

Environmental Protection Agency

§ 65.7

CPMS, the air pollution control equipment, or the regulated source that has occurred; or

(ii) Fails to provide for the operation of the regulated source (including associated air pollution control equipment and CPMS) during a startup, shutdown, and malfunction event in a manner consistent with good air pollution control practices for minimizing emissions to the extent practical; or

(iii) Does not provide adequate procedures for correcting malfunctioning process and/or air pollution control equipment as quickly as practicable; or

(iv) Does not provide adequate measures to prevent or minimize excess emissions to the extent practical as specified and defined in § 65.3(a)(4).

(5) *Additional malfunction plan requirements.* If the startup, shutdown, and malfunction plan fails to address or inadequately addresses an event that meets the characteristics of a malfunction but was not included in the startup, shutdown, and malfunction plan at the time the owner or operator developed the plan, the owner or operator shall revise the startup, shutdown, and malfunction plan within 45 days after the event to include detailed procedures for operating and maintaining the regulated source during similar malfunction events, and a program of corrective action for similar malfunctions of process or air pollution control equipment or CPMS.

(6) *Retain plan on site.* The current plan must be kept on site at all times.

(c) *Periodic startup, shutdown, and malfunction reports.* During the reporting period, reports shall only be required for startup, shutdown, and malfunction during which excess emissions as defined in § 65.3(a)(4) occur. A startup, shutdown, and malfunction report can be submitted as part of a periodic report required under § 65.5(e), or on a more frequent basis if specified otherwise in a relevant standard or as established otherwise by the permitting authority in the source's title V permit. The startup, shutdown, and malfunction report shall be delivered or post-marked by the 30th day following the end of each calendar half (or other calendar reporting period, as appropriate), unless the information is submitted with the periodic report. The report

shall include the following information, as appropriate:

(1) The name, title, and signature of the owner or operator or other responsible official certifying its accuracy.

(2) The number of startup, shutdown, malfunction events and the total duration of all periods of startup, shutdown, and malfunction for the reporting period.

(3) If actions taken by an owner or operator during a startup, shutdown, and malfunction of a regulated source, or of a control device or monitoring system required for compliance (including actions taken to correct a malfunction) are consistent with the procedures specified in the source's startup, shutdown, and malfunction plan, then the owner or operator shall state such information in a startup, shutdown, and malfunction report.

(4) If at any time an action taken by an owner or operator, during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) during which excess emissions occur, as defined in § 65.3(a)(4), is not consistent with the procedures specified in the regulated source's startup, shutdown, and malfunction plan, the owner or operator shall report the actions taken for that event as part of the periodic report. The report shall explain the circumstances of the event, the reasons for not following the startup, shutdown, and malfunction plan, and whether any excess emissions and/or parameter monitoring exceedances are believed to have occurred.

§ 65.7 Monitoring, recordkeeping, and reporting waivers and alternatives.

(a) *Waiver of recordkeeping or reporting requirements—*(1) *Waiver application.* The owner or operator may apply for a waiver from recordkeeping or reporting requirements if the regulated source is achieving the relevant standard(s), or the source is operating under an extension of compliance under 40 CFR 63.6(i), or a waiver of compliance under 40 CFR 61.10(b), or the owner or operator has requested an extension or waiver of compliance and the Administrator is still considering that request. The waiver application shall be submitted in writing to the Administrator.

(2) *Extension of compliance request.* If an application for a waiver of recordkeeping or reporting is made, the application shall accompany the request for an extension of compliance under 40 CFR 63.6(i) or the request for a waiver of compliance under 40 CFR 61.10(b), any required compliance progress report or compliance status report required in the source's title V permit application or a permit modification application, or a periodic report required under this part, whichever is applicable. The application shall include whatever information the owner or operator considers useful to convince the Administrator that a waiver of recordkeeping or reporting is warranted.

(3) *Approval or denial of waiver.* The Administrator will approve or deny a request for a waiver of recordkeeping or reporting requirements when performing one of the following actions:

(i) Approves or denies an extension of compliance under 40 CFR 63.6(i) or a waiver of compliance under 40 CFR 61.10(b); or

(ii) Makes a determination of compliance following the submission of a required compliance status report or periodic report; or

(iii) Makes a determination of suitable progress toward compliance following the submission of a compliance progress report, whichever is applicable.

(4) *Waiver conditions.* A waiver of any recordkeeping or reporting requirement granted under this paragraph (a) may be conditioned on other recordkeeping or reporting requirements deemed necessary by the Administrator.

(5) *Waiver cancellation.* Approval of any waiver granted under this section shall not abrogate the Administrator's authority under the Act or in any way prohibit the Administrator from later canceling the waiver. The cancellation will be made only after notice is given to the owner or operator of the regulated source.

(b) *Requests for approval of alternative monitoring or recordkeeping.* An owner or operator may submit a written request for approval to use alternatives to the monitoring or recordkeeping provisions of this part. For process vents and transfer racks, except low-

throughput transfer racks, the provisions in paragraph (c) of this section shall govern the review and approval of requests. In addition, the application shall include information justifying the owner or operator's request for an alternative monitoring or recordkeeping method, such as the technical or economic infeasibility, or the impracticality, of the regulated source using the required method. For storage vessels and low throughput transfer racks, owners and operators shall comply with the requirements of § 65.145(b) for preparing and submitting a design evaluation. For equipment leaks, owners and operators shall comply with the recordkeeping requirements of § 65.163(d).

(c) *Approval or denial of request to use alternative monitoring or recordkeeping.* The Administrator will notify the owner or operator of approval or intention to deny approval of the request to use an alternative monitoring or recordkeeping method within 90 calendar days after receipt of the original request and within 30 calendar days after receipt of any supplementary information that is submitted. Before disapproving any request to use an alternative method, the Administrator will notify the applicant of the Administrator's intention to disapprove the request together with the following:

(1) Notice of the information and findings on which the intended disapproval is based; and

(2) Notice of opportunity for the owner or operator to present additional information to the Administrator before final action on the request. At the time the Administrator notifies the applicant of the intention to disapprove the request, the Administrator will specify how much time the owner or operator will have after being notified of the intended disapproval to submit the additional information.

(d) *Use of an alternative monitoring or recordkeeping method.* (1) The owner or operator of a regulated source is subject to the monitoring and recordkeeping requirements of the relevant standard unless permission to use an alternative monitoring or recordkeeping method requested under paragraph (b) of this section or § 65.162(d) has been granted by the Administrator.

Once an alternative is approved, the owner or operator shall use the alternative for the emission points or regulated sources cited in the approval and shall meet the monitoring and recordkeeping requirements of the relevant standard for all other emission points or regulated sources.

(2) If the Administrator approves the use of an alternative monitoring or recordkeeping method for a regulated source under paragraph (c) of this section, the owner or operator of such source shall continue to use the alternative monitoring or recordkeeping method unless he or she receives approval from the Administrator to use another method.

(3) If the Administrator finds reasonable grounds to dispute the results obtained by an alternative monitoring or recordkeeping method, requirement, or procedure, the Administrator may require the use of a method, requirement, or procedure specified in the relevant standard. If the results of the specified and alternative methods, requirements, or procedures do not agree, the results obtained by the specified method, requirement, or procedure shall prevail.

§ 65.8 Procedures for approval of alternative means of emission limitation.

(a) *Alternative means of emission limitation.* An owner or operator may request a determination of equivalence for an alternative means of emission limitation to the requirements of design, equipment, work practice, or operational standards of this part. If, in the judgment of the Administrator, an alternative means of emission limitation will achieve a reduction in regulated material emissions at least equivalent to the reduction in emissions from that source achieved under any design, equipment, work practice, or operational standards (but not performance standards) in this part, the Administrator will publish in the FEDERAL REGISTER a notice permitting the use of the alternative means for purposes of compliance with that requirement.

(1) The notice may condition the permission on requirements related to the operation and maintenance of the alternative means.

(2) Any such notice shall be published only after public notice and an opportunity for a hearing.

(b) *Content of submittal.* (1) In order to obtain approval, any person seeking permission to use an alternative means of compliance under this section shall collect, verify, and submit to the Administrator information showing that the alternative means achieves equivalent emission reductions. An owner or operator seeking permission to use an alternative means of compliance who has not previously performed testing shall also submit a proposed test plan. If the owner or operator seeks permission to use an alternative means of compliance based on previously performed testing, they shall submit the results of that testing, a description of the procedures followed in testing or monitoring, and a description of pertinent conditions during testing or monitoring.

(2) The owner or operator who requests an alternative means of emission limitation shall submit a description of the proposed testing, monitoring, recordkeeping, and reporting that will be used and the proposed basis for demonstrating compliance.

(3) For storage vessels, the owner or operator shall include the results of actual emissions tests using full-size or scale-model storage vessels that accurately collect and measure all regulated material emissions using a given control technique, and that accurately simulate wind and account for other emission variables such as temperature and barometric pressure, or an engineering analysis that the Administrator determines is an accurate method of determining equivalence.

(4) For proposed alternatives to equipment leak requirements, the owner or operator shall also submit the information and meet the requirements for alternative means of emission limitation specified in § 65.102(b) (alternative means of emission limitation).

(c) Manufacturers of equipment used to control equipment leaks of a regulated material may request a determination of equivalence for an alternative means of emission limitation for equipment leaks, as specified in § 65.102(c).