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# 40 C.F.R. § 125.59

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## General.

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(a) *Basis for application.* An application under this subpart shall be based on a current, improved, or altered discharge into ocean waters or saline estuarine waters.

(b) *Prohibitions.* No section 301(h) modified permit shall be issued:

(1) Where such issuance would not assure compliance with all applicable requirements of this subpart and part 122;

(2) For the discharge of sewage sludge;

(3) Where such issuance would conflict with applicable provisions of State, local, or other Federal laws or Executive Orders. This includes compliance with the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*; the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*; and Title III of the Marine Protection, Research and Sanctuaries Act, as amended, 16 U.S.C. 1431 *et seq.*;

(4) Where the discharge of any pollutant enters into saline estuarine waters which at the time of application do not support a balanced indigenous population of shellfish, fish, and wildlife, or allow recreation in and on the waters or which exhibit ambient water quality below applicable water quality standards adopted for the protection of public water supplies, shellfish, fish, and wildlife or recreational activities or such other standards necessary to assure support and protection of such uses. The prohibition contained in the preceding sentence shall apply without regard to the presence or absence of a causal relationship between such characteristics and the applicant's current or proposed discharge; or

(5) Where the discharge of any pollutant is into the New York Bight Apex.

(c) *Applications.* Each applicant for a modified permit under this subpart shall submit an application to EPA signed in compliance with 40 CFR part 122, subpart B, which shall contain:

(1) A signed, completed NPDES Application Standard form A, parts I, II, III;

(2) A completed Application Questionnaire;

(3) The certification in accordance with 40 CFR 122.22(d);

(4) In addition to the requirements of § 125.59(c) (1) through (3), applicants for permit renewal shall support continuation of the modification by supplying to EPA the results of studies and monitoring performed in accordance with § 125.63 during the life of the permit. Upon a demonstration meeting the statutory criteria and requirements of this subpart, the permit may be renewed under the applicable procedures of 40 CFR part 124.

(d) *Revisions to applications.* (1) POTWs which submitted applications in accordance with the June 15, 1979, regulations (44 FR 34784) may revise their applications one time following a tentative decision to propose

changes to treatment levels and/or outfall and diffuser location and design in accordance with § 125.59(f)(2)(i); and

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