**Section 703.282 Class 2 Modifications**

a) For Class 2 modifications, listed in Appendix A, the permittee must submit a modification request to the Agency that does the following:

1) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

2) Identifies that the modification is a Class 2 modification;

3) Explains why the modification is needed; and

4) Provides the applicable information required by Section 703.181 through 703.185, 703.201 through 703.207, 703.221 through 703.225, and 703.230.

b) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the Agency and to the appropriate units of State and local government as specified in 35 Ill. Adm. Code 705.163(a)(5) and must, to the extent practicable, publish this notice in a newspaper of general circulation published in the County in which the facility is located. If no such newspaper exists, the permittee must publish the notice in a newspaper of general circulation in the vicinity of the facility. 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 Agency evidence of the mailing and publication. The notice must include:

1) Announcement of a 60-day comment period, in accordance with subsection (e), and the name and address of an Agency contact to whom comments must be sent;

2) Announcement of the date, time and place for a public meeting held in accordance with subsection (d);

3) Name and telephone number of the permittee's contact person;

4) Name and telephone number of an Agency contact person;

5) Locations where copies of the modification request and any supporting documents can be viewed and copied; and

6) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Agency 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 subsection (b) and no later than 15 days before the close of the 60-day comment period. The meeting must be held in the County in which the permitted facility is located, unless it is impracticable to do so, in which case the hearing must be held in the vicinity of the facility.

e) The public must be provided 60 days to comment on the modification request. The comment period begins on the date that the permittee publishes the notice in the local newspaper. Comments must be submitted to the Agency contact identified in the public notice.

f) Agency Decision

1) No later than 90 days after receipt of the notification request, the Agency must:

A) Approve the modification request, with or without changes, and modify the permit accordingly;

B) Deny the request;

C) Determine that the modification request must follow the procedures in Section 703.283 for Class 3 modifications for either of the following reasons:

i) There is significant public concern about the proposed modification; or

ii) The complex nature of the change requires the more extensive procedures of Class 3;

D) Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days; or

E) Notify the permittee that the Agency will decide on the request within the next 30 days.

2) If the Agency notifies the permittee of a 30-day extension for a decision, the Agency must, no later than 120 days after receipt of the modification request, do the following:

A) Approve the modification request, with or without changes, and modify the permit accordingly;

B) Deny the request;

C) Determine that the modification request must follow the procedures in Section 703.283 for Class 3 modifications for the following reasons:

i) There is significant public concern about the proposed modification; or

ii) The complex nature of the change requires the more extensive procedures of Class 3; or

D) Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days.

3) If the Agency fails to make one of the decisions specified in subsection (f)(2) 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 Agency action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 35 Ill. Adm. Code 725. If the Agency approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in subsections (f)(1), (f)(2), or (f)(3), such action cancels the temporary or automatic authorization.

4) Notification by Permittee

A) In the case of an automatic authorization under subsection (f)(3), or a temporary authorization under subsection (f)(1)(D) or (f)(2)(D), if the Agency 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 after 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 informs them as follows:

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

ii) That, unless the Agency 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.

B) If the owner or operator fails to notify the public by the date specified in subsection (f)(4)(A), the effective date of the permanent authorization will be deferred until 50 days after the owner or operator notifies the public.

5) Except as provided in subsection (f)(7), if the Agency 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 modification, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under Section 703.270 or Section 703.280. 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 35 Ill. Adm. Code 725.

6) 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 Agency must consider all written comments submitted to the Agency during the public comment period and must respond in writing to all significant comments in the Agency's decision.

7) With the written consent of the permittee, the Agency 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.

g) The Agency must deny or change the terms of a Class 2 permit modification request under subsections (f)(1) through (f)(3) for the following reasons:

1) The modification request is incomplete;

2) The requested modification does not comply with the appropriate requirements of 35 Ill. Adm. Code 724 or other applicable requirements; or

3) The conditions of the modification fail to protect human health and the environment.

h) 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 Agency establishes a later date for commencing construction and informs the permittee in writing before day 60.

BOARD NOTE: Derived from 40 CFR 270.42(b) (2017).

(Source: Amended at 42 Ill. Reg. 20993, effective November 19, 2018)