MPCA at 651-296-6300 or 800-657-3864.

If you are a small business (fewer than 100 employees) you can also contact the Small Business Environmental Assistance Program at 651-282-6143 or 800-657-3938.

MPCA Web site: www.pca.state.mn.us.