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(ii) If a standard in the approved authorities is not instantaneous, a maximum averaging time must be established.

(iii) The authorities must establish an obligation to periodically monitor or test for compliance using the method established per § 63.93(b)(4)(i) sufficient to yield reliable data that are representative of the source's compliance status.

[58 FR 62283, Nov. 26, 1993, as amended at 61 FR 36298, July 10, 1996]

**§ 63.94 Approval of a State program that substitutes for section 112 emission standards.**

Under this section a State may seek approval of a State program to be implemented and enforced in lieu of specified existing and future Federal emission standards or requirements promulgated under sections 112(d), (f) or (h), for those affected sources permitted by the State under part 70 of this chapter.

(a) *Approval process.* (1) Within 45 days after receipt of a complete request for approval under this section the Administrator will seek public comment for a minimum of 30 days on the State request for approval. The Administrator will require that comments be submitted concurrently to the State.

(2) If, after review of all public comments, and State responses to comments submitted to the Administrator within 30 days of the close of the public comment period, the Administrator finds that the criteria of this section and the criteria of § 63.91 are met, the State program will be approved by the Administrator. The approved State commitment made under paragraph (b)(2) of this section and reference to all documents submitted under § 63.91(b)(2) will be published in the FEDERAL REGISTER and incorporated directly or by reference in the appropriate subpart of part 63.

(3) If the Administrator finds that any of the criteria of this section or § 63.91 have not been met, the Administrator will disapprove the State program.

(4) Within 180 days of receiving a complete request for approval under this section, the Administrator will ei-

ther approve or disapprove the State request.

(b) *Criteria for approval.* Any request for approval under this section shall meet all of the criteria of this section and § 63.91 before approval. The State shall provide the Administrator with:

(1) A reference to all specific sources or source categories listed pursuant to subsection 112(c) for which the State is seeking authority to implement and enforce standards or requirements under this section;

(2) A legally binding commitment adopted through State law that, after approval:

(i) For each source subject to Federal section 112 emission standards or requirements for which approval is sought, part 70 permits shall be issued or revised by the State in accordance with procedures established in part 70 of this chapter and in accordance with the schedule submitted under § 63.91(b)(5) assuring expeditious compliance by all sources; and

(ii) All such issued or revised part 70 permits shall contain conditions that:

(A) Reflect applicability criteria no less stringent than those in the otherwise applicable Federal standards or requirements;

(B) Require levels of control for each affected source and emission point no less stringent than those contained in the otherwise applicable Federal standards or requirements;

(C) Require compliance and enforcement measures for each source and emission point no less stringent than those in the otherwise applicable Federal standards or requirements;

(D) Express levels of control and compliance and enforcement measures in the same form and units of measure as the otherwise applicable Federal standard or requirement;

(E) Assure compliance by each affected source no later than would be required by the otherwise applicable Federal standard or requirement.

**§ 63.95 Additional approval criteria for accidental release prevention programs.**

(a) A State submission for approval of an Accidental Release Prevention (ARP) program must meet the criteria

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and be in accordance with the procedures of this section, § 63.91, and, where appropriate, either § 63.92 or § 63.93.

(b) The State ARP program application shall contain the following elements consistent with the procedures in § 63.91 and, where appropriate, either § 63.92 or § 63.93:

(1) A demonstration of the State's authority and resources to implement and enforce regulations which are at least as stringent as regulations promulgated under section 112(r) that specify substances, related thresholds and a risk management program,

(2) Procedures for:

(i) Registration of stationary sources, as defined in section 112(r)(2)(C) of the Act, which clearly identifies the State entity to receive the registration;

(ii) Receiving and reviewing risk management plans;

(iii) Making available to the public any risk management plan submitted to the State pursuant to provisions specified in section 112(r) which are consistent with section 114(c) of the Act; and

(iv) Providing technical assistance to subject sources, including small businesses;

(3) A demonstration of the State's authority to enforce all accidental release prevention requirements including a risk management plan auditing strategy;

(4) A description of the coordination mechanisms the State implementing agency will use with:

(i) The Chemical Safety and Hazard Investigation Board, particularly during accident investigation. This requirement will not take effect until the Chemical Safety and Hazard Investigation Board is convened; and

(ii) The State Emergency Response Commission, and the Local Emergency Planning Committees; and

(iii) The air permitting program with respect to sources subject to both section 112(r) of the Act and permit requirements under part 70 of this chapter.

(c) A State may request approval for a complete or partial program. A partial accidental release prevention program must include the core program

elements listed in paragraph (b) of this section.

[58 FR 62283, Nov. 26, 1993, as amended at 61 FR 36298, July 10, 1996]

### § 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.