

(vi) Identification of all threatened, endangered, and other protected species that might be susceptible to impingement and entrainment at your cooling water intake structures;

(vii) Documentation of any public participation or consultation with Federal or State agencies undertaken in development of the plan; and

(viii) If you supplement the information requested in paragraph (r)(4)(i) of this section with data collected using field studies, supporting documentation for the Source Water Baseline Biological Characterization must include a description of all methods and quality assurance procedures for sampling, and data analysis including a description of the study area; taxonomic identification of sampled and evaluated biological assemblages (including all life stages of fish and shellfish); and sampling and data analysis methods. The sampling and/or data analysis methods you use must be appropriate for a quantitative survey and based on consideration of methods used in other biological studies performed within the same source water body. The study area should include, at a minimum, the area of influence of the cooling water intake structure.

(5) *Cooling water system data.* Phase II existing facilities as defined in part 125, subpart J of this chapter must provide the following information for each cooling water intake structure they use:

(i) A narrative description of the operation of the cooling water system, its relationship to cooling water intake structures, the proportion of the design intake flow that is used in the system, the number of days of the year the cooling water system is in operation and seasonal changes in the operation of the system, if applicable; and

(ii) Design and engineering calculations prepared by a qualified professional and supporting data to support

the description required by paragraph (r)(5)(i) of this section.

[48 FR 14153, Apr. 1, 1983, as amended at 49 FR 31842, Aug. 8, 1984; 49 FR 38046, Sept. 26, 1984; 50 FR 6940, 6941, Feb. 19, 1985; 50 FR 35203, Aug. 29, 1985; 51 FR 26991, July 28, 1986; 53 FR 4158, Feb. 12, 1988; 53 FR 33007, Sept. 6, 1988; 54 FR 254, Jan. 4, 1989; 54 FR 18782, May 2, 1989; 55 FR 30128, July 24, 1990; 55 FR 48062, Nov. 16, 1990; 58 FR 9413, Feb. 19, 1993; 60 FR 17956, Apr. 7, 1995; 60 FR 33931, June 29, 1995; 60 FR 40235, Aug. 7, 1995; 64 FR 42462, Aug. 4, 1999; 64 FR 68838, Dec. 8, 1999; 65 FR 30905, May 15, 2000; 66 FR 65337, Dec. 18, 2001; 68 FR 7265, Feb. 12, 2003; 69 FR 41682, July 9, 2004; 70 FR 60191, Oct. 14, 2005; 71 FR 6983, Feb. 10, 2006; 71 FR 35039, June 16, 2006; 72 FR 11211, Mar. 12, 2007; 72 FR 40250, July 24, 2007]

EFFECTIVE DATE NOTE: At 72 FR 37109, July 9, 2007, §122.21(r)(1)(ii) and (r)(5) were suspended.

§ 122.22 Signatories to permit applications and reports (applicable to State programs, see § 123.25).

(a) *Applications.* All permit applications shall be signed as follows:

(1) *For a corporation.* By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

NOTE: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in § 122.22(a)(1)(i). The Agency will presume that

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these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under § 122.22(a)(1)(ii) rather than to specific individuals.

(2) *For a partnership or sole proprietorship.* By a general partner or the proprietor, respectively; or

(3) *For a municipality, State, Federal, or other public agency.* By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

(b) All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in paragraph (a) of this section;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,

(3) The written authorization is submitted to the Director.

(c) *Changes to authorization.* If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applica-

tions to be signed by an authorized representative.

(d) *Certification.* Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(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 14153, Apr. 1, 1983, as amended at 48 FR 39619, Sept. 1, 1983; 49 FR 38047, Sept. 29, 1984; 50 FR 6941, Feb. 19, 1985; 55 FR 48063, Nov. 16, 1990; 65 FR 30907, May 15, 2000]

§ 122.23 Concentrated animal feeding operations (applicable to State NPDES programs, see § 123.25).

(a) *Permit requirement for CAFOs.* Concentrated animal feeding operations, as defined in paragraph (b) of this section, are point sources that require NPDES permits for discharges or potential discharges. Once an operation is defined as a CAFO, the NPDES requirements for CAFOs apply with respect to all animals in confinement at the operation and all manure, litter and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.

(b) Definitions applicable to this section:

(1) *Animal feeding operation* ("AFO") means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

(i) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and