

## 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

## § 270.42

## 40 CFR Ch. I (7–1–11 Edition)

a threat to human health or the environment exists which was unknown at the time of permit issuance.

[48 FR 14228, Apr. 1, 1983, as amended at 48 FR 30114, June 30, 1983; 50 FR 28752, July 15, 1985; 52 FR 45799, Dec. 1, 1987; 53 FR 37936, Sept. 28, 1988; 70 FR 53475, Sept. 8, 2005; 71 FR 40279, July 14, 2006]

### § 270.42 Permit modification at the request of the permittee.

(a) *Class 1 modifications.* (1) Except as provided in paragraph (a)(2) of this section, the permittee may put into effect Class 1 modifications listed in appendix I of this section under the following conditions:

(i) The permittee must notify the Director concerning the modification by certified mail or other means that establish proof of delivery within 7 calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by §§ 270.13 through 270.21, 270.62, and 270.63.

(ii) The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the Director in accordance with 40 CFR 124.10(c)(viii), and the appropriate units of State and local government, as specified in 40 CFR 124.10(c)(ix). This notification must be made within 90 calendar days after the change is put into effect. For the Class I modifications that require prior Director approval, the notification must be made within 90 calendar days after the Director approves the request.

(iii) Any person may request the Director to review, and the Director may for cause reject, any Class 1 modification. The Director must inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.

(2) Class 1 permit modifications identified in appendix I by an asterisk may be made only with the prior written approval of the Director.

(3) For a Class 1 permit modification, the permittee may elect to follow the procedures in § 270.42(b) for Class 2 modifications instead of the Class 1 procedures. The permittee must inform the Director of this decision in the notice required in § 270.42(b)(1).

(b) *Class 2 modifications.* (1) For Class 2 modifications, listed in appendix I of this section, the permittee must submit a modification request to the Director that:

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

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

(iii) Explains why the modification is needed; and

(iv) Provides the applicable information required by §§ 270.13 through 270.21, 270.62, and 270.63.

(2) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the Director and to the appropriate units of State and local government as specified in 40 CFR 124.10(c)(ix) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within 7 days before or after the date of submission of the modification request, and the permittee must provide to the Director evidence of the mailing and publication. The notice must include:

(i) Announcement of a 60-day comment period, in accordance with § 270.42(b)(5), and the name and address of an Agency contact to whom comments must be sent;

(ii) Announcement of the date, time, and place for a public meeting held in accordance with § 270.42(b)(4);

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

(iv) Name and telephone number of an Agency 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 Agency contact person."