

Environmental Protection Agency

§ 270.4

(c) Meets the definition of tank or tank system in § 260.10 of this chapter.

[48 FR 14228, Apr. 1, 1983, as amended at 48 FR 30113, June 30, 1983; 53 FR 34087, Sept. 2, 1988; 53 FR 37935, Sept. 28, 1988; 58 FR 8685, Feb. 16, 1993; 60 FR 33914, June 29, 1995; 60 FR 63433, Dec. 11, 1995; 63 FR 65941, Nov. 30, 1998]

§ 270.3 Considerations under Federal law.

The following is a list of Federal laws that may apply to the issuance of permits under these rules. When any of these laws is applicable, its procedures must be followed. When the applicable law requires consideration or adoption of particular permit conditions or requires the denial of a permit, those requirements also must be followed.

(a) *The Wild and Scenic Rivers Act*. 16 U.S.C. 1273 *et seq.* Section 7 of the Act prohibits the Regional Administrator from assisting by license or otherwise the construction of any water resources project that would have a direct, adverse effect on the values for which a national wild and scenic river was established.

(b) *The National Historic Preservation Act of 1966*. 16 U.S.C. 470 *et seq.* Section 106 of the Act and implementing regulations (36 CFR part 800) require the Regional Administrator, before issuing a license, to adopt measures when feasible to mitigate potential adverse effects of the licensed activity and properties listed or eligible for listing in the National Register of Historic Places. The Act's requirements are to be implemented in cooperation with State Historic Preservation Officers and upon notice to, and when appropriate, in consultation with the Advisory Council on Historic Preservation.

(c) *The Endangered Species Act*. 16 U.S.C. 1531 *et seq.* Section 7 of the Act and implementing regulations (50 CFR part 402) require the Regional Administrator to ensure, in consultation with the Secretary of the Interior or Commerce, that any action authorized by EPA is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat.

(d) *The Coastal Zone Management Act*. 16 U.S.C. 1451 *et seq.* Section 307(c) of the Act and implementing regulations (15 CFR part 930) prohibit EPA from

issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the proposed activity complies with the State Coastal Zone Management program, and the State or its designated agency concurs with the certification (or the Secretary of Commerce overrides the State's nonconurrence).

(e) *The Fish and Wildlife Coordination Act*. 16 U.S.C. 661 *et seq.* requires that the Regional Administrator, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion, or other control or modification of any body of water, consult with the appropriate State agency exercising jurisdiction over wildlife resources to conserve those resources.

(f) *Executive orders*. [Reserved]

(Clean Water Act (33 U.S.C. 1251 *et seq.*), Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), Clean Air Act (42 U.S.C. 7401 *et seq.*), Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*))

[48 FR 14228, Apr 1, 1983, as amended at 48 FR 39622, Sept. 1, 1983]

§ 270.4 Effect of a permit.

(a) Compliance with a RCRA permit during its term constitutes compliance, for purposes of enforcement, with subtitle C of RCRA except for those requirements not included in the permit which:

(1) Become effective by statute;

(2) Are promulgated under part 268 of this chapter restricting the placement of hazardous wastes in or on the land;

(3) Are promulgated under part 264 of this chapter regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of § 270.42 Class 1 permit modifications; or

(4) Are promulgated under subparts AA, BB, or CC of part 265 of this chapter limiting air emissions.

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(b) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

(c) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

[48 FR 14228, Apr. 1, 1983, as amended at 57 FR 3495, Jan. 29, 1992; 59 FR 62952, Dec. 6, 1994]

§ 270.5 Noncompliance and program reporting by the Director.

The Director shall prepare quarterly and annual reports as detailed below. When the State is the permit-issuing authority, the State Director shall submit any reports required under this section to the Regional Administrator. When EPA is the permit-issuing authority, the Regional Administrator shall submit any report required under this section to EPA Headquarters. For purposes of this section only, RCRA permittees shall include RCRA interim status facilities, when appropriate.

(a) *Quarterly reports.* The Director shall submit quarterly narrative reports for major facilities as follows:

(1) *Format.* The report shall use the following format:

(i) Information on noncompliance for each facility;

(ii) Alphabetize by permittee name. When two or more permittees have the same name, the lowest permit number shall be entered first; and

(iii) For each entry on the list, include the following information in the following order:

(A) Name, location, and permit number of the noncomplying permittee.

(B) A brief description and date of each instance of noncompliance for that permittee. Instances of noncompliance may include one or more of the kinds set forth in paragraph (a)(2) of this section. When a permittee has noncompliance of more than one kind, combine the information into a single entry for each such permittee.

(C) The date(s) and a brief description of the action(s) taken by the Director to ensure compliance.

(D) Status of the instance(s) of noncompliance with the date of the review of the status or the date of resolution.

(E) Any details which tend to explain or mitigate the instance(s) of noncompliance.

(2) *Instances of noncompliance to be reported.* Any instances of noncompliance within the following categories shall be reported in successive reports until the noncompliance is reported as resolved. Once noncompliance is reported as resolved it need not appear in subsequent reports.

(i) *Failure to complete construction elements.* When the permittee has failed to complete, by the date specified in the permit, an element of a compliance schedule involving either planning for construction (for example, award of a contract, preliminary plans), or a construction step (for example, begin construction, attain operation level); and the permittee has not returned to compliance by accomplishing the required element of the schedule within 30 days from the date a compliance schedule report is due under the permit.

(ii) *Modifications to schedules of compliance.* When a schedule of compliance in the permit has been modified under § 270.41 or § 270.42 because of the permittee's noncompliance.

(iii) *Failure to complete or provide compliance schedule or monitoring reports.* When the permittee has failed to complete or provide a report required in a permit compliance schedule (for example, progress report or notice of noncompliance or compliance) or a monitoring report; and the permittee has not submitted the complete report within 30 days from the date it is due under the permit for compliance schedules, or from the date specified in the permit for monitoring reports.

(iv) *Deficient reports.* When the required reports provided by the permittee are so deficient as to cause misunderstanding by the Director and thus impede the review of the status of compliance.

(v) *Noncompliance with other permit requirements.* Noncompliance shall be reported in the following circumstances:

(A) Whenever the permittee has violated a permit requirement (other than reported under paragraph (a)(2)(i) or (ii) of this section), and has not returned to compliance within 45 days from the date reporting of noncompliance was due under the permit; or