

## Environmental Protection Agency

## § 270.150

(b) The notice required by paragraph (a) of this section must provide an opportunity for the public to submit written comments on the draft RAP or notice of intent to deny within at least 45 days.

(c) The notice required by paragraph (a) of this section must include:

(1) The name and address of the office processing the RAP application;

(2) The name and address of the RAP applicant, and if different, the remediation waste management site or activity the RAP will regulate;

(3) A brief description of the activity the RAP will regulate;

(4) The name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft RAP or notice of intent to deny, statement of basis, and the RAP application;

(5) A brief description of the comment procedures in this section, and any other procedures by which the public may participate in the RAP decision;

(6) If a hearing is scheduled, the date, time, location and purpose of the hearing;

(7) If a hearing is not scheduled, a statement of procedures to request a hearing;

(8) The location of the administrative record, and times when it will be open for public inspection; and

(9) Any additional information the Director considers necessary or proper.

(d) If, within the comment period, the Director receives written notice of opposition to his intention to approve or deny your RAP application and a request for a hearing, the Director must hold an informal public hearing to discuss issues relating to the approval or denial of your RAP application. The Director may also determine on his own initiative that an informal hearing is appropriate. The hearing must include an opportunity for any person to present written or oral comments. Whenever possible, the Director must schedule this hearing at a location convenient to the nearest population center to the remediation waste management site and give notice according to the requirements in paragraph (a) of this section. This notice must, at a

minimum, include the information required by paragraph (c) of this section and:

(1) Reference to the date of any previous public notices relating to the RAP application;

(2) The date, time and place of the hearing; and

(3) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

### **§ 270.150 How will the Director make a final decision on my RAP application?**

(a) The Director must consider and respond to any significant comments raised during the public comment period, or during any hearing on the draft RAP or notice of intent to deny, and revise your draft RAP based on those comments, as appropriate.

(b) If the Director determines that your RAP includes the information and terms and conditions required in § 270.135, then he will issue a final decision approving your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been approved.

(c) If the Director determines that your RAP does not include the information required in § 270.135, then he will issue a final decision denying your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been denied.

(d) If the Director's final decision is that the tentative decision to deny the RAP application was incorrect, he will withdraw the notice of intent to deny and proceed to prepare a draft RAP, according to the requirements in this subpart.

(e) When the Director issues his final RAP decision, he must refer to the procedures for appealing the decision under § 270.155.

(f) Before issuing the final RAP decision, the Director must compile an administrative record. Material readily available at the issuing Regional office or published materials which are generally available and which are included in the administrative record need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or

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the response to comments. The administrative record for the final RAP must include information in the administrative record for the draft RAP (see § 270.140(b)) and:

- (1) All comments received during the public comment period;
- (2) Tapes or transcripts of any hearings;
- (3) Any written materials submitted at these hearings;
- (4) The responses to comments;
- (5) Any new material placed in the record since the draft RAP was issued;
- (6) Any other documents supporting the RAP; and (7) A copy of the final RAP.
- (g) The Director must make information contained in the administrative record available for review by the public upon request.

### **§ 270.155 May the decision to approve or deny my RAP application be administratively appealed?**

(a) Any commenter on the draft RAP or notice of intent to deny, or any participant in any public hearing(s) on the draft RAP, may appeal the Director's decision to approve or deny your RAP application to EPA's Environmental Appeals Board under § 124.19 of this chapter. Any person who did not file comments, or did not participate in any public hearing(s) on the draft RAP, may petition for administrative review only to the extent of the changes from the draft to the final RAP decision. Appeals of RAPs may be made to the same extent as for final permit decisions under § 124.15 of this chapter (or a decision under § 270.29 to deny a permit for the active life of a RCRA hazardous waste management facility or unit). Instead of the notice required under §§ 124.19(c) and 124.10 of this chapter, the Director will give public notice of any grant of review of RAPs by the Environmental Appeals Board through the same means used to provide notice under § 270.145. The notice will include:

- (1) The briefing schedule for the appeal as provided by the Board;
- (2) A statement that any interested person may file an amicus brief with the Board; and
- (3) The information specified in § 270.145(c), as appropriate.

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(b) This appeal is a prerequisite to seeking judicial review of these EPA actions.

### **§ 270.160 When does my RAP become effective?**

Your RAP becomes effective 30 days after the Director notifies you and all commenters that your RAP is approved unless:

- (a) The Director specifies a later effective date in his decision;
- (b) You or another person has appealed your RAP under § 270.155 (if your RAP is appealed, and the request for review is granted under § 270.155, conditions of your RAP are stayed according to § 124.16 of this chapter); or
- (c) No commenters requested a change in the draft RAP, in which case the RAP becomes effective immediately when it is issued.

### **§ 270.165 When may I begin physical construction of new units permitted under the RAP?**

You must not begin physical construction of new units permitted under the RAP for treating, storing or disposing of hazardous remediation waste before receiving a finally effective RAP.

HOW MAY MY RAP BE MODIFIED, REVOKED AND REISSUED, OR TERMINATED?

### **§ 270.170 After my RAP is issued, how may it be modified, revoked and reissued, or terminated?**

In your RAP, the Director must specify, either directly or by reference, procedures for future modifications, revocations and reissuance, or terminations of your RAP. These procedures must provide adequate opportunities for public review and comment on any modification, revocation and reissuance, or termination that would significantly change your management of your remediation waste, or that otherwise merits public review and comment. If your RAP has been incorporated into a traditional RCRA permit, as allowed under § 270.85(c), then the RAP will be modified according to the applicable requirements in §§ 270.40 through 270.42, revoked and reissued