Environmental Protection Agency

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approve both the State program and the permit terms and conditions within 90 days of receiving a complete request for approval.

(d) Approval criteria for alternative requirements. Any request for approval under this paragraph shall meet the following criteria. Taken together, the criteria in this paragraph describe the minimum contents of a State’s equivalency demonstration for a promulgated Federal section 112 rule, emission standard, or requirement. To be approvable, the State submittal must contain sufficient detail to allow the Administrator to make a determination of equivalency between the State’s alternative requirements and the Federal requirements. Each submittal of alternative requirements in the form of pre-draft permit terms and conditions for an affected source shall:

(1) Identify the specific, practicably enforceable terms and conditions with which the source would be required to comply upon issuance, renewal, or revision of the title V permit. The State shall submit permit terms and conditions that reflect all of the requirements of the otherwise applicable Federal section 112 rule, emission standard, or requirement. The State shall identify for the Administrator the specific permit terms and conditions that contain alternative requirements.

(2) Identify specifically how the alternative requirements in the form of permit terms and conditions are the same as or differ from the requirements in the otherwise applicable Federal section 112 rule, emission standard, or requirement (including any applicable requirements in subpart A or other subparts or appendices). The State shall provide this identification in a side-by-side comparison of the State’s requirements in the form of permit terms and conditions and the requirements of the Federal section 112 rule, emission standard, or requirement.

(3) The State shall provide the Administrator with detailed documentation that demonstrates that the alternative requirements meet the criteria specified in §63.93(b), i.e., that the alternative requirements are at least as stringent as the otherwise applicable Federal requirements.

(e) Incorporation of permit terms and conditions into title V permits. (1) After approval of the State’s alternative requirements under this section, the State shall incorporate the approved permit terms and conditions into title V permits for the affected sources. The State shall issue or revise the title V permits according to the provisions contained in §70.7 of this chapter. The alternative permit terms and conditions may substitute for the Federal requirements once they are contained in a valid title V permit. If the State does not write the alternative conditions, exactly as approved, into the permit, EPA may reopen the permit for cause per §70.7(g) of this chapter, and the delegation may not occur.

(2) In the notice of pre-draft permit availability, and in each pre-draft, proposed, and final permit, the State shall indicate prominently that the permit contains alternative section 112 requirements. In the notice of pre-draft permit availability, the State shall specifically solicit public comment on the alternative requirements. In addition, the State shall attach all documents supporting the approved equivalency determination for those alternative requirements to each pre-draft, proposed, and final permit.

[65 FR 55841, Sept. 14, 2000]

§ 63.95 Additional approval criteria for accidental release prevention programs.

(a) A State submission for approval of a part 68 program must meet the criteria and be in accordance with the procedures of this section, §63.91, and, where appropriate, either §63.92 or §63.93.

(b) The State part 68 program application shall contain the following elements consistent with the procedures in §63.91 and, where appropriate, either §63.92 or §63.93 of this subpart, for at least the chemicals listed in part 68 subpart F (“federally-listed chemicals”) that an approvable State Accidental Release Prevention program is regulating:

(1)(i) A demonstration of the State’s authority and resources to implement and enforce regulations that are no less stringent than the regulations of part
§ 63.96 Review and withdrawal of approval.

(a) Submission of information for review of approval. (1) The Administrator may at any time request any of the following information to review the adequacy of implementation and enforcement of an approved rule or program and the State shall provide that information within 45 days of the Administrator’s request:

(i) Copies of any State statutes, rules, regulations or other requirements that have amended, repealed or revised the approved State rule or program since approval or since the immediately previous EPA review;

(ii) Information to demonstrate adequate State enforcement and compliance monitoring activities with respect to all approved State rules and with all section 112 rules, emission standards or requirements;

(iii) Information to demonstrate adequate funding, staff, and other resources to implement and enforce the State’s approved rule or program;

(iv) A schedule for implementing the State’s approved rule or program that assures compliance with all section 112 rules and requirements that the EPA has promulgated since approval or since the immediately previous EPA review.

(v) A list of part 70 or other permits issued, amended, revised, or revoked since approval or since immediately previous EPA review, for sources subject to a State rule or program approved under this subpart.

(vi) A summary of enforcement actions by the State regarding violations of section 112 requirements, including but not limited to administrative orders and judicial and administrative complaints and settlements.

(2) Upon request by the Administrator, the State shall demonstrate that each State rule, emission standard or requirement applied to an individual source is no less stringent as applied than the otherwise applicable Federal rule, emission standard or requirement.

(b) Withdrawal of approval of a state rule or program. (1) If the Administrator has reason to believe that a State is not adequately implementing or enforcing an approved rule or program according to the criteria of this section or that an approved rule or program is not as stringent as the otherwise applicable Federal rule, emission standard or requirements, the Administrator will so inform the State in writing and will identify the reasons why the Administrator believes that the State’s rule or program is not adequate. The State shall then initiate action to correct the deficiencies identified by the Administrator and shall inform the Administrator of the actions it has initiated and completed. If the Administrator determines that the