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briefs, oral argument, the taking of additional evidence or the remanding to the presiding officer for additional proceedings. The decision by the Administrator will include written findings and conclusions and the reasons or basis therefore on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

§ 53.14 Modification of a reference or equivalent method.

(a) An applicant who offers a method for sale as a reference or equivalent method shall report to the EPA Administrator prior to implementation any intended modification of the method, including but not limited to modifications of design or construction or of operational and maintenance procedures specified in the operation manual (see § 53.9(g)). The report shall be signed by an authorized representative of the applicant, marked in accordance with § 53.15 (if applicable), and addressed as specified in § 53.4(a).

(b) A report submitted under paragraph (a) of this section shall include:

(1) A description, in such detail as may be appropriate, of the intended modification.

(2) A brief statement of the applicant's belief that the modification will, will not, or may affect the performance characteristics of the method.

(3) A brief statement of the probable effect if the applicant believes the modification will or may affect the performance characteristics of the method.

(4) Such further information, including test data, as may be necessary to explain and support any statement required by paragraphs (b)(2) and (b)(3) of this section.

(c) Within 90 calendar days after receiving a report under paragraph (a) of this section, the Administrator will take one or more of the following actions:

(1) Notify the applicant that the designation will continue to apply to the method if the modification is implemented.

(2) Send notice to the applicant that a new designation will apply to the method (as modified) if the modification is implemented, submit notice of the determination for publication in the FEDERAL REGISTER, and revise or supplement the list referred to in § 53.8(c) to reflect the determination.

(3) Send notice to the applicant that the designation will not apply to the method (as modified) if the modification is implemented and submit notice of the determination for publication in the FEDERAL REGISTER.

(4) Send notice to the applicant that additional information must be submitted before a determination can be made and specify the additional information that is needed (in such cases, the 30-day period shall commence upon receipt of the additional information).

(5) Send notice to the applicant that additional tests are necessary and specify what tests are necessary and how they shall be interpreted (in such cases, the 30-day period shall commence upon receipt of the additional test data).

(6) Send notice to the applicant that additional tests will be conducted by the Administrator and specify the reasons for and the nature of the additional tests (in such cases, the 30-day period shall commence 1 calendar day after the additional tests are completed).

(d) An applicant who has received a notice under paragraph (c)(3) of this section may appeal the Administrator's action as follows:

(1) The applicant may submit new or additional information pertinent to the intended modification.

(2) The applicant may request the Administrator to reconsider data and information already submitted.

(3) The applicant may request that the Administrator repeat any test conducted that was a material factor in the Administrator's determination. A representative of the applicant may be present during the performance of any such retest.

[62 FR 38784, July 18, 1997, as amended at 80 FR 65460, Oct. 26, 2015]

§ 53.15 Trade secrets and confidential or privileged information.

Any information submitted under this part that is claimed to be a trade secret or confidential or privileged information shall be marked or otherwise clearly identified as such in the submittal. Information so identified will

be treated in accordance with part 2 of this chapter (concerning public information).

§ 53.16 Supersession of reference methods.

(a) This section prescribes procedures and criteria applicable to requests that the Administrator specify a new reference method, or a new measurement principle and calibration procedure on which reference methods shall be based, by revision of the appropriate appendix to part 50 of this chapter. Such action will ordinarily be taken only if the Administrator determines that a candidate method or a variation thereof is substantially superior to the existing reference method(s).

(b) In exercising discretion under this section, the Administrator will consider:

(1) The benefits, in terms of the requirements and purposes of the Act, that would result from specifying a new reference method or a new measurement principle and calibration procedure.

(2) The potential economic consequences of such action for State and local control agencies.

(3) Any disruption of State and local air quality monitoring programs that might result from such action.

(c) An applicant who wishes the Administrator to consider revising an appendix to part 50 of this chapter on the ground that the applicant's candidate method is substantially superior to the existing reference method(s) shall submit an application for a reference or equivalent method determination in accordance with § 53.4 and shall indicate therein that such consideration is desired. The application shall include, in addition to the information required by § 53.4, data and any other information supporting the applicant's claim that the candidate method is substantially superior to the existing reference method(s).

(d) After receiving an application under paragraph (c) of this section, the Administrator will publish notice of its receipt in the FEDERAL REGISTER and, within 120 calendar days after receipt of the application, take one of the following actions:

(1) Determine that it is appropriate to propose a revision of the appendix to part 50 of this chapter in question and send notice of the determination to the applicant.

(2) Determine that it is inappropriate to propose a revision of the appendix to part 50 of this chapter in question, determine whether the candidate method is a reference or equivalent method, and send notice of the determinations, including a statement of reasons for the determination not to propose a revision, to the applicant.

(3) Send notice to the applicant that additional information must be submitted before a determination can be made and specify the additional information that is needed (in such cases, the 120-day period shall commence upon receipt of the additional information).

(4) Send notice to the applicant that additional tests are necessary, specifying what tests are necessary and how the test shall be interpreted (in such cases, the 120-day period shall commence upon receipt of the additional test data).

(5) Send notice to the applicant that additional tests will be conducted by the Administrator, specifying the nature of and reasons for the additional tests and the estimated time required (in such cases, the 120-day period shall commence 1 calendar day after the additional tests have been completed).

(e)(1)(i) After making a determination under paragraph (d)(1) of this section, the Administrator will publish a notice of proposed rulemaking in the FEDERAL REGISTER. The notice of proposed rulemaking will indicate that the Administrator proposes:

(A) To revise the appendix to part 50 of this chapter in question.

(B) Where the appendix specifies a measurement principle and calibration procedure, to cancel reference method designations based on the appendix.

(C) To cancel equivalent method designations based on the existing reference method(s).

(ii) The notice of proposed rulemaking will include the terms or substance of the proposed revision, will indicate what period(s) of time the Administrator proposes to allow for replacement of existing methods under