**Section 702.163 Alternative Schedules of Compliance**

A RCRA or UIC permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and, for treatment or storage HWM facilities, by closing pursuant to applicable requirements; for disposal HWM facilities, by closing and conducting post-closure care pursuant to applicable requirements; or, for UIC wells, by plugging and abandonment), rather than continuing to operate and meet permit requirements as follows:

a) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit that has already been issued, either of the following must occur:

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

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

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

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

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

2) One schedule must lead to timely compliance with applicable requirements;

3) The second schedule must lead to cessation of regulated activities by a date that will ensure timely compliance with applicable requirements.

4) Each permit containing two alternative schedules must include a requirement that, after the permittee has made a final decision pursuant to subsection (c)(1), it must follow the schedule leading to compliance, if the decision is to continue conducting regulated activities, or follow the schedule leading to termination, if the decision is to cease conducting regulated activities.

d) The applicant's or permittee's decision to cease conducting regulated activities must be evidenced by a firm public commitment satisfactory to the Agency, such as a written resolution of the board of directors of a corporation.

BOARD NOTE: Derived from 40 CFR 144.53(b) and 270.33(b) (2017).

(Source: Amended at 42 Ill. Reg. 20953, effective November 19, 2018)