



Notice of Intent to Construct vs. Permit Modifications

Overview

DEQ requires a permit modification application for certain changes to a facility, and a Notice of Intent to Construct for others. In November 2022 the Environmental Quality Commission adopted rule changes that state a Type 1 or Type 2 NC cannot require a permit or a permit modification.

Before this rule change, facilities that have been issued Air Contaminant Discharge Permits and permit writers had the option to complete the NC process before conducting a permit modification. This allowed a facility to begin construction quickly with an NC first, then modify the permit later. For Title V sources, the NC process and the permit modification remain two separate steps.

This guidance includes information about NCs, permit modifications, and additional information regarding when a specific type of change to a facility requires a permit modification instead of an NC.

Background

The NC and Notice of Approval for TV sources are located in [OAR 340-210-0205](#) through -0250. They are used to approve the following types of construction:

- Type 1 NC
- Type 2 NC
- Type 3 permits or modifications
- Type 4 New Source Review permits

Detailed descriptions of each can be found in [OAR 340-210-0225](#). Note that types 3 and 4 are not NCs, they are permit modifications or permits.

The procedure to approve NCs changed in 2020. Notices of Intent to Construct must be enforceable orders because they have conditions required for compliance. Because of this, NCs are similar to permits in that they are enforceable.

Is a Notice of Intent to Construct or a permit modification required?

The table below outlines when a permit modification or NC is required for sources that have already been issued an Air Contaminant Discharge Permit when they make changes to their facility.

When there are multiple types of permit modifications and associated fees, the type of modification depends on the amount of work it takes to modify the permit. [OAR 340-216-0030](#) contains definitions of ACDP modifications and will help to determine what kind of permit modification is required.

Translation or other formats

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Permit Type	Construction Project	NC or Permit Mod?	Permit Mod Type ¹	Permit Fee
Air Contaminant Discharge Permits				
ACDP	New PCD ² where permit has EALs ³ , monitoring, recordkeeping, reporting requirements	NC	NA	NA
ACDP	New PCD where permit does not have EALs, monitoring, recordkeeping, reporting requirements	Permit mod	Simple tech Moderate tech	\$1,800 \$9,000
ACDP	New PCD where source wants to use reduction and needs new EF ⁴ and PSEL changes	Permit mod	Moderate tech	\$9,000
ACDP	New EU or modified EU ⁵ where permit has applicable requirements, monitoring, recordkeeping, reporting requirements (no PSEL ⁶ change)	NC ⁷	NA	NA
ACDP	New EU or modified EU where permit does not have applicable requirements, monitoring, recordkeeping, reporting requirements (no PSEL change)	Permit mod	Simple tech Moderate tech Complex tech	\$1,800 \$9,000 \$18,000
Title V Permits				
Title V	New PCD where permit has EALs, monitoring, recordkeeping, reporting requirements	NOA+502(b)(10)	502(b)(10)	No fee
Title V	New PCD where permit does not have EALs, monitoring, recordkeeping, reporting requirements	NOA+Permit mod	Minor mod	\$3,050 \$22,873
Title V	New PCD where source wants to use reduction and needs new EF and PSEL changes	Permit mod	Moderate mod	\$22,873
Title V	New EU where permit has applicable requirements, monitoring, recordkeeping, reporting requirements (no PSEL change)	NOA+ 502(b)(10)	502(b)(10)	No fee
Title V	New EU or modified EU where permit does not have applicable requirements, monitoring, recordkeeping, reporting requirements (no PSEL change)	NOA+Permit mod	Simple Moderate Complex	\$3,050 \$22,873 \$45,744
Title V	Modified EU or modified PCD where permit has applicable requirements, monitoring, recordkeeping, reporting requirements (no PSEL change)	NOA	NA	NA
Type 2 NC Approvals with Modeling				
ACDP	Type 2 NC only needs permit conditions because of short term NAAQS modeling (state-only enforceable in the NC approval) ⁸	NC	NA	NA
Title V	Type 2 NOA only needs permit conditions because of short term NAAQS modeling (state-only enforceable) ^[3]	See above		

A quick answer

If the permit already contains all applicable requirements, the addition of new pollution control devices or emissions units can typically be approved using an NC. If the permit does not already contain all applicable requirements, a permit modification will be required.

¹ The type of permit mod depends on the complexity of the needed changes.

² PCD = pollution control device

³ EALs = emission action levels

⁴ EF = emission factor

⁵ EU = emissions unit

⁶ PSEL = Plant Site Emission Limit

⁷ General Condition in Simple/Standard ACDP template allows for operation of NCs approved during permit term.

⁸ This is mainly for Type 2 NC modeling parameters that should be documented in the NC approval.

Contact

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