

## § 270.40

## 40 CFR Ch. I (7–1–13 Edition)

the final date of compliance, the permittee shall notify the Director in writing, of its compliance or non-compliance with the interim or final requirements.

(b) *Alternative schedules of compliance.* A RCRA permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and, for treatment and storage HWM facilities, closing pursuant to applicable requirements; and, for disposal HWM facilities, closing and conducting post-closure care pursuant to applicable requirements) rather than continue to operate and meet permit requirements as follows:

(1) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

(i) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

(ii) The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.

(2) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements.

(3) If the permittee is undecided whether to cease conducting regulated activities, the Director may issue or modify a permit to contain two schedules as follows:

(i) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;

(ii) One schedule shall lead to timely compliance with applicable requirements;

(iii) The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements;

(iv) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under paragraph (b)(3)(i) of this section it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

(4) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Director, such as resolution of the board of directors of a corporation.

[48 FR 14228, Apr. 1, 1983, as amended at 48 FR 30114, June 30, 1983; 71 FR 40279, July 14, 2006]

### Subpart D—Changes to Permit

#### § 270.40 Transfer of permits.

(a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under § 270.40(b) or § 270.41(b)(2)) to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate Act.

(b) Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the Director in accordance with § 270.42 or as a routine change with prior approval under 40 CFR 124.213. The new owner or operator must submit a revised permit application no later than 90 days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the Director. When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of 40 CFR part 264, subpart H (Financial Requirements) until the new owner or operator has demonstrated that he or she is complying with the requirements of that subpart. The new owner or operator must demonstrate compliance with subpart H requirements within six months of the date of the change of ownership or operational control of the facility.

## Environmental Protection Agency

## § 270.41

Upon demonstration to the Director by the new owner or operator of compliance with subpart H, the Director shall notify the old owner or operator that he or she no longer needs to comply with subpart H as of the date of demonstration.

[53 FR 37935, Sept. 23, 1988, as amended at 70 FR 53475, Sept. 8, 2005]

### § 270.41 Modification or revocation and reissuance of permits.

When the Director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see § 270.30), receives a request for revocation and reissuance under § 124.5 or conducts a review of the permit file), he or she may determine whether one or more of the causes listed in paragraphs (a) and (b) of this section for modification, or revocation and reissuance or both exist. If cause exists, the Director may modify or revoke and reissue the permit accordingly, subject to the limitations of paragraph (c) of this section, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. (See 40 CFR 124.5(c)(2).) If cause does not exist under this section, the Director shall not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the Director shall approve or deny the request according to the procedures of § 270.42, or § 270.320 and 40 CFR part 124, subpart G. Otherwise, a draft permit must be prepared and other procedures in part 124 (or procedures of an authorized State program) followed.

(a) *Causes for modification.* The following are causes for modification, but not revocation and reissuance, of permits; the following may be causes for revocation and reissuance, as well as modification, when the permittee requests or agrees.

(1) *Alterations.* There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance

which justify the application of permit conditions that are different or absent in the existing permit.

(2) *Information.* The Director has received information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.

(3) *New statutory requirements or regulations.* The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued.

(4) *Compliance schedules.* The Director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

(5) Notwithstanding any other provision in this section, when a permit for a land disposal facility is reviewed by the Director under § 270.50(d), the Director shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in parts 124, 260 through 266, and 270.

(b) *Causes for modification or revocation and reissuance.* The following are causes to modify or, alternatively, revoke and reissue a permit:

(1) Cause exists for termination under § 270.43, and the Director determines that modification or revocation and reissuance is appropriate.

(2) The Director has received notification (as required in the permit, see § 270.30(1)(3)) of a proposed transfer of the permit.

(3) The Director has received notification under 40 CFR 124.202(b) of a facility owner or operator's intent to be covered by a standardized permit.

(c) *Facility siting.* Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that