

U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS), as appropriate, of the permit application, and to provide a copy of the permit application if requested.

2. Notify applicants of the potential need for consultation between EPA and FWS and/or NMFS if the project may affect an endangered species, or if the project may affect essential fish habitat.

3. Refrain from issuing a final PSD permit until EPA has notified Ecology that EPA has satisfied its obligations, if any, under the ESA and/or the Magnuson-Stevens Act.

V. Permit Issuance, Modification, and Appeals

A. All preliminary and final determinations issued by Ecology under this Delegation Agreement shall indicate that an appeal to the EPA Administrator is available pursuant to 40 CFR part 124.

B. The permit provisions in 40 CFR 124.19 shall apply to all appeals to the EPA Administrator on PSD permits issued by Ecology under this Delegation Agreement, including those permits co-signed by EPA. For purposes of implementing the Federal permit appeal provisions under this delegation, if there is a public comment requesting a change in a preliminary determination or proposed permit condition, the final permit issued by Ecology is required to state that for federal PSD purposes and in accordance with 40 CFR 124.15 and 124.19:

1. The effective date of the permit is 30 days after service of notice to the applicant and commentors of the final decision to issue, modify, or revoke and reissue the permit, unless review is requested on the permit under 40 CFR 124.19 within the 30 day period.

2. If an appeal is made to the EPA Administrator, the effective date of the permit is suspended until such time as the appeal is resolved.

C. A PSD permit (or a portion of a PSD permit) for a change to a facility that is a major modification under the State PSD regulations but not the federal PSD regulations shall be enforceable under State law only and shall not be appealable to the EPA Environmental Appeals Board.

D. Modifications to existing PSD permits, except for administrative amendments, shall be processed in accordance with all of the substantive and procedural requirements applicable to new permits.

E. Failure by Ecology to comply with the requirements of 40 CFR part 124 related to PSD permits and this Section V. of the Delegation Agreement shall render the subject permit invalid for federal PSD purposes.

VI. Enforcement

A. Ecology or the local air authority with jurisdiction over the source will have the primary responsibility for enforcing the federal PSD regulations for sources subject to this Delegation Agreement, provided, however, that:

1. In the case of any requirement of the federal PSD regulations that is not also a requirement of the State PSD regulations, EPA retains primary enforcement authority.

2. Ecology shall have the responsibility under this Delegation Agreement to enforce the federal PSD regulations in the event that a local air authority does not.

3. In all cases, EPA retains authority pursuant to section 113 of the Clean Air Act with respect to sources that are subject to the federal PSD requirements, including federal PSD permits issued by Ecology.

B. In delegated programs, the role of the State and local agencies is that of primary enforcer or "front line" agency in program implementation. This includes helping to define EPA's role in the regulated community for a given program. EPA's principal role is "back up" for the State/local program.

However, EPA will initiate an enforcement action, as appropriate, under the following circumstances:

1. At the State or local air agency's request;

2. If a State or local air agency action is determined to be inadequate, or the State/local agency fails to carry out action in a timely or appropriate manner (in this situation, the parties will adhere to the "no surprises" principle and will follow the conflict resolution process described in Section IX of the *Washington State Compliance Assurance Agreement for Air Programs (October 1999)*); and/or

3. As part of EPA's role established in the collaborative planning process, which includes those situations where national, regional, or sector initiatives warrant an EPA lead.

C. PSD enforcement actions under this Delegation Agreement will be undertaken by qualified inspectors or trained enforcement staff in Ecology's Regional Offices, the Ecology's Industrial Section, Ecology's Air Quality Program Headquarters, Ecology's Nuclear and Mixed Waste Program, or local air authorities.

D. Enforcement of the federal PSD regulations is subject to the *Washington State Compliance Assurance Agreement for Air Programs (October 1999)*, signed by both the State and local agencies. This clearly defines roles and responsibilities, including timely and appropriate enforcement response and the maintenance of the Aerometric Information Retrieval System/Aerometric Facility Subsystem (AIRS/AFS).

VII. EPA and Ecology Communications

A. Ecology shall submit to EPA copies of the following documents, within the timeframes indicated, for sources or activities subject to this Delegation Agreement:

Action	Submittal to EPA	Timeframe
Written applicability determination that a proposed source or activity is subject to or exempt from federal PSD regulations.	Copy of request and final determination	Within five working days after signature.
Receipt of PSD permit application *	Copy of application and cover letter	Within five working days after receipt.
Completeness determination or letter of deficiencies *.	Copy of letter to applicant	Within five working days after signature.
Transmittal to Federal Land Manager (FLM) of PSD application *.	Copy of letter	Within five working days after signature.
Receipt of comments from FLM *	Copy of comment letter	Within five working days of receipt.
Preliminary determination, proposed PSD permit, public notice.	Copy of preliminary determination, proposed PSD permit, and public notice.	Within five working days after completion of preliminary determination.
Public notice of hearing (see 52.21(u)(2)(ii)) * ...	Copy of notice	Prior to publication.
Receipt of comments from public *	Copy of public comment letter(s)	Within five working days of the close of the public comment period.
Final determination, PSD permit and transmittal letter.	Copy of final determination PSD permit and transmittal letter.	Within five working days after final signature on PSD permit.
BACT determination submittal to RACT/BACT/LAER Clearinghouse.	Electronic or paper submittal of required information.	Within 20 working days of final signature on PSD permit.
Receipt of EUSGU projected actual emissions information (see Section III.A.2(i)(A)(III)).	Copy of information	Within five working days after receipt.
Receipt of EUSGU actual annual emissions report (see Section III.A.2 (i)(A)(IV)).	Copy of report	Within five working days after receipt.
Receipt of non-EUSGU actual annual emissions report (see Section III.A.2 (i)(B)(II)).	Copy of report	Within five working days after receipt.
Issuance of Clean Unit I Re-designation through WAC 173-400-141 (see Section III.A.2 (ii)(A)(III)).	Copy of request and final action	Within five working days after issuance.