implications for state permit programs change, approved states may be required to revise their permit programs. These changes may necessitate submission of a revised application. Such a change at the federal level and resultant state requirements would be made known to the states either in a FEDERAL REGISTER document containing the change or through the appropriate EPA Regional Office.

(c) States that modify their programs must notify the Regional Administrator of the modifications. Program modifications include changes in state statutory or regulatory authority or relevant guidance or shifting of responsibility for the state program within the lead agency or to a new or different state agency or agencies. Changes to the state's permit program, as described in its application which may result in the program becoming inadequate, must be reported to the Regional Administrator. In addition, changes to a state's basic statutory or regulatory authority or guidance which were not part of the state's initial application, but may have a significant impact on the adequacy of the state's permit program, also must be reported to the Regional Administrator.

(d) States must notify the appropriate Regional Administrator of all permit program modifications required in paragraphs (b) and (c) of this section within a time-frame agreed to by the State Director and the Regional Administrator.

(e) The Regional Administrator will review the modifications and determine whether the State Director must submit a revised application. If a revised application is necessary, the Regional Administrator will inform the State Director in writing that a revised application is necessary, specifying the required revisions and establishing a schedule for submission of the revised application.

(f) For all revised municipal solid waste landfill permit program applications, and for all amended applications in the case of partially approved programs, the state must submit to the appropriate Regional Administrator an amended application that addresses those portions of its program that have changed or are being amended. For such revised programs, as well as for those from states seeking EPA approval of permit programs for state regulation of non-municipal, non-hazardous waste disposal units which receive conditionally exempt small quantity generator hazardous waste, the Regional Administrator will make an adequacy determination using the criteria found in § 239.10.

(g) For revised applications that do not incorporate permit programs for additional classifications of Subtitle D regulated facilities and for all amended applications in the case of partially approved programs, the appropriate Regional Administrator shall provide for public participation using the procedures outlined in § 239.10 or, at the Regional Administrator's discretion, using the following procedures.

(1) The Regional Administrator will publish an adequacy determination in the FEDERAL REGISTER summarizing the Agency's decision and the portion(s) of the state permit program affected and providing an opportunity to comment for a period of at least 60 days.

(2) The adequacy determination will become effective 60 days following publication, if no adverse comments are received. If EPA receives comments opposing its adequacy determination, the Regional Administrator will review these comments and publish another FEDERAL REGISTER document responding to public comments and either affirming or revising the initial decision.

§ 239.13 Criteria and procedures for withdrawal of determination of adequacy.

(a) The Regional Administrator may initiate withdrawal of a determination of adequacy when the Regional Administrator has reason to believe that:

(1) A state no longer has an adequate permit program; or

(2) The state no longer has adequate authority to administer and enforce an approved program in accordance with this part.

(b) Upon receipt of substantive information sufficient to indicate that a state program may no longer be adequate, the Regional Administrator

shall inform the state in writing of the information.

(c) If, within 45 days of the state's receipt of the information in paragraph (b) of this section, the state demonstrates to the satisfaction of the Regional Administrator that the state program is adequate (i.e., in compliance with this part), the Regional Administrator shall take no further action toward withdrawal of the determination of adequacy and shall so notify the state and any person(s) who submitted information regarding the adequacy of the state's program and authorities.

(d) If the State Director does not demonstrate the state's compliance with this part to the satisfaction of the Regional Administrator, the Regional Administrator shall list the deficiencies in the program and negotiate with the state a reasonable time for the state to complete such action to correct deficiencies as the Regional Administrator determines necessary. If these negotiations reach an impasse, the Regional Administrator shall establish a time period within which the state must correct any program deficiencies and inform the State Director of the time period in writing.

(e) Within the schedule negotiated by the Regional Administrator and the State Director, or set by the Regional Administrator, the state shall take appropriate action to correct deficiencies and shall file with the Regional Administrator a statement certified by the State Director describing the steps taken to correct the deficiencies.

(f) If the state takes appropriate action to correct deficiencies, the Regional Administrator shall take no further action toward withdrawal of determination of adequacy and shall so notify the state and any person(s) who submitted information regarding the adequacy of the state's permit program. If the state has not demonstrated its compliance with this part to the satisfaction of the Regional Administrator, the Regional Administrator shall inform the State Director and may initiate withdrawal of all or part of the determination of state program adequacy.

(g) The Regional Administrator shall initiate withdrawal of determination of adequacy by publishing the tentative withdrawal of determination of adequacy of the state program in the FEDERAL REGISTER. Notice of the tentative determination must:

(1) Afford the public at least 60 days after the notice to comment on the Regional Administrator's tentative determination;

(2) Include a specific statement of the Regional Administrator's areas of concern and reason to believe the state program may no longer be adequate; and

(3) Indicate that a public hearing will be held by EPA if sufficient public interest is expressed during the comment period or when the Regional Administrator determines that such a hearing might clarify issues involved in the tentative withdrawal determination.

(h) If the Regional Administrator finds, after the public hearing (if any) and review and consideration of all public comments, that the state is in compliance with this part, the withdrawal proceedings shall be terminated and the decision shall be published in the FEDERAL REGISTER. The document must include a statement of the reasons for this determination and a response to significant comments received. If the Regional Administrator finds that the state program is not in compliance with this Part by the date prescribed by the Regional Administrator or any extension approved by the Regional Administrator, a final notice of inadequacy shall be published in the FEDERAL REGISTER declaring the state permit program inadequate to ensure compliance with the relevant Subtitle D federal revised criteria. The document will include a statement of the reasons for this determination and response to significant comments received.

(i) States may seek a determination of adequacy at any time after a determination of inadequacy.

[63 FR 57040, Oct. 23, 1999, as amended at 64 FR 4315, Jan. 28, 1999]