

§ 65.9

(d) *Compliance.* If the Administrator makes a determination that a means of emission limitation is a permissible alternative to the requirements of design, equipment, work practice, or operational standards of this part, the owner or operator shall either comply with the alternative or comply with the requirements of this part.

§ 65.9 Availability of information and confidentiality.

(a) *Availability of information.* The availability to the public of information provided to, or otherwise obtained by, the Administrator under this part shall be governed by part 2 of this chapter. With the exception of information protected under part 2 of this chapter, all reports, records, and other information collected by the Administrator under this part are available to the public. In addition, a copy of each permit application, compliance plan (including the schedule of compliance), initial compliance status report, periodic report, and title V permit is available to the public, consistent with protections recognized in section 503(e) of the Act.

(b) *Confidentiality.* (1) If an owner or operator is required to submit information entitled to protection from disclosure under section 114(c) of the Act, the owner or operator may submit such information separately. The requirements of section 114(c) shall apply to such information.

(2) The contents of a title V permit shall not be entitled to protection under section 114(c) of the Act; however, information submitted as part of an application for a title V permit may be entitled to protection from disclosure.

§ 65.10 State authority.

(a) The provisions of this part shall not be construed in any manner to preclude any State or political subdivision thereof from adopting and enforcing any emission standard or limitation applicable to a regulated source, provided that such standard, limitation, prohibition, or other regulation is not less stringent than the standard applicable to such a regulated source.

(b) The provisions of this part shall not be construed in any manner to pre-

40 CFR Ch. I (7-1-03 Edition)

clude any State or political subdivision thereof from requiring the owner or operator of a regulated source to obtain permits, licenses, or approvals prior to initiating construction, modification, or operation of such a regulated source.

§ 65.11 Circumvention and prohibited activities.

(a) *Circumvention.* (1) No owner or operator subject to the provisions of this part shall build, erect, install, or use any article, machine, equipment, or process to conceal an emission that would otherwise constitute noncompliance with a relevant standard. Such concealment includes, but is not limited to, the following:

(1) The use of diluents to achieve compliance with a relevant standard based on the concentration of a pollutant in the effluent discharged to the atmosphere; and

(2) The fragmentation of an operation for the purpose of avoiding regulation by a relevant standard.

(b) *Prohibited activities.* (1) No owner or operator subject to the provisions of this part shall operate any regulated source in violation of the requirements of this part except under the following provisions:

(i) An extension or waiver of compliance granted by the Administrator under an applicable part; or

(ii) An extension of compliance granted under an applicable part by a State with an approved permit program; or

(iii) An exemption from compliance granted by the President under section 112(i)(4) of the Act.

(2) After the effective date of an approved permit program in a State, no owner or operator of a regulated source in that State who is required under an applicable part to obtain a title V permit shall operate such source except in compliance with the provisions of this part and the applicable requirements of the permit program in that State.

(3) An owner or operator of a regulated source who is subject to an emission standard promulgated under this part or a referencing part shall comply with the requirements of that standard

Environmental Protection Agency

§ 65.14

by the date(s) established in the applicable subpart(s) (including this subpart) regardless of whether the following criteria are met:

(i) A title V permit has been issued to that source; or

(ii) If a title V permit has been issued to that source, whether such permit has been revised or modified to incorporate the emission standard.

(c) *Severability.* Notwithstanding any requirement incorporated into a title V permit obtained by an owner or operator subject to the provisions of this part, the provisions of this part are federally enforceable.

§ 65.12 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under sections 111(c) and 112(l) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) Authorities that will not be delegated to States: §§ 65.8, 65.46, 65.102, 65.156(b)(1)(ii), and 65.158(a)(2)(ii).

§ 65.13 Incorporation by reference.

(a) The materials listed in this section are incorporated by reference in the corresponding sections noted. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the FEDERAL REGISTER. The materials are available for purchase at the corresponding addresses noted in paragraph (b) of this section, and all are available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC; at the Air and Radiation Docket and Information Center, U.S. EPA, 401 M Street, SW., Washington, DC; and at the EPA Library (MD-35), U.S. EPA, Research Triangle Park, North Carolina.

(b) The materials listed in this paragraph (b) are available for purchase from at least one of the following addresses: American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania

19103; or University Microfilms International, 300 North Zeeb Road, Ann Arbor, Michigan 48106.

(1) ASTM D1946-77, Standard Method for Analysis of Reformed Gas by Gas Chromatography, IBR approved December 14, 2000 for §§ 65.64(e)(2) and 65.147(a)(4)(i) and (b)(3)(ii).

(2) ASTM D2382-76, Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method). IBR approved December 14, 2000 for §§ 65.64(e)(1) and 65.147(b)(3)(ii).

§ 65.14 Addresses.

(a) All requests, reports, applications, notifications, and other communications submitted pursuant to this part, except as specified under § 65.5(g)(1), shall be sent to the Administrator at the appropriate EPA Regional Office indicated in the following list:

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), Director, Air Management Division, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

Region II (New Jersey, New York, Puerto Rico, Virgin Islands), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 290 Broadway, New York, New York 10007.

Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303.

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), Director, Air Management Division, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604-3507.

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas); Director; Compliance Assurance and Enforcement Division; U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

Region VII (Iowa, Kansas, Missouri, Nebraska), Director, Air and Toxics Division, U.S. Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101.