

**§ 124.33 Information repository.**

(a) *Applicability.* The requirements of this section apply to all applications seeking RCRA permits for hazardous waste management units over which EPA has permit issuance authority. For the purposes of this section only, “hazardous waste management units over which EPA has permit issuance authority” refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR part 271.

(b) The Director may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the Director shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Director determines, at any time after submittal of a permit application, that there is a need for a repository, then the Director shall notify the facility that it must establish and maintain an information repository. (See 40 CFR 270.30(m) for similar provisions relating to the information repository during the life of a permit).

(c) The information repository shall contain all documents, reports, data, and information deemed necessary by the Director to fulfill the purposes for which the repository is established. The Director shall have the discretion to limit the contents of the repository.

(d) The information repository shall be located and maintained at a site chosen by the facility. If the Director finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the Director shall specify a more appropriate site.

(e) The Director shall specify requirements for informing the public about the information repository. At a minimum, the Director shall require the facility to provide a written notice about the information repository to all individuals on the facility mailing list.

(f) The facility owner/operator shall be responsible for maintaining and up-

dating the repository with appropriate information throughout a time period specified by the Director. The Director may close the repository at his or her discretion, based on the factors in paragraph (b) of this section.

**Subpart C—Specific Procedures Applicable to PSD Permits****§ 124.41 Definitions applicable to PSD permits.**

Whenever PSD permits are processed under this part, the following terms shall have the following meanings:

*Administrator, EPA, and Regional Administrator* shall have the meanings set forth in § 124.2, except when EPA has delegated authority to administer those regulations to another agency under the applicable subsection of 40 CFR 52.21, the term *EPA* shall mean the delegate agency and the term *Regional Administrator* shall mean the chief administrative officer of the delegate agency.

*Application* means an application for a PSD permit.

*Appropriate Act and Regulations* means the Clean Air Act and applicable regulations promulgated under it.

*Approved program* means a State implementation plan providing for issuance of PSD permits which has been approved by EPA under the Clean Air Act and 40 CFR part 51. An *approved State* is one administering an *approved program*. *State Director* as used in § 124.4 means the person(s) responsible for issuing PSD permits under an approved program, or that person’s delegated representative.

*Construction* has the meaning given in 40 CFR 52.21.

*Director* means the Regional Administrator.

*Draft permit* shall have the meaning set forth in § 124.2.

*Facility or activity* means a *major PSD stationary source* or *major PSD modification*.

*Federal Land Manager* has the meaning given in 40 CFR 52.21.

*Indian Governing Body* has the meaning given in 40 CFR 52.21.

*Major PSD modification* means a *major modification* as defined in 40 CFR 52.21.

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*Major PSD stationary source* means a *major stationary source* as defined in 40 CFR 52.21(b)(1).

*Owner or operator* means the owner or operator of any facility or activity subject to regulation under 40 CFR 52.21 or by an approved State.

*Permit or PSD permit* means a permit issued under 40 CFR 52.21 or by an approved State.

*Person* includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent or employee thereof.

*Regulated activity or activity subject to regulation* means a *major PSD stationary source* or *major PSD modification*.

*Site* means the land or water area upon which a *major PSD stationary source* or *major PSD modification* is physically located or conducted, including but not limited to adjacent land used for utility systems; as repair, storage, shipping or processing areas; or otherwise in connection with the *major PSD stationary source* or *major PSD modification*.

*State* means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa and includes the Commonwealth of the Northern Mariana Islands.

### § 124.42 Additional procedures for PSD permits affecting Class I areas.

(a) The Regional Administrator shall provide notice of any permit application for a proposed major PSD stationary source or major PSD modification the emissions from which would affect a Class I area to the Federal Land Manager, and the Federal official charged with direct responsibility for management of any lands within such area. The Regional Administrator shall provide such notice promptly after receiving the application.

(b) Any demonstration which the Federal Land Manager wishes to present under 40 CFR 52.21(q)(3), and any variances sought by an owner or operator under §52.21(q)(4) shall be submitted in writing, together with any necessary supporting analysis, by the end of the public comment period

under §124.10 or §124.118. (40 CFR 52.21(q)(3) provides for denial of a PSD permit to a facility or activity when the Federal Land Manager demonstrates that its emissions would adversely affect a Class I area even though the applicable increments would not be exceeded. 40 CFR 52.21(q)(4) conversely authorizes EPA, with the concurrence of the Federal Land Manager and State responsible, to grant certain variances from the otherwise applicable emission limitations to a facility or activity whose emissions would affect a Class I area.)

(c) Variances authorized by 40 CFR 52.21 (q)(5) through (q)(7) shall be handled as specified in those paragraphs and shall not be subject to this part. Upon receiving appropriate documentation of a variance properly granted under any of these provisions, the Regional Administrator shall enter the variance in the administrative record. Any decisions later made in proceedings under this part concerning that permit shall be consistent with the conditions of that variance.

### Subpart D—Specific Procedures Applicable to NPDES Permits

#### § 124.51 Purpose and scope.

(a) This subpart sets forth additional requirements and procedures for decisionmaking for the NPDES program.

(b) Decisions on NPDES variance requests ordinarily will be made during the permit issuance process. Variances and other changes in permit conditions ordinarily will be decided through the same notice-and-comment and hearing procedures as the basic permit.

(c) As stated in 40 CFR 131.4, an Indian Tribe that meets the statutory criteria which authorize EPA to treat the Tribe in a manner similar to that in which it treats a State for purposes of the Water Quality Standards program is likewise qualified for such treatment for purposes of State certification of water quality standards pursuant to section 401(a)(1) of the Act and subpart D of this part.

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