

Environmental Protection Agency

§ 124.1

124.42 Additional procedures for PSD permits affecting Class I areas.

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

SOURCE: 48 FR 14264, Apr. 1, 1983, unless otherwise noted.

Subpart A—General Program Requirements

§ 124.1 Purpose and scope.

(a) This part contains EPA procedures for issuing, modifying, revoking and reissuing, or terminating all RCRA, UIC, PSD and NPDES “permits” (including “sludge-only” permits issued pursuant to §122.1(b)(2) of this chapter. The latter kinds of permits are governed by part 270. RCRA interim status and UIC authorization by rule are not “permits” and are covered by specific provisions in parts 144, subpart C, and 270. This part also does not apply to permits issued, modified, revoked and reissued or terminated by the Corps of Engineers. Those procedures are specified in 33 CFR parts 320–327. The procedures of this part also apply to denial of a permit for the active life of a RCRA hazardous waste

management facility or unit under §270.29.

(b) Part 124 is organized into four subparts. Subpart A contains general procedural requirements applicable to all permit programs covered by these provisions. Subparts B through D supplement these general provisions with requirements that apply to only one or more of the programs. Subpart A describes the steps EPA will follow in receiving permit applications, preparing draft permits, issuing public notices, inviting public comment and holding public hearings on draft permits. Subpart A also covers assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeal of final permit decisions. Subpart B contains specific procedural requirements for RCRA permits. Subpart C contains definitions and specific procedural requirements for PSD permits. Subpart D contains specific procedural requirements for NPDES permits.

(c) Part 124 offers an opportunity for public hearings (see §124.12).

(d) This part is designed to allow permits for a given facility under two or more of the listed programs to be processed separately or together at the choice of the Regional Administrator. This allows EPA to combine the processing of permits only when appropriate, and not necessarily in all cases. The Regional Administrator may consolidate permit processing when the permit applications are submitted, when draft permits are prepared, or when final permit decisions are issued. This part also allows consolidated permits to be subject to a single public hearing under §124.12. Permit applicants may recommend whether or not their applications should be consolidated in any given case.

(e) Certain procedural requirements set forth in part 124 must be adopted by States in order to gain EPA approval to operate RCRA, UIC, NPDES, and 404 permit programs. These requirements are listed in §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA) and signaled by the following words at the end of the appropriate part 124 section or paragraph heading: (*applicable to State programs see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14*

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(RCRA)). Part 124 does not apply to PSD permits issued by an approved State.

(f) To coordinate decisionmaking when different permits will be issued by EPA and approved State programs, this part allows applications to be jointly processed, joint comment periods and hearings to be held, and final permits to be issued on a cooperative basis whenever EPA and a State agree to take such steps in general or in individual cases. These joint processing agreements may be provided in the Memorandum of Agreement developed under §§ 123.24 (NPDES), 145.24 (UIC), 233.24 (404), and 271.8 (RCRA).

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 9607, Mar. 7, 1989; 54 FR 18785, May 2, 1989; 65 FR 30910, May 15, 2000]

§ 124.2 Definitions.

(a) In addition to the definitions given in §§ 122.2 and 123.2 (NPDES), 501.2 (sludge management), 144.3 and 145.2 (UIC), 233.3 (404), and 270.2 and 271.2 (RCRA), the definitions below apply to this part, except for PSD permits which are governed by the definitions in § 124.41. Terms not defined in this section have the meaning given by the appropriate Act.

Administrator means the Administrator of the U.S. Environmental Protection Agency, or an authorized representative.

Application means the EPA standard national forms for applying for a permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in "approved States," including any approved modifications or revisions. For RCRA, application also includes the information required by the Director under §§ 270.14 through 270.29 [contents of Part B of the RCRA application].

Appropriate Act and regulations means the Clean Water Act (CWA); the Solid Waste Disposal Act, as amended by the Resource Conservation Recovery Act (RCRA); or Safe Drinking Water Act (SDWA), whichever is applicable; and applicable regulations promulgated under those statutes. In the case of an "approved State program" appropriate Act and regulations includes program requirements.

CWA means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act of Federal Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217 and Public Law 95-576; 33 U.S.C. 1251 *et seq.*

Director means the Regional Administrator, the State director or the Tribal director as the context requires, or an authorized representative. When there is no approved State or Tribal program, and there is an EPA administered program, *Director* means the Regional Administrator. When there is an approved State or Tribal program, "Director" normally means the State or Tribal director. In some circumstances, however, EPA retains the authority to take certain actions even when there is an approved State or Tribal program. (For example, when EPA has issued an NPDES permit prior to the approval of a State program, EPA may retain jurisdiction over that permit after program approval; see § 123.1) In such cases, the term "Director" means the Regional Administrator and not the State or Tribal director.

Draft permit means a document prepared under § 124.6 indicating the Director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a "permit." A notice of intent to terminate a permit and a notice of intent to deny a permit as discussed in § 124.5, are types of "draft permits." A denial of a request for modification, revocation and reissuance or termination, as discussed in § 124.5, is not a "draft permit." A "proposal permit" is not a "draft permit."

Environmental Appeals Board shall mean the Board within the Agency described in § 1.25(e) of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in RCRA, PSD, UIC, or NPDES permit appeals filed under this subpart, including informal appeals of denials of requests for modification, revocation and reissuance, or termination of permits under Section 124.5(b). An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation does not