

## Environmental Protection Agency

## § 124.66

inadvisable, the request may be separated from the permit in accordance with paragraph (a)(3) of this section, and the administrative disposition of the existing draft permit shall proceed without delay.

(3) If the permit has become final and no application under §124.3 concerning it is pending or if the variance request has been separated from a draft permit as described in paragraphs (a) (1) and (2) of this section, the Regional Administrator may prepare a new draft permit and give notice of it under §124.10. This draft permit shall be accompanied by the fact sheet required by §124.8 except that the only matters considered shall relate to the requested variance.

[48 FR 14264, Apr. 1, 1983, as amended at 51 FR 16030, Apr. 30, 1986]

### § 124.64 Appeals of variances.

(a) When a State issues a permit on which EPA has made a variance decision, separate appeals of the State permit and of the EPA variance decision are possible. If the owner or operator is challenging the same issues in both proceedings, the Regional Administrator will decide, in consultation with State officials, which case will be heard first.

(b) Variance decisions made by EPA may be appealed under the provisions of §124.19.

(c) *Stays for section 301(g) variances.* If an appeal is filed under §124.19 of a variance requested under CWA section 301(g), any otherwise applicable standards and limitations under CWA section 301 shall not be stayed unless:

(1) In the judgment of the Regional Administrator, the stay or the variance sought will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity, or synergistic propensities; and

(2) In the judgment of the Regional Administrator, there is a substantial likelihood that the discharger will succeed on the merits of its appeal; and

(3) The discharger files a bond or other appropriate security which is required by the Regional Administrator

to assure timely compliance with the requirements from which a variance is sought in the event that the appeal is unsuccessful.

(d) Stays for variances other than section 301(g) variances are governed by §§124.16 and 124.60.

[48 FR 14264, Apr. 1, 1983, as amended at 65 FR 30912, May 15, 2000]

### § 124.65 [Reserved]

### § 124.66 Special procedures for decisions on thermal variances under section 316(a).

(a) The only issues connected with issuance of a particular permit on which EPA will make a final Agency decision before the final permit is issued under §§124.15 and 124.60 are whether alternative effluent limitations would be justified under CWA section 316(a) and whether cooling water intake structures will use the best available technology under section 316(b). Permit applicants who wish an early decision on these issues should request it and furnish supporting reasons at the time their permit applications are filed under §122.21. The Regional Administrator will then decide whether or not to make an early decision. If it is granted, both the early decision on CWA section 316 (a) or (b) issues and the grant of the balance of the permit shall be considered permit issuance under these regulations, and shall be subject to the same requirements of public notice and comment and the same opportunity for an appeal under §124.19.

(b) If the Regional Administrator, on review of the administrative record, determines that the information necessary to decide whether or not the CWA section 316(a) issue is not likely to be available in time for a decision on permit issuance, the Regional Administrator may issue a permit under §124.15 for a term up to 5 years. This permit shall require achievement of the effluent limitations initially proposed for the thermal component of the discharge no later than the date otherwise required by law. However, the permit shall also afford the permittee an opportunity to file a demonstration under CWA section 316(a) after conducting such studies as are required

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under 40 CFR part 125, subpart H. A new discharger may not exceed the thermal effluent limitation which is initially proposed unless and until its CWA section 316(a) variance request is finally approved.

(c) Any proceeding held under paragraph (a) of this section shall be publicly noticed as required by §124.10 and shall be conducted at a time allowing the permittee to take necessary measures to meet the final compliance date in the event its request for modification of thermal limits is denied.

(d) Whenever the Regional Administrator defers the decision under CWA section 316(a), any decision under section 316(b) may be deferred.

[48 FR 14264, Apr. 1, 1983, as amended at 65 FR 30912, May 15, 2000]

### Subparts E—F [Reserved]

### Subpart G—Procedures for RCRA Standardized Permit

SOURCE: 70 FR 53449, Sept. 8, 2005, unless otherwise noted.

#### GENERAL INFORMATION ABOUT STANDARDIZED PERMITS

#### § 124.200 What is a RCRA standardized permit?

The standardized permit is a special form of RCRA permit, that may consist of two parts: A uniform portion that the Director issues in all cases, and a supplemental portion that the Director issues at his or her discretion. We formally define the term “Standardized permit” in §124.2.

(a) What comprises the uniform portion? The uniform portion of a standardized permit consists of terms and conditions, relevant to the unit(s) you are operating at your facility, that EPA has promulgated in 40 CFR part 267 (Standards for Owners and Operators of Hazardous Waste Facilities Operating under a Standardized Permit). If you intend to operate under the standardized permit, you must comply with these nationally applicable terms and conditions.

(b) What comprises the supplemental portion? The supplemental portion of a standardized permit consists of site-

specific terms and conditions, beyond those of the uniform portion, that the Director may impose on your particular facility, as necessary to protect human health and the environment. If the Director issues you a supplemental portion, you must comply with the site-specific terms and conditions it imposes.

(1) When required under §267.101, provisions to implement corrective action will be included in the supplemental portion.

(2) Unless otherwise specified, these supplemental permit terms and conditions apply to your facility in addition to the terms and conditions of the uniform portion of the standardized permit and not in place of any of those terms and conditions.

#### § 124.201 Who is eligible for a standardized permit?

(a) You may be eligible for a standardized permit if:

(1) You generate hazardous waste and then store or non-thermally treat the hazardous waste on-site in containers, tanks, or containment buildings; or

(2) You receive hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and then you store or non-thermally treat the hazardous waste in containers, tanks, or containment buildings.

(3) In either case, the Director will inform you of your eligibility when a decision is made on your permit.

(b) [Reserved]

#### APPLYING FOR A STANDARDIZED PERMIT

#### § 124.202 How do I as a facility owner or operator apply for a standardized permit?

(a) You must follow the requirements in this subpart as well as those in §124.31, 40 CFR 270.10, and 40 CFR part 270, subpart J.

(b) You must submit to the Director a written Notice of Intent to operate under the standardized permit. You must also include the information and certifications required under 40 CFR part 270, subpart J.