

CHAPTER 270a. HAZARDOUS WASTE PERMIT PROGRAM

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Authority

The provisions of this Chapter 270a issued under sections 105, 401—403 and 501 of the Solid Waste Management Act (35 P. S. §§ 6018.105, 6018.401—6018.403 and 6018.501); sections 105, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.105, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20); amended under section 105(a) of the Solid Waste Management Act (35 P. S. § 6018.105(a)); sections 5(b) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b) and 691.402); section 302 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.302); section 480(e) of the Pennsylvania Used Oil Recycling Act (58 P. S. § 480(e)); and sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-5, 510-17 and 510-20), unless otherwise noted.

Source

The provisions of this Chapter 270a adopted April 30, 1999, effective May 1, 1999, 29 Pa.B. 2367, unless otherwise noted.

Cross References

This chapter cited in 25 Pa. Code § 252.3 (relating to scope); 25 Pa. Code § 260a.3 (relating to terminology and citations related to Federal regulations); 25 Pa. Code § 261a.6 (relating to requirements for recyclable materials); 25 Pa. Code § 261a.7 (relating to residues of hazardous waste in empty containers); and 25 Pa. Code § 298.10 (relating to applicability).

Subchapter A. GENERAL INFORMATION

Sec.	
270a.1.	Incorporation by reference, scope and applicability.
270a.2.	Definitions.
270a.3.	Payment of fees.
270a.4.	Effect of permit.
270a.5.	Noncomplying and program reporting by Director.
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§ 270a.1. Incorporation by reference, scope and applicability.

(a) Except as expressly provided in this chapter, 40 CFR Part 270 (relating to EPA administered permit programs: the hazardous waste permit program) and its appendices (relating to hazardous waste permit program) are incorporated by reference.

(b) Regarding the requirements incorporated by reference, the requirements of this chapter do not apply to an owner or operator of a facility specifically exempted under 40 CFR 270.1(c)(2) (relating to purpose and scope of these regulations) unless the facility is regulated under § 270a.60(b) (relating to permits by rule).

(c) The owner or operator of a facility eligible to operate under § 270a.60(b) is deemed to have a hazardous waste management permit if the applicable requirements of § 270a.60(b) are satisfied.

(d) In addition to the requirements incorporated by reference in 40 CFR 270.1 (relating to purpose and scope of these regulations), waste mercury-containing devices as described in § 266b.1 (relating to incorporation by reference and scope) shall be managed in accordance with 40 CFR 270.1(c)(2)(viii).

Source

The provisionis of this § 270a.1 amended December 22, 2000, effective December 23, 2000, 30 Pa.B. 6587. Immediately preceding text appears at serial pages (255039) to (255040).

Cross References

This section cited in 25 Pa. Code § 269a.1 (relating to definitions).

§ 270a.2. Definitions.

(a) The definitions for “disposal,” “person,” “standardized permit” and “storage” are not incorporated by reference.

(b) The substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply for the terms “Administrator,” “Director,” “Environmental Protection Agency” and “Regional Administrator” found in 40 CFR 270.2 (relating to definitions).

(c) The term “standardized permit” means a permit issued under Subchapter I (relating to procedures for standardized permit) and 40 CFR Part 270, Subpart J (relating to RCRA standardized permits for storage and treatment units) authorizing the facility owner or operator to manage hazardous waste. The standardized permit may have two parts: A uniform portion issued in all cases and a supplemental portion issued at the Department’s discretion.

Authority

The provisions of this § 270a.2 amended under sections 105, 402 and 501 of the Solid Waste Management Act (35 P. S. §§ 6018.105, 6018.402 and 6018.501); sections 303 and 305(e)(2) of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.303 and 6020.305(e)(2)); section 5, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.5, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-20).

Source

The provisions of this § 270a.2 amended January 9, 2009, effective January 10, 2009, 39 Pa.B. 201. Immediately preceding text appears at serial page (317336).

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Cross References

This section cited in § 270a.201 (relating to incorporation by reference, scope and applicability).

§ 270a.3. Payment of fees.

40 CFR 270.3 is not incorporated by reference, and the following fees are established:

(1) Applications for a permit for hazardous waste storage, treatment and disposal facilities shall be accompanied by a nonrefundable permit application fee in the form of a check payable to the “Commonwealth of Pennsylvania” according to the following schedule:

- (i) Land disposal facilities—commercial—\$125,000.
- (ii) Land disposal facility—captive—\$71,400.
- (iii) Surface impoundments:
 - (A) Commercial—\$36,000.
 - (B) Captive—\$14,000.
- (iv) Postclosure permits—\$25,000.
- (v) Treatment facilities:
 - (A) Commercial—\$36,000.
 - (B) Captive—\$14,000.
- (vi) Storage facilities:
 - (A) Commercial—\$36,000.
 - (B) Captive—\$14,000.
- (vii) Incinerators:
 - (A) Commercial—\$93,000.
 - (B) Captive—\$54,000.

(2) If more than one permitted activity is located at a site, or more than one activity occurs, the fees are cumulative.

(3) Module I applications and permit modification applications for a permit for hazardous waste storage, treatment and disposal facilities shall be accompanied by a nonrefundable permit application fee in the form of a check payable to the “Commonwealth of Pennsylvania” according to the following schedule:

- (i) Module I and Generic Module I applications:
 - (A) Module I—\$300.
 - (B) Generic Module I—\$1,500.
- (ii) Class 3 permit modifications—50% of fees listed in paragraph (1).
- (iii) Class 1 and Class 2 permit modifications—\$700.

Source

The provisions of this § 270a.3 amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102. Immediately preceding text appears at serial pages (282472) to (282473) and (255041).

Cross References

This section cited in 25 Pa. Code § 261a.6 (relating to requirements for recyclable materials); 25 Pa. Code § 265a.13 (relating to general and generic waste analysis); 25 Pa. Code § 266a.80 (relating to applicability and requirements); 25 Pa. Code § 270a.10 (relating to general application requirements and permit issuance procedures); and 25 Pa. Code § 270a.201 (relating to incorporation by reference, scope and applicability).

§ 270a.4. Effect of permit.

Regarding the requirements incorporated by reference, nothing in 40 CFR 270.4 (relating to effect of a permit) prohibits the Department from taking an enforcement action under section 602 of act (35 P. S. § 6018.602).

§ 270a.5. Noncomplying and program reporting by Director.

The substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) do not apply to 40 CFR 270.5 (relating to noncompliance and program reporting by the Director).

§ 270a.6. References.

Regarding the requirements incorporated by reference, the term “*Federal Register*” retains its meaning and is not replaced by the term “*Pennsylvania Bulletin*” when used in 40 CFR 270.6 (relating to references).

Authority

The provisions of this § 270a.6 amended under sections 105, 402 and 501 of the Solid Waste Management Act (35 P. S. §§ 6018.105, 6018.402 and 6018.501); sections 303 and 305(e)(2) of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.303 and 6020.305(e)(2)); section 5, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.5, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-20).

Source

The provisions of this § 270a.6 amended January 9, 2009, effective January 10, 2009, 39 Pa.B. 201. Immediately preceding text appears at serial page (294533).

Subchapter B. PERMIT APPLICATION

Sec.

- 270a.10. General application requirements and permit issuance procedures.
- 270a.12. Confidentiality of information.
- 270a.13. Contents of Part A of the permit application.
- 270a.14. Additional applicant requirements.
- 270a.29. Permit denial.

§ 270a.10. General application requirements and permit issuance procedures.

- (a) Regarding the requirements incorporated by reference:

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(1) The substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) for the terms “Administrator,” “*Federal Register*” and “EPA” does not apply to 40 CFR 270.10(e)(2) (relating to general application requirements).

(2) In 40 CFR 270.10(e)(3), the term “Department” is substituted for “administrator” and “sections 602 and 610 of the act” are substituted for “section 3008 of RCRA.”

(3) The substitution of terms in § 260a.3 for the term “Administrator” does not apply to 40 CFR 270.10(f)(3).

(4) An application submitted under 40 CFR 270.10(f)(2) and (g)(1)(i) shall be submitted to the Department and not to the EPA.

(b) In addition to the requirements incorporated by reference, an application shall include the application fees required by § 270a.3 (relating to payment of fees).

(c) The following procedures are used in issuing a permit:

(1) A person who requires a permit under the hazardous waste program shall complete, sign and submit to the Department an application for a hazardous waste permit.

(2) The Department will not begin the processing of a permit until the applicant complies with the application requirements for that permit and the signature and certification requirements of 40 CFR 270.11 (relating to signatories to permit applications and reports).

(3) The Department reviews for completeness every hazardous waste permit application for a new or existing hazardous waste management facility. Upon completing the review, the Department notifies the applicant in writing whether the application is complete. If the application is incomplete, the Department lists the information necessary to make the application complete. When the application is for an existing hazardous waste management facility, the Department specifies in the notice of deficiency a date for submitting the necessary information. If the applicant thereafter submits a complete application, the Department notifies the applicant that the application is complete. After the application is completed, the Department may request additional information from an applicant if necessary to clarify, modify or supplement previously submitted material. Requests for additional information do not render an application incomplete.

(4) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions taken under applicable statutory provisions.

(5) If the Department decides that a site visit is necessary in conjunction with the processing of an application, it will notify the applicant. The applicant shall provide the Department access for a site visit at a reasonable time.

(6) The effective date of an application is the date on which the Department notifies the applicant that the application is complete as provided in paragraph (3).

(7) Once an application is complete, the Department tentatively decides whether to prepare a draft permit or to deny the application.

(8) If the Department tentatively decides to deny the permit application, it will issue a notice of intent to deny the application. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as a draft permit prepared under this section. If, after issuing a notice of intent to deny, the Department's final decision is to issue the permit, the notice of intent to deny is withdrawn and the Department will proceed to prepare a draft permit under paragraph (9).

(9) A draft permit prepared by the Department contains the following information:

(i) Conditions under this chapter and 40 CFR 270.30 and 270.32 (relating to conditions applicable to all permits; and establishing permit conditions).

(ii) Proposed compliance schedules under 40 CFR 270.33 (relating to schedules of compliance).

(iii) Monitoring requirements under Chapters 264a and 265a; 40 CFR Parts 264 and 265 and 40 CFR 270.31.

(10) A draft permit prepared under this section shall be accompanied by a statement of basis, under paragraph (11) or a fact sheet under paragraph (12), publicly noticed under § 270a.80 (relating to public notice and comment requirements) and made available for a public comment under § 270a.81(2) (relating to public hearings). The Department gives notice of the opportunity for public hearing under § 270a.81(2) and responds to comments under paragraph (13).

(11) The Department prepares a statement of basis for every draft permit for which a fact sheet under paragraph (12) is not prepared. The statement of basis describes the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or revoke, reasons supporting the tentative decision. The statement of basis is sent to the applicant and, on request, to other persons.

(12) Preparation of fact sheets complies with the following:

(i) A fact sheet is prepared by the Department for every draft permit for a major hazardous waste management facility or activity, and for every draft permit which the Department determines is the subject of widespread public interest or raises major issues. The fact sheet briefly sets forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Department sends this fact sheet to the applicant and, on request, to other persons.

(ii) The fact sheet includes the following, when applicable:

- (A) A brief description of the type of facility or activity which is the subject of the draft permit.
 - (B) The type and quantity of wastes proposed to be or being treated, stored or disposed.
 - (C) A brief summary of the basis for the draft permit conditions, including references to applicable statutory or regulatory provisions.
 - (D) Reasons why requested variances or alternatives to required standards do or do not appear justified.
 - (E) A description of the procedures for reaching a final decision on the draft permit including the following:
 - (I) The beginning and ending dates of the comment period under § 270a.80 and the address where comments will be received.
 - (II) Procedures for requesting a hearing and the nature of that hearing.
 - (III) Other procedures by which the public may participate in the final decision.
 - (IV) The name and telephone number of a person to contact for additional information.
- (13) At the time that a final permit is issued, the Department also issues a response to comments. The response does the following:
- (i) Specifies which provisions, if any, of the draft permit changed in the final permit decisions, and the reasons for the change.
 - (ii) Briefly describes responses to significant comments on the draft permit raised during the public comment period or during a hearing.
- (14) The Department makes its response to public comments available to the public.

Cross References

This section cited in 25 Pa. Code § 270a.29 (relating to permit denial); 25 Pa. Code § 270a.41 (relating to procedures for modification, termination or revocation and reissuance of permits); 25 Pa. Code § 270a.80 (relating to public notice and comment requirements); 25 Pa. Code § 270a.81 (relating to public hearings); and 25 Pa. Code § 270a.204 (relating to preparing a draft standardized permit).

§ 270a.12. Confidentiality of information.

40 CFR 270.12 (relating to confidentiality of information) is not incorporated by reference. The confidentiality of information is as follows:

- (1) Information submitted to the Department under this subsection may be claimed as confidential by the applicant. Any claim shall be asserted at the time of submission in the manner prescribed in paragraph (2) and the application form or instructions by stamping the words “confidential business information” on each page containing the information. If a claim is not made at the time of submission, the Department will make the information available to the public without further notice.

(2) Claims of confidentiality for permit application information shall be substantiated at the time the application is submitted and shall address the following:

- (i) The portions of the information claimed to be confidential.
- (ii) The length of time the information is to be treated as confidential.
- (iii) The measures taken to guard against undesired disclosure of the information to others.
- (iv) The extent the information has been disclosed to others and the precautions taken in connection with that disclosure.
- (v) A copy of any pertinent confidentiality determinations by EPA or another Federal agency.
- (vi) The nature of the substantial harm to the competitive position by disclosure of the information, the reasons it should be viewed as substantial and the relationship between the disclosure and the harm.

(3) The Department keeps confidential information in a secure repository and does not make the information available for inspection by the general public.

(4) The Department makes confidential information available to any State or Federal agency for the purpose of administration of any State or Federal law.

Cross References

This section cited in 25 Pa. Code § 270a.82 (relating to public availability of information).

§ 270a.13. Contents of Part A of the permit application.

In addition to the requirements incorporated by reference, Part A of the permit application includes information to demonstrate compliance with the siting criteria in Chapter 269a (relating to siting).

§ 270a.14. Additional applicant requirements.

(a) In addition to the requirements incorporated by reference, permit applicants shall also comply with § 270a.83 (relating to preapplication public meeting and notice).

(b) 40 CFR 270.14(b)(20) (relating to contents of Part B: general requirements) is not incorporated by reference.

§ 270a.29. Permit denial.

(a) 40 CFR 270.29 (relating to permit denial), is not incorporated by reference.

(b) If the Department tentatively decides to deny the permit application, it will issue a notice of intent to deny the application. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as a draft permit prepared under § 270a.10(c) (relating to general application requirements and permit issuance procedures). If, after issuing a notice of intent

to deny, the Department's final decision is to issue the permit, the notice of intent to deny is withdrawn and the Department proceeds to prepare a draft permit under § 270a.10(c).

Cross References

This section cited in 25 Pa. Code § 270a.80 (relating to public notice and comment requirements).

Subchapter C. PERMIT CONDITIONS

Sec.

270a.32. Establishing permit conditions.

§ 270a.32. Establishing permit conditions.

40 CFR 270.32(a) and (c) (relating to establishing permit conditions) is not incorporated by reference. In 40 CFR 270.32(b)(2), the term "section 3005" is replaced with "sections 501—503 of the act" (35 P. S. §§ 6018.501—6018.503) and the term "state director" is deleted.

Subchapter D. CHANGES TO PERMITS

Sec.

270a.41. Procedures for modification, termination or revocation and reissuance of permits.

270a.42. Permit modification at the request of the permittee.

270a.43. Permit termination.

§ 270a.41. Procedures for modification, termination or revocation and reissuance of permits.

Instead of the procedures required in 40 CFR Part 124 (relating to procedures for decision making), permits are modified, terminated or revoked and reissued in accordance with the following:

(1) The Department may modify, revoke and reissue, or terminate a permit either at the request of an interested person, including the permittee, or upon the Department's initiative for reasons specified in 40 CFR 270.41—270.43 (relating to modification or revocation and reissuance of permits; permit modification at the request of the permittee; and modification or revocation and reissuance of permits, and termination of permits) or for a reason authorized under the act, this article or the terms and conditions of the permit. A request must be in writing and contain facts or reasons supporting the request.

(2) If the Department decides the request is not justified, the Department sends a brief written response giving a reason for the decision to the requester.

The Department's refusal to modify, or revoke and reissue a permit under a request is not subject to public notice, comment or hearings.

(3) If the Department tentatively decides to modify, terminate or revoke and reissue a permit, in accordance with the incorporated provisions of 40 CFR 270.41, 270.42(c) or 270.43, the Department will prepare a draft permit under § 270a.10(c)(7)—(10) (relating to general application requirements) incorporating the proposed changes. The Department may request in writing additional information from the permittee and may require the permittee to submit an updated permit application. In the case of revoked and reissued permits, other than under 40 CFR 270.41(b)(3), the Department requires the submission of a new application. In the case of revoked and reissued permits under 40 CFR 270.41(b)(3), the permittee shall comply with the appropriate requirements in Subchapter I (relating to procedures for standardized permit). The permittee shall submit additional information or an updated or new application under a written request by the Department within the time specified by the Department.

(4) In a permit modification under this section, only those conditions to be modified are reopened when a new draft permit is prepared. Other aspects of the existing permit remain in effect for the duration of the permit. When the permit is revoked and reissued, the entire permit is reopened just as if the permit expired and is reissued. During a revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is issued.

(5) If the Department tentatively decides to terminate a permit in accordance with the incorporated provisions of 40 CFR 270.43, it issues a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as a draft permit prepared under § 270a.10(c)(7)—(10).

(6) Class 1 modifications, as listed in the Appendix I to 40 CFR 270.42, are not subject to the requirements of this section.

Authority

The provisions of this § 270a.41 amended under sections 105, 402 and 501 of the Solid Waste Management Act (35 P. S. §§ 6018.105, 6018.402 and 6018.501); sections 303 and 305(e)(2) of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.303 and 6020.305(e)(2)); section 5, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.5, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-20).

Source

The provisions of this § 270a.41 amended January 9, 2009, effective January 10, 2009, 39 Pa.B. 201. Immediately preceding text appears at serial pages (294538) to (294539).

Cross References

This section cited in 25 Pa. Code § 270a.80 (relating to public notice and comment requirements); and 25 Pa. Code § 270a.203 (relating to switching from an individual RCRA permit to a standardized permit).

270a-10

§ 270a.42. Permit modification at the request of the permittee.

(a) Instead of complying with 40 CFR Part 124.10(c)(ix) (relating to public notice of permit actions and public comment period), the permittee shall send a notice to those persons in § 270a.80(d)(iv) (relating to public notice and comment requirements).

(b) Instead of the appeal procedure in 40 CFR 124.19 (relating to appeal of RCRA, UIC, NPDES, PSD permits), the Department's decision to grant or deny permit modifications may be appealed to the EHB under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514).

(c) Applicants seeking a Class 3 permit modification shall also comply with § 270a.83 (relating to preapplication public meeting and notice). Instead of the public notice and public meeting time frames contained in the introductory paragraph of 40 CFR 270.42(c)(2) and (4) (relating to permit modification at the request of the permittee), applicants seeking a Class 3 permit modification shall comply with the time frames under § 270a.83(b) and (d).

Authority

The provisions of this § 270a.42 amended under sections 105, 402 and 501 of the Solid Waste Management Act (35 P. S. §§ 6018.105, 6018.402 and 6018.501); sections 303 and 305(e)(2) of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.303 and 6020.305(e)(2)); section 5, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.5, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-20).

Source

The provisions of this § 270a.42 amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102; amended January 9, 2009, effective January 10, 2009, 39 Pa.B. 201. Immediately preceding text appears at serial page (294540).

Cross References

This section cited in 25 Pa. Code § 270a.83 (relating to preapplication public meeting and notice).

§ 270a.43. Permit termination.

The procedures for permit termination are found in § 270a.41 (relating to procedures for modification, termination or revocation and reissuance of permits).

Subchapter E. EXPIRATION AND CONTINUATION OF PERMITS

Sec.
270a.51. Continuation of existing permits.

§ 270a.51. Continuation of existing permits.

(a) 40 CFR 270.51 (relating to continuance of expiring permits) is not incorporated by reference.

(b) The conditions of an expired permit continue in force until the effective date of a new permit if the following conditions are met:

(1) The permittee has submitted a timely application which is a complete application for a new permit.

(2) The Department, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

(c) Permits continued under this section remain fully effective and enforceable.

(d) When the permittee is not in compliance with the conditions of the expiring or expired permit, the Department may choose to do one or more of the following:

(1) Initiate enforcement action based upon the permit which has been continued.

(2) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would be required to cease activities authorized by the continued permit or be subject to enforcement action for operating without a permit.

(3) Issue a new permit with appropriate conditions.

(4) Take other actions authorized by these regulations.

(e) The conditions of an expired standardized permit continue in force until the effective date of a new permit if the following conditions are met:

(1) The permittee has submitted a timely and complete Notice of Intent under 40 CFR 124.202(b) (relating to how do I as a facility owner or operator apply for a standardized permit?) requesting coverage under a RCRA standardized permit.

(2) The Department, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

(f) When the Department notifies a permittee that the permittee is not eligible for a standardized permit (see 40 CFR 124.206 (relating to in what situations may I require a facility owner or operator to apply for an individual permit?)), the conditions of the expired permit will continue if the permittee submits a timely and complete application for a new permit within 60 days after the notification.

Authority

The provisions of this § 270a.51 amended under sections 105, 402 and 501 of the Solid Waste Management Act (35 P. S. §§ 6018.105, 6018.402 and 6018.501); sections 303 and 305(e)(2) of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.303 and 6020.305(e)(2)); section 5, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.5, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-20).

270a-12

Source

The provisions of this § 270a.51 amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102; amended January 9, 2009, effective January 10, 2009, 39 Pa.B. 201. Immediately preceding text appears at serial pages (294540) to (294541).

Subchapter F. SPECIAL FORMS OF PERMITS

Sec.

270a.60. Permits-by-rule.

270a.62. Hazardous waste incinerator permits.

270a.64. Interim permits for UIC wells.

270a.66. Permits for boilers and industrial furnaces burning hazardous waste.

§ 270a.60. Permits-by-rule.

(a) Relative to the requirements incorporated by reference, the following are substituted for the introductory paragraph in 40 CFR 270.60 (relating to permits by rule):

(1) In addition to other provisions of this chapter, the activities listed in this section are deemed to have a hazardous waste management permit if the owner or operator gives prior notification to the Department on a form provided by the Department and the conditions listed are met.

(b) In addition to the requirements incorporated by reference, the following requirements apply:

(1) The owner or operator of an elementary neutralization unit or a wastewater treatment unit is deemed to have a permit-by-rule, if the owner or operator complies with the following requirements:

(i) The facility treats hazardous waste generated onsite.

(ii) The facility has an NPDES permit, if required, and complies with the conditions of that permit.

(iii) Section 264a.11 (relating to identification number and transporter license) and 40 CFR 264.11 (relating to identification number).

(iv) Chapter 264a, Subchapter D and 40 CFR Part 264 Subparts C and D (relating to preparedness and prevention; and contingency plan and emergency procedures).

(v) 40 CFR Part 265, Subpart Q (relating to chemical, physical and biological treatment), except for 40 CFR 265.400 (relating to applicability).

(vi) For the purposes of this subsection, the owner or operator of an elementary neutralization unit or wastewater treatment unit permit-by-rule facility may treat wastes generated at other facilities operated or owned by the same generator, if the generator provides prior written notice to the Department and the wastes are shipped under a manifest in compliance with § 262a.20 and 40 CFR 262.20 (relating to general requirements; and general requirements).

(vii) The Department may, under special circumstances, approve on a case-by-case basis the receipt and treatment of wastes generated offsite by a different generator for treatment at a facility regulated under this subsection without the treatment of the wastes resulting in the loss of permit-by-rule status under this subsection.

(2) A generator that treats its own hazardous waste in containers, tanks or containment buildings is deemed to have a permit-by-rule, if the owner or operator complies with the following requirements:

(i) The facility is a captive facility and the only waste treated is generated onsite.

(ii) The notification requirements of 40 CFR 264.11 (relating to notification of hazardous waste activities) and the applicable requirements of 40 CFR Part 264, Subparts A—D, I, J and DD and Chapter 264a, Subchapters A, B, D, I, J and DD, except for § 264a.18 (relating to location standards).

(iii) The applicable requirements of 40 CFR 262.34 (relating to accumulation).

(iv) Except for the characteristic of ignitability, the hazardous waste is not being rendered nonhazardous by means of dilution.

(v) A generator may mix waste oil with a waste which is hazardous solely because it exhibits the toxicity characteristic for benzene, arsenic, cadmium, chromium, lead or ignitability, provided that the resultant mixture does not exhibit any characteristic of hazardous waste under 40 CFR Part 261, Subpart C (relating to characteristics of hazardous waste) incorporated by reference in § 260a.1 (relating to incorporation by reference, purpose, scope and applicability) and that the mixture is managed in accordance with Chapter 298, Subchapter C (relating to waste oil generators).

(vi) Treatment activities subject to requirements in addition to those specified in this section are not eligible to operate under this permit-by-rule.

(3) The owner or operator of a battery manufacturing facility reclaiming spent, lead-acid batteries is deemed to have a permit-by-rule for treatment prior to the reclamation of the spent, lead-acid batteries, if the owner or operator complies with the following requirements:

(i) The notification requirements of 40 CFR 264.11.

(ii) The applicable requirements of 40 CFR Part 264, Subparts A—E, I—L and DD and Chapter 264a, Subchapters A, B, D, E, I—L and DD, except for § 264a.18.

(4) The owner or operator of a facility that reclaims hazardous waste onsite, at the site where it is generated is deemed to have a permit-by-rule for treatment prior to the reclamation, if the owner or operator complies with the following requirements:

(i) The notification requirements of 40 CFR 264.11.

(ii) The applicable requirements of Chapter 262a and Chapter 264a, Subchapters A, B, D, E, I, J and DD, except for § 264a.18, and 40 CFR Parts 262 and 264, Subparts A—E and I, J and DD.

(iii) For the purposes of this subsection, onsite reclamation includes reclamation of materials generated at other facilities operated or owned by the same generator, if the generator provides prior written notice to the Department and the wastes are shipped under a manifest in compliance with § 262a.20 (relating to general requirements) and 40 CFR Part 262.20 (relating to general requirements).

(iv) The Department may, under special circumstances, approve on a case-by-case basis the receipt and reclamation of wastes generated offsite by a different generator for reclamation at a facility regulated under this subsection without the reclamation of the wastes resulting in the loss of onsite reclamation status under this subsection.

(5) The owner or operator of a facility that treats recyclable materials to make the materials suitable for reclamation of economically significant amounts of the precious metals identified in 40 CFR Part 266, Subpart F (relating to recyclable materials utilized for precious metal recovery) is deemed to have a permit-by-rule if the owner or operator complies with the following:

(i) The notification requirements of 40 CFR 264.11 (relating to identification number).

(ii) The applicable requirements of Chapter 264a, Subchapters A, B, D, E, I, J and DD, except for § 264a.18, and 40 CFR Part 264, Subparts A—D, I, J and DD.

(c) In addition to the requirements incorporated by reference:

(1) With respect to any permit-by-rule facility under subsection (b)(3)—(6), the Department may, upon written application from a person subject to these paragraphs, grant a variance from one or more specific provision of those paragraphs in accordance with this subsection.

(2) In granting a variance, the Department may impose specific conditions reasonably necessary to assure that the subject activity results in a level of protection of the environment and public health equivalent to that which would have resulted from compliance with the suspended provisions. Any variance granted under this section will be at least as stringent as the requirements of section 3010 of the RCRA (42 U.S.C.A. § 6930) and regulations adopted thereunder.

Authority

The provisions of this § 270a.60 amended under sections 105, 402 and 501 of the Solid Waste Management Act (35 P. S. §§ 6018.105, 6018.402 and 6018.501); sections 303 and 305(e)(2) of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.303 and 6020.305(e)(2)); section 5, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.5, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-20).

Source

The provisions of this § 270a.60 amended June 1, 2001, effective June 2, 2001, 31 Pa.B. 2873; amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102; amended January 9, 2009, effective January 10, 2009, 39 Pa.B. 201. Immediately preceding text appears at serial pages (294541) to (294544).

Cross References

This section cited in 25 Pa. Code § 264a.1 (relating to incorporation by reference, purpose, scope and reference); 25 Pa. Code § 265a.1 (relating to incorporation by reference, purpose, scope and applicability); 25 Pa. Code § 266a.70 (relating to applicability and requirements); 25 Pa. Code § 266a.80 (relating to applicability and requirements); and 25 Pa. Code § 270a.1 (relating to incorporation by reference, scope and applicability).

§ 270a.62. Hazardous waste incinerator permits.

Instead of the notification required by 40 CFR 124.10 (relating to public notice of permit actions and public comment period), the Department sends notice to all persons listed in § 270a.80 (d)(1) (relating to public notice and comment requirements).

Source

The provisions of this § 270a.62 amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102. Immediately preceding text appears at serial page (280200).

§ 270a.64. Interim permits for UIC wells.

40 CFR 270.64 (relating to interim permits for UIC wells) is not incorporated by reference.

§ 270a.66. Permits for boilers and industrial furnaces burning hazardous waste.

Instead of the notification required by 40 CFR 124.10 (relating to public notice of permit actions and public comment period), the Department sends notice to all persons listed in § 270a.80(d)(1) (relating to public notice and comment requirements).

Source

The provisions of this § 270a.66 amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102. Immediately preceding text appears at serial page (255051).

Subchapter G. INTERIM STATUS

Sec.
270a.72. Changes during interim status.

§ 270a.72. Changes during interim status.

Relative to the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) for the term “EPA” does not apply to 40 CFR 270.72(a)(5) and (b)(5) (relating to changes during interim status).

Subchapter H. PUBLIC NOTICE AND HEARINGS

Sec.

270a.80. Public notice and comment requirements.

270a.81. Public hearings.

270a.82. Public availability of information.

270a.83. Preapplication public meeting and notice.

270a.84. Information repository.

§ 270a.80. Public notice and comment requirements.

(a) The Department gives public notice of the following actions:

(1) An application for a permit or a Class 2 or Class 3 permit modification is tentatively denied under §§ 270a.29 and 270a.41 and 40 CFR 270.29 and 270.41.

(2) A draft permit is prepared under § 270a.10(c) (relating to general application requirements).

(3) A hearing is scheduled under § 270a.81(b) (relating to public hearings).

(4) A closure/postclosure plan is received in accordance with the incorporated requirements of 40 CFR 264.112, 265.112, 264.118 or 265.118.

(b) A public notice of the preparation of a draft permit, including a notice of intent to deny a permit application, required under subsection (a) provides for at least 45 days for public comment.

(c) The Department gives public notice of a public hearing at least 30 days before the hearing. Public notice of the hearing may be given at the same time as public notice of the draft permit, and the two notices may be combined.

(d) The Department gives public notice of activities described in subsection (a) by the following methods:

(1) By mailing a copy of a notice to the following, persons otherwise entitled to receive notice under this paragraph may waive the right to receive notice for classes and categories of permits:

(i) The applicant.

(ii) An agency which the Department knows has issued or is required to issue a RCRA, underground injection control, prevention of significant deterioration (or other permit under the Clean Air Act), NPDES, 404, sludge management permit or ocean dumping permit under the Marine Protection,

Research and Sanctuaries Act of 1972 (Pub. L. No. 92-532, 86 Stat. 052) for the same facility or activity, including the EPA.

(iii) An appropriate Federal or State agency with jurisdiction over fish, shellfish and wildlife resources or coastal zone management plans, State historic preservation officers, advisory council on historic preservation and other appropriate government authorities, including affected states.

(iv) A person on a mailing list developed by the Department, that includes a person who submits to the Department a request in writing to be on the list, a person solicited for area lists from participants in past permit proceedings in that area, and a member of the public notified of the opportunity to be put on the mailing list through periodic publication in the public press and in regional and State-funded newsletters, environmental bulletins or State law journals. The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Department may delete from the list the name of a person who fails to respond to the request.

(v) Units of local government having jurisdiction over the area where the facility is located.

(vi) State agencies having authority under State statute with respect to the construction or operation of the facility.

(2) Publication of a notice in the *Pennsylvania Bulletin* and in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.

(3) In a manner constituting legal notice to the public under State statute.

(4) By other methods reasonably calculated to give actual notice of the action in question to a person potentially affected by it, including press releases or another forum or medium to elicit public participation.

(e) A public notice issued under this section shall contain the following minimum information:

(1) The name and address of the office processing the permit action for which notice is being given.

(2) The name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit.

(3) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit.

(4) The name, address and telephone number of a person from whom an interested person may obtain further information, including copies of the draft permit, the statement of basis or fact sheet, and the application.

(5) A brief description of the comment procedures required by § 270a.81, the time and place of a hearing that will be held, including a statement of procedures to request a hearing, unless a hearing has already been scheduled, and other procedures by which the public may participate in the final permit decision.

- (6) Additional information which the Department considers necessary or proper.
- (f) In addition to the general public notice described in subsection (e), the public notice of a hearing under § 270a.81(b) shall contain the following information:
- (1) A reference to the date of previous public notices relating to the permit.
 - (2) The date, time and place of the hearing.
 - (3) A brief description of the nature and purpose of the hearing, including the applicable procedures.
- (g) In addition to the general public notice described in subsection (e), a person identified in subsection (d)(1)(i) and (ii) will be mailed a copy of the fact sheet or statement of basis, the draft permit and, if applicable, the permit application.

Cross References

This section cited in 25 Pa. Code § 270a.10 (relating to general application requirements and permit issuance procedures); 25 Pa. Code § 270a.42 (relating to permit modification at the request of the permittee); 25 Pa. Code § 270a.62 (relating to hazardous waste incinerator permits); 25 Pa. Code § 270a.66 (relating to permits for boilers and industrial furnaces burning hazardous waste); and 25 Pa. Code § 270a.81 (relating to public hearings).

§ 270a.81. Public hearings.

- (a) During the public comment period provided under § 270a.80 (relating to public notice and comment requirements), an interested person may submit written comments on the draft permit and may request a public hearing, if a hearing is not already scheduled. A request for a public hearing shall be in writing and state the nature of the issues proposed to be raised in the hearing. The Department considers comments in making its final decision and answers these comments as provided in § 270a.10(c) (relating to general application requirements and permit issuance procedures).
- (b) The Department follows the following procedures in a public hearing held under this subchapter:
- (1) The Department holds a public hearing whenever, on the basis of requests received under subsection (a), it determines that a significant degree of public interest in a draft permit exists.
 - (2) The Department may hold a public hearing whenever a hearing might clarify issues involved in the permit decision.
 - (3) The Department holds a public hearing whenever it receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice, under § 270a.80.
 - (4) The Department schedules, when possible, a hearing under this section at a location convenient to the nearest population center to the proposed facility.

(5) The Department gives public notice of the hearing under § 270a.80.

(6) A person may submit oral or written statements and data concerning the draft permit before, during or after the public hearing, as long as the Department receives the statements and data during the public comment period. The Department may set reasonable limits upon the time allowed for oral statements and may require the submission of statements in writing. The public comment period under § 270a.80 is automatically extended to the close of a public hearing under this section. The Department's hearing officer may also extend the comment period by so stating at the hearing.

(7) The Department makes a tape recording or written transcript of the hearing available to the public.

Source

The provisions of this § 270a.81 amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102. Immediately preceding text appears at serial pages (255053) to (255054).

Cross References

This section cited in 25 Pa. Code § 270a.10 (relating to general application requirements and permit issuance procedures); and 25 Pa. Code § 270a.80 (relating to public notice and comment requirements).

§ 270a.82. Public availability of information.

(a) Information provided to the Department under this article is made available to the public in accordance with the current Departmental policy on public information. The Department makes every effort to respond to written requests in a timely manner by providing the materials requested or a written response explaining why the request cannot be honored.

(b) The Department releases material obtained regarding facilities and sites for the treatment, storage and disposal of hazardous waste, unless the material is subject to a claim of confidentiality under § 270a.12 (relating to confidentiality of information) or other law or regulation. These records include:

- (1) Permit applications and modifications.
- (2) Annual reports.
- (3) Closure plans.
- (4) Notification of facility closure.
- (5) Contingency plan incidence reports.
- (6) Delisting petitions and other petitions for variances or waivers.
- (7) Financial responsibility instruments.
- (8) Environmental monitoring data, such as groundwater monitoring data.
- (9) Transporter spill reports.
- (10) International shipment reports.
- (11) Manifest exception, discrepancy and unmanifested waste reports.
- (12) EPA facility identification numbers.
- (13) General correspondence with the facility.

- (14) Enforcement orders.
- (15) Inspection reports.
- (16) Results of corrective action investigations.

§ 270a.83. Preapplication public meeting and notice.

(a) *Applicability.*

(1) This section applies to RCRA Part B applications seeking initial permits for hazardous waste management units over which the Department has permit issuance authority.

(2) This section also applies to RCRA Part B applications seeking renewal of permits for the units, if the renewal application is proposing a significant change in facility operations.

(3) For the purposes of this section, a “significant change” is a change that would qualify as a Class 3 permit modification under 40 CFR 270.42 (relating to permit modification at the request of the permittee) and § 270a.42 (relating to permit modification at the request of the permittee).

(4) This section also applies to hazardous waste management facilities for which facility owners or operators are seeking coverage under a RCRA standardized permit (see 40 CFR Part 270, Subpart J (relating to RCRA standardized permits for storage and treatment units)), including renewal of a standardized permit for the units, when the renewal is proposing a significant change in facility operations, as defined in 40 CFR 124.211(c) (relating to what types of changes may I make to my standardized permit?).

(5) This section does not apply to Class 1 or Class 2 permit modifications under 40 CFR 270.42 and § 270a.42 or to applications that are submitted for the sole purpose of conducting postclosure activities or postclosure activities and corrective action at a facility.

(b) Prior to the submission of a Part B RCRA permit application for a facility, or to the submission of a written Notice of Intent to be covered by a RCRA standardized permit (see 40 CFR Part 270, Subpart J), the applicant shall hold at least one meeting with the public to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

(c) The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under subsection (b), and copies of any written comments or materials submitted at the meeting, to the Department as a part of the Part B application, under 40 CFR 270.14(b) (relating to contents of Part B: general requirements), or with the written Notice of Intent to be covered by a RCRA standardized permit (see 40 CFR Part 270, Subpart J).

(d) The applicant shall provide public notice of the preapplication meeting at least 30 days prior to the meeting. The applicant shall maintain, and provide to the Department upon request, documentation of the notice.

- (1) The applicant shall provide public notice in the following forms:
- (i) *Newspaper advertisement.* The applicant shall publish a notice, fulfilling the requirements in paragraph (2), in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Department will instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, if the Department determines that the publication is necessary to inform the affected public. The notice shall be published as a display advertisement.
 - (ii) *Visible and accessible sign.* The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in paragraph (2). If the applicant places the sign on the facility property, the sign shall be large enough to be readable from the nearest point where the public would pass by the site.
 - (iii) *Broadcast media announcement.* The applicant shall broadcast a notice, fulfilling the requirements in paragraph (2), at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Department.
 - (iv) *Notice to the Department.* The applicant shall send a copy of the newspaper notice to the Department and to the appropriate units of State and local government.
- (2) The notices required under paragraph (1) must include the following:
- (i) The date, time and location of the meeting.
 - (ii) A brief description of the purpose of the meeting.
 - (iii) A brief description of the facility and proposed operations, including the address or a map—for example, a sketched or copied street map—of the facility location.
 - (iv) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting.
 - (v) The name, address and telephone number of a contact person for the applicant.

Authority

The provisions of this § 270a.83 amended under sections 105, 402 and 501 of the Solid Waste Management Act (35 P. S. §§ 6018.105, 6018.402 and 6018.501); sections 303 and 305(e)(2) of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.303 and 6020.305(e)(2)); section 5, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.5, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-20).

Source

The provisions of this § 270a.83 amended December 13, 2002, effective December 14, 2002, 32 Pa.B. 6102; amended January 9, 2009, effective January 10, 2009, 39 Pa.B. 201. Immediately preceding text appears at serial pages (294549) to (294550).

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Cross References

This section cited in 25 Pa. Code § 270a.42 (relating to permit modification at the request of the permittee); 25 Pa. Code § 270a.201 (relating to incorporation by reference, scope and applicability); and 25 Pa. Code § 270a.214 (relating to making significant changes).

§ 270a.84. Information repository.

(a) This section applies to applications seeking hazardous waste management permits for hazardous waste management units over which the Department has permit issuance authority.

(b) The Department assesses the need, on a case-by-case basis, for an information repository.

(1) When assessing the need for an information repository, the Department considers a variety of factors, including:

- (i) The level of public interest.
- (ii) The type of facility.
- (iii) The presence of an existing repository.
- (iv) The proximity to the nearest copy of the administrative record.

(2) If the Department determines, at any time after submittal of a permit application, that there is a need for a repository, the Department notifies the facility that it shall establish and maintain an information repository. See 40 CFR 270.30(m) (relating to conditions applicable to all permits) for similar provisions relating to the information repository during the life of a permit.

(c) The information repository shall contain the documents, reports, data and information deemed necessary by the Department to fulfill the purposes for which the repository is established. The Department has the discretion to limit the contents of the repository.

(d) The information repository shall be located and maintained at a site chosen by the facility. The Department specifies a more appropriate site if, due to problems with the location, hours of availability, access or other relevant considerations, the Department finds the site unsuitable for the purposes and persons for which it was established.

(e) The Department specifies requirements for informing the public about the information repository. At a minimum, the facility shall provide a written notice about the information repository to all individuals on the facility mailing list.

(f) The facility owner or operator is responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the Department. The Department may close the repository based on the factors in subsection (b).

Subchapter I. PROCEDURES FOR STANDARDIZED PERMIT

Sec.

- 270a.201. Incorporation by reference, scope and applicability.
- 270a.202. Applying for a standardized permit.
- 270a.203. Switching from an individual RCRA permit to a standardized permit.
- 270a.204. Procedures for preparing a draft standardized permit.
- 270a.205. Procedures for preparing a final standardized permit.
- 270a.206. Requirement to apply for an individual permit.
- 270a.207. Requirements for standardized permit public notices.
- 270a.208. Opportunities for public comments and hearings on draft standardized permit decisions.
- 270a.209. Response to comments.
- 270a.210. Procedures to appeal a final standardized permit.
- 270a.212. Making routine changes.
- 270a.214. Making significant changes.

Authority

The provisions of this Subchapter I adopted under sections 105, 402 and 501 of the Solid Waste Management Act (35 P. S. §§ 6018.105, 6018.402 and 6018.501); sections 303 and 305(e)(2) of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.303 and 6020.305(e)(2)); section 5, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.5, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-20).

Source

The provisions of this Subchapter I adopted January 9, 2009, effective January 10, 2009, 39 Pa.B. 201, unless otherwise noted.

§ 270a.201. Incorporation by reference, scope and applicability.

- (a) Except as expressly provided in this subchapter, 40 CFR Part 124, Subpart G (relating to procedures for RCRA standardized permit) is incorporated by reference.
- (b) The reference to § 124.2 in the introductory paragraph to 40 CFR 124.200 (relating to what is a RCRA standardized permit?) is replaced with § 270a.2(c) (relating to definitions).
- (c) The requirements of §§ 270a.3, 264a.82, 264a.83, 265a.82 and 265a.83 do not apply to standardized permits.

§ 270a.202. Applying for a standardized permit.

Relative to the requirements incorporated by reference, the reference to 40 CFR 124.31 (relating to pre-application public meeting and notice) is replaced with § 270a.83 (relating to preapplication public meeting and notice).

§ 270a.203. Switching from an individual RCRA permit to a standardized permit.

Relative to the requirements incorporated by reference, the reference to 40 CFR 124.5 (relating to modification, revocation and reissuance, or termination of per-

mits) is replaced with § 270a.41 (relating to procedures for modification, termination or revocation and reissuance of permits), and the reference to 40 CFR 124.204 (relating to what must I do as the Director of the regulatory agency to prepare a draft standardized permit?) is replaced with § 270a.204 (relating to procedures for preparing a draft standardized permit).

§ 270a.204. Procedures for preparing a draft standardized permit.

40 CFR 124.204 (relating to what must I do as the director of the regulatory agency to prepare a draft standardized permit?) is not incorporated by reference. Draft standardized permits are prepared in accordance with the following:

(1) The Department will review the Notice of Intent and supporting information submitted by the facility owner or operator.

(2) The Department will determine whether the facility is or is not eligible to operate under the standardized permit.

(i) If the facility is eligible for the standardized permit, the Department will propose terms to include in a supplemental portion. If the Department determines that these terms and conditions are necessary to protect human health and the environment and cannot be imposed, coverage under the standardized permit will be denied.

(ii) If the facility is not eligible for the standardized permit, the Department will tentatively deny coverage under the standardized permit. Cause for ineligibility may include the following:

(A) Failure of the owner or operator to submit all the information required under 40 CFR 270.275 (relating to what information must I submit to the permitting agency to support my standardized permit application?).

(B) Information submitted that is required under 40 CFR 270.275 is determined to be inadequate.

(C) The facility does not meet the eligibility requirements (activities are outside the scope of the standardized permit).

(D) A demonstrated history of significant noncompliance with applicable requirements.

(E) Permit conditions cannot ensure protection of human health and the environment.

(3) The Department will prepare a draft permit decision within 120 days after receiving the Notice of Intent and supporting documents from a facility owner or operator. The tentative determination under this section to deny or grant coverage under the standardized permit, including any proposed site-specific conditions in a supplemental portion, constitutes a draft permit decision. During the initial 120-day review period the Department may notify the permit applicant and take up to an additional 30 days to prepare a draft permit decision if determined necessary to complete review of documents submitted with the Notice of Intent.

(4) The Department's draft permit decision will be accompanied by a statement of basis or fact sheet as provided for in § 270a.10(c)(10)—(12) (relating to general application requirements and permit issuance procedures).

Cross References

This section cited in 25 Pa. Code § 270a.203 (relating to switching from an individual RCRA permit to a standardized permit).

§ 270a.205. Procedures for preparing a final standardized permit.

40 CFR 124.205 (relating to what must I do as the director of the regulatory agency to prepare a final standardized permit?) is not incorporated by reference. Final standardized permits are prepared in accordance with the following: The Department will consider all comments received during the public comment period under § 270a.208 (relating to opportunities for public comments and hearings on draft standardized permit decisions) in making a final permit decision.

§ 270a.206. Requirement to apply for an individual permit.

40 CFR 124.206 (relating to in what situations may I require a facility owner or operator to apply for an individual permit?) is not incorporated by reference.

(1) The Department may determine that a facility is not eligible for the standardized permit based on the following:

- (i) The facility does not meet the criteria in 40 CFR 124.201 (relating to who is eligible for a standardized permit?).
- (ii) The facility has a demonstrated history of significant noncompliance with regulations or permit conditions.
- (iii) The facility has a demonstrated history of submitting incomplete or deficient permit application information.
- (iv) The facility has submitted incomplete or inadequate materials with the Notice of Intent.

(2) If the Department determines that a facility is not eligible for the standardized permit, the Department will inform the facility owner or operator that it shall apply for an individual permit.

(3) The Department may require a facility that has a standardized permit to apply for and obtain an individual permit. An interested person may petition the Department to take action under this paragraph. Cases when the Department may require an individual permit include the following:

- (i) The facility is not in compliance with the terms and conditions of the standardized permit.
- (ii) Circumstances have changed since the time the facility owner or operator applied for the standardized permit, so that the facility's hazardous waste management practices are no longer appropriately controlled under the standardized permit.

(4) If the Department requires a facility authorized by a standardized permit to apply for an individual permit, the Department will notify the facility owner or operator in writing that an individual permit application is required. The Department will include in this notice a brief statement of the reasons for the decision, a statement setting a deadline for the owner or operator to file the application, and a statement that, on the effective date of the individual permit, the facility's standardized permit automatically terminates. The Department may grant additional time to file an application for an individual permit upon request from the facility owner or operator.

(5) When the Department issues an individual permit to an owner or operator otherwise subject to a standardized permit, the standardized permit for the facility will automatically cease to apply on the effective date of the individual permit.

§ 270a.207. Requirements for standardized permit public notices.

40 CFR 124.207 (relating to what are the requirements for public notices?) is not incorporated by reference.

(1) The Department will provide public notice of a draft standardized permit decision and an opportunity for the public to submit comments and request a hearing on the decision. The Department will provide the public notice to:

(i) The applicant.

(ii) Another agency that the Department knows has issued or is required to issue a RCRA, underground injection control, prevention of significant deterioration (or other permit under the Clean Air Act), NPDES, 404, sludge management permit, or ocean dumping permit under the Marine Protection, Research, and Sanctuaries Act of 1972, the act of October 23, 1972 (Pub. L. No. 92-532, 86 Stat. 52) for the same facility or activity, including the EPA.

(iii) Federal or State agencies with jurisdiction over fish, shellfish and wildlife resources or coastal zone management plans, the Advisory Council on Historic Preservation, State historic preservation officers, and other appropriate government authorities, including any affected states.

(iv) Each person on a mailing list developed by the Department, which includes a person who submits to the Department a request in writing to be included on the list, a person solicited for area lists from participants in past permit proceedings in that area, and a member of the public notified of the opportunity to be put on the mailing list through periodic publication in the public press and in regional and State-funded newsletters, environmental bulletins or State law journals. The Department may update the mailing list periodically by requesting written indication of continued interest from those listed. The Department may delete from the list the name of a person who fails to respond to the request.

(v) Units of local government having jurisdiction over the area where the facility is located or proposed to be located.

(vi) State agencies having authority under State statute with respect to the construction or operation of the facility.

(2) The Department will issue the public notice according to the following methods:

(i) Publication of a notice in the *Pennsylvania Bulletin* and in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.

(ii) Other methods reasonably calculated to give actual notice of the action in question to a person potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(3) The Department will include the following information in the public notice:

(i) The name and telephone number of the contact person at the facility.

(ii) The name and telephone number of the Department office, and a mailing address to which people may direct comments, information, opinions or inquiries.

(iii) An address to which people may write to be put on the facility mailing list.

(iv) The location where people may view and make copies of the draft standardized permit and the Notice of Intent and supporting documents.

(v) A brief description of the facility and proposed operations, including the address or a map of the facility location on the front page of the notice.

(vi) The date that the facility owner or operator submitted the Notice of Intent and supporting documents.

(4) At the same time the public notice under this section is issued, the Department will place the draft standardized permit (including both the uniform portion and the supplemental portion, if any), the Notice of Intent and supporting documents, and the statement of basis or fact sheet in a location accessible to the public in the vicinity of the facility or at a Department office in the vicinity of the facility.

Cross References

This section cited in 25 Pa. Code § 270a.208 (relating to opportunities for public comments and hearings on draft standardized permit decisions); and 25 Pa. Code § 270a.212 (relating to making routine changes).

§ 270a.208. Opportunities for public comments and hearings on draft standardized permit decisions.

40 CFR 124.208 (relating to what are the opportunities for public comments and hearings on draft permit decisions?) is not incorporated by reference.

(1) The public notice that the Department issues under § 270a.207 (related to requirements for standardized permit public notices) will allow at least a 45-day public comment period for people to submit written comments on the draft standardized permit decision. The public comment period will automatically be extended to the close of a public hearing under this section. The hearing officer may also extend the public comment period by so stating at the hearing.

(2) During the public comment period, any interested person may submit written comments on the draft standardized permit and may request a public hearing. Requests for public hearings must be submitted in writing to the Department and state the nature of the issues proposed to be raised during the hearing.

(3) The Department will hold a public hearing if a written notice of opposition to a standardized permit and a request for a hearing is received within the public comment period under paragraph (1). The Department may also hold a public hearing at its discretion, whenever, for instance, a hearing may clarify one or more issues involved in the standardized permit decision.

(4) Whenever possible, the Department will schedule a hearing under this section at a location convenient to the nearest population center to the facility. The Department will give public notice of the hearing at least 30 days before the date of the hearing.

(5) The Department will give public notice of the hearing according to the methods in § 270a.207(1) and (2). A person may submit oral or written statements and data concerning the draft standardized permit before, during or after the public hearing, as long as the Department receives the statements and data during the public comment period. The Department may set reasonable time limits upon the time allowed for oral statements and may require the submission of statements in writing. The Department will make a tape recording or written transcript of the hearing available to the public.

(6) Comments submitted in accordance with this section on the draft standardized permit decision may include the facility's eligibility for the standardized permit, the proposed supplemental conditions, if any, and the need for additional supplemental conditions.

Cross References

This section cited in 25 Pa. Code § 270a.205 (relating to procedures for preparing a final standardized permit).

§ 270a.209. Response to comments.

40 CFR 124.209 (relating to what are the requirements for responding to comments?) is not incorporated by reference.

(1) At the time the Department issues a final standardized permit, it will also respond to comments received during the public comment period on the draft standardized permit. The Department's responses will:

(i) Specify which additional conditions, if any, were changed in the final permit and the reasons for the change.

(ii) Briefly describe and respond to all comments on the facility's ability to meet the terms and conditions of the standardized permit, and on any additional conditions necessary to protect human health and the environment.

(2) The Department may request additional information from the facility owner or operator or inspect the facility if it determines that additional information is necessary to adequately respond to comments or to make decisions regarding the terms and conditions of the standardized permit.

(3) The Department will make its response to public comments available to the public.

§ 270a.210. Procedures to appeal a final standardized permit.

40 CFR 124.210 (relating to may I, as an interested party in the permit process, appeal a final standardized permit?) is not incorporated by reference. The final standardized permit will contain information regarding the procedures to follow to appeal the Department's final permit decision, including the decision that the facility is eligible for the standardized permit. The terms and conditions of the uniform portion of the standardized permit are not subject to appeal.

§ 270a.212. Making routine changes.

Regarding the 40 CFR 124.212 requirements incorporated by reference, the reference to 40 CFR 124.10(c)(1)(ix) and (x) (relating to public notice of permit actions and public comment period) is replaced with § 270a.207(1)(iv)—(vi) (relating to requirements for standardized permit public notices).

§ 270a.214. Making significant changes.

Regarding the requirements incorporated by reference, the reference to 40 CFR 124.31(d) (relating to pre-application public meeting and notice) is replaced with § 270a.83(d) (relating to preapplication public meeting and notice).

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